~~Indicates Matter Stricken~~

Indicates New Matter

The House assembled at 10:00 a.m.

Deliberations were opened with prayer by Rev. Charles E. Seastrunk, Jr., as follows:

Our thought for today is from Lamentations 3:58: “O Lord, you took up my case; you redeemed my life.”

Let us pray. Merciful Lord, provide for each of these Representatives and staff the will and desire to accomplish all that has been put before this body. Grant them encouragement and help them to support each other in making those things happen that are important. Sustain them with special effort and appreciation to those who support them. Continue to bless our Nation, President, State, Governor, Speaker, and all who serve in these Halls of Government. Protect our defenders of freedom at home and abroad as they protect us. Hear us, O Lord, as we pray. Amen.

Pursuant to Rule 6.3, the House of Representatives was led in the Pledge of Allegiance to the Flag of the United States of America by the SPEAKER.

After corrections to the Journal of the proceedings of yesterday, the SPEAKER ordered it confirmed.

**MOTION ADOPTED**

Rep. WILLIAMS moved that when the House adjourns, it adjourn in memory of Lila Mae Jerry Davis of Darlington, which was agreed to.

**SILENT PRAYER**

The House stood in silent prayer for the residents in Horry County who lost their homes due to the wildfires and for the brave firemen who kept it from being more disastrous than it was.

**REGULATION WITHDRAWN AND RESUBMITTED**

Document No. 4020

Agency: Public Service Commission

Statutory Authority: 1976 Code Section 58-3-140

PC&N (Stretcher Vans)

Received by Speaker of the House of Representatives January 13, 2009

Referred to Labor, Commerce and Industry Committee

Legislative Review Expiration May 13, 2009

Revised: May 20, 2009

**MESSAGE FROM THE SENATE**

The following was received:

Columbia, S.C., April 29, 2009

Mr. Speaker and Members of the House:

The Senate respectfully invites your Honorable Body to attend in the Senate Chamber at a mutually convenient time today, for the purpose of ratifying Acts.

Very respectfully,

President

On motion of Rep. COLE the invitation was accepted.

**REPORTS OF STANDING COMMITTEE**

Rep. SANDIFER, from the Committee on Labor, Commerce and Industry, submitted a favorable report on:

S. 301 -- Senator Malloy: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 38-9-225 AND 38-9-230 SO AS TO ENACT PROVISIONS REQUIRING CERTAIN INSURERS TO FILE A STATEMENT OF ACTUARIAL OPINION AND ACTUARIAL OPINION SUMMARY ANNUALLY AND PROVIDE FOR THE CONFIDENTIALITY OF THESE DOCUMENTS; TO AMEND SECTION 38-5-120, RELATING TO THE REVOCATION OR SUSPENSION OF LICENSE OF AN INSURER AND ITS OFFICERS AND AGENTS FOR THE PUBLICATION OF THE NOTICE, SO AS TO PROVIDE A PROCEDURE FOR AN AGGRIEVED INSURER TO REQUEST A HEARING BEFORE THE DIRECTOR OR HIS DESIGNEE AND PROVIDE RECOURSE THROUGH JUDICIAL REVIEW; TO AMEND SECTION 38-9-330, RELATING TO THE DEFINITION OF "COMPANY ACTION LEVEL EVENT", SO AS TO REDEFINE THE TERM; AND TO AMEND SECTION 38-21-95, RELATING TO APPROVAL FOR ACQUISITION OF A DOMESTIC INSURER BY A CONTROLLING PRODUCER IN ANOTHER STATE, SO AS TO DELETE THE APPLICABILITY TO FOREIGN PRODUCERS AND CORRECT INCORRECT REFERENCES.

Ordered for consideration tomorrow.

Rep. SANDIFER, from the Committee on Labor, Commerce and Industry, submitted a favorable report with amendments on:

S. 202 -- Senator Thomas: A BILL TO AMEND SECTION 38-1-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS USED IN TITLE 38 RELATING TO THE DEPARTMENT OF INSURANCE, SO AS TO AMEND THE DEFINITION OF "ADMITTED ASSETS" TO INCLUDE THOSE ON THE INSURER'S MOST RECENT STATUTORY FINANCIAL STATEMENT FILED WITH THE DEPARTMENT OF INSURANCE PURSUANT TO THE PROVISIONS OF SECTION 38-13-80 INSTEAD OF THOSE ADMITTED UNDER THE PROVISIONS OF SECTION 38-11-100; TO AMEND SECTION 38-9-10, RELATING TO CAPITAL AND SURPLUS REQUIRED OF STOCK INSURERS, SO AS TO CHANGE THE MARKETABLE SECURITIES THAT MAY BE REQUIRED BY THE DIRECTOR OF INSURANCE; TO AMEND SECTION 38-9-20, RELATING TO THE SURPLUS REQUIRED OF MUTUAL INSURERS, SO AS TO CHANGE THE MARKETABLE SECURITIES WHICH MAY BE REQUIRED BY THE DIRECTOR OF INSURANCE; TO AMEND SECTION 38-9-210, RELATING TO THE REDUCTION FROM LIABILITY FOR THE REINSURANCE CEDED BY A DOMESTIC INSURER, SO AS TO CHANGE THE SECURITIES LISTED THAT QUALIFY AS SECURITY; TO AMEND SECTION 38-10-40, RELATING TO THE PROTECTED CELL ASSETS OF A PROTECTED CELL, SO AS TO CHANGE A CODE REFERENCE; TO AMEND SECTION 38-33-130, RELATING TO THE SECURITY DEPOSIT OF A HEALTH MAINTENANCE ORGANIZATION, SO AS TO DELETE THE REQUIREMENT THAT A HEALTH MAINTENANCE ORGANIZATION SHALL ISSUE A CONVERSION POLICY TO AN ENROLLEE UPON THE TERMINATION OF THE ORGANIZATION; AND TO AMEND SECTION 38-55-80, RELATING TO LOANS TO DIRECTORS OR OFFICERS BY AN INSURER, SO AS TO CHANGE A CODE REFERENCE.

Ordered for consideration tomorrow.

Rep. SANDIFER, from the Committee on Labor, Commerce and Industry, submitted a favorable report on:

S. 364 -- Senator Alexander: A BILL TO AMEND CHAPTER 9, TITLE 23 OF THE 1976 CODE , BY ADDING SECTION 23-9-25 TO ENACT THE "VOLUNTEER STRATEGIC ASSISTANCE AND FIRE EQUIPMENT PROGRAM" (V-SAFE) WHOSE PURPOSE, CONTINGENT UPON THE GENERAL ASSEMBLY APPROPRIATING APPROPRIATE FUNDS, IS TO OFFER GRANTS TO ELIGIBLE VOLUNTEER AND COMBINATION FIRE DEPARTMENTS FOR THE PURPOSE OF PROTECTING LOCAL COMMUNITIES AND REGIONAL RESPONSE AREAS FROM INCIDENTS OF FIRE, HAZARDOUS MATERIALS, TERRORISM, AND TO PROVIDE FOR THE SAFETY OF VOLUNTEER FIREFIGHTERS, TO PROVIDE DEFINITIONS OF CERTAIN TERMS, AND TO PROVIDE FOR THE ADMINISTRATION OF THE GRANTS.

Ordered for consideration tomorrow.

Rep. SANDIFER, from the Committee on Labor, Commerce and Industry, submitted a favorable report with amendments on:

H. 3941 -- Reps. Hayes, Gambrell, Agnew, Bowen, Gullick and Moss: A BILL TO AMEND CHAPTER 56, TITLE 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE BOARD OF PYROTECHNIC REGULATIONS, SO AS TO REVISE THE CHAPTER TITLE, TO PROVIDE STATE POLICY CONCERNING PYROTECHNICS, TO INCREASE THE STATE BOARD OF PYROTECHNIC SAFETY FROM SIX TO SEVEN MEMBERS, TO DEFINE TERMS, TO REQUIRE LICENSURE FOR THE MANUFACTURING, SALE, OR STORAGE OF FIREWORKS, TO AUTHORIZE THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, FIRE CHIEFS, AND LAW ENFORCEMENT OFFICERS TO INVESTIGATE COMPLAINTS, TO PROVIDE GROUNDS FOR DISCIPLINARY ACTION, TO REQUIRE LIABILITY INSURANCE, TO REQUIRE REPORTING OF FIRES AND EXPLOSIONS, TO PROVIDE CRIMINAL AND CIVIL PENALTIES FOR VIOLATIONS, AND TO FURTHER PROVIDE FOR THE LICENSURE AND REGULATION OF PERSONS HANDLING FIREWORKS.

Ordered for consideration tomorrow.

Rep. SANDIFER, from the Committee on Labor, Commerce and Industry, submitted a favorable report with amendments on:

S. 630 -- Senators Land, Setzler, L. Martin, Ford, Nicholson, Lourie, Sheheen, Massey, Reese, Elliott, Peeler, Leatherman, Knotts, Hayes, Verdin, Leventis, Coleman, Matthews, Fair, Scott, Hutto, McGill, Williams, O'Dell, Campbell, Thomas, Rankin, Rose, Davis, Alexander, Shoopman, Anderson, S. Martin, Bright, Grooms, Jackson and Malloy: A BILL TO AMEND CHAPTER 15, TITLE 56 OF THE 1976 CODE BY ADDING SECTION 56-15-65, RELATING TO MOTOR VEHICLE DEALERS, TO PROHIBIT MOTOR VEHICLE MANUFACTURES OR DISTRIBUTORS FROM REQUIRING DEALERS TO RELOCATE OR MAKE ALTERATIONS TO THEIR DEALERSHIP UNLESS CERTAIN REQUIREMENTS ARE MET; BY ADDING SECTION 56-15-75, RELATING TO MOTOR VEHICLE DEALERS, TO PROHIBIT MOTOR VEHICLE MANUFACTURES OR DISTRIBUTORS FROM PREVENTING DEALERS FROM INVESTING IN, MANAGING, OR ACQUIRING ANY OTHER LINE-MAKE OF NEW MOTOR VEHICLES OR RELATED PRODUCTS IF CERTAIN REQUIREMENTS ARE MET; AND TO AMEND SECTION 56-15-90, RELATING TO MOTOR VEHICLE DEALERS, TO PROVIDE FACTORS TO BE CONSIDERED IN CALCULATING THE FAIR AND REASONABLE COMPENSATION FOR THE VALUE OF A MOTOR VEHICLE DEALERSHIP.

Ordered for consideration tomorrow.

**HOUSE RESOLUTION**

The following was introduced:

H. 4001 -- Reps. Erickson, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A HOUSE RESOLUTION TO COMMEMORATE THE ONE HUNDRED FIFTIETH ANNIVERSARY OF THE HUNTING ISLAND LIGHTHOUSE, A SOUTH CAROLINA MARITIME TREASURE.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 4002 -- Reps. Gilliard, R. L. Brown, Mack, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A HOUSE RESOLUTION TO HONOR THE REVEREND ISAAC J. HOLT, JR., PASTOR OF ROYAL MISSIONARY BAPTIST CHURCH IN NORTH CHARLESTON, FOR HIS SIXTEEN YEARS OF MINISTRY AT ROYAL MISSIONARY AND TO WISH HIM GOD'S

RICHEST BLESSINGS AS HE CONTINUES TO SERVE THE LORD.

The Resolution was adopted.

**CONCURRENT RESOLUTION**

On motion of Rep. BALLENTINE, with unanimous consent, the following was taken up for immediate consideration:

H. 4003 -- Reps. Ballentine, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO DECLARE MAY 22, 2009, PARENT CARE DAY IN SOUTH CAROLINA AND TO ENCOURAGE ALL SOUTH CAROLINIANS TO SUPPORT AND HONOR THEIR PARENTS.

Whereas, National Parent Care Day was created by author Dan Taylor of The Parent Care Solution in 2005 as a day for children of all ages to celebrate their parents and their lives; and

Whereas, this special celebration can build awareness of the needs of aging parents and their caregivers and offer opportunities for parents and children, as well as local, state, and national leaders, to begin addressing the issues associated with the care of aging parents; and

Whereas, the South Carolina General Assembly is pleased to join in recognizing National Parent Care Day and invites the citizens of this great State to participate in activities relating to the day’s observance on May 22, 2009. Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

That the members of the South Carolina General Assembly, by this resolution, declare May 22, 2009, Parent Care Day in South Carolina and encourage all South Carolinians to support and honor their parents.

Be it further resolved that a copy of this resolution be forwarded to Dan Taylor.

The Concurrent Resolution was agreed to and ordered sent to the Senate.

**INTRODUCTION OF BILLS**

The following Bill and Joint Resolutions were introduced, read the first time, and referred to appropriate committees:

H. 4004 -- Reps. Merrill, Gunn and Bowers: A JOINT RESOLUTION TO AUTHORIZE THE UNIVERSITY OF SOUTH CAROLINA TO DEVELOP AND CONSTRUCT A NEW FACILITY FOR THE MOORE SCHOOL OF BUSINESS IN THE INNOVISTA DISTRICT ON THE COLUMBIA CAMPUS.

Rep. GUNN asked unanimous consent to have the Joint Resolution placed on the Calendar without reference.

Rep. KENNEDY objected.

Referred to Committee on Ways and Means

H. 4005 -- Reps. Sellers, Bingham, Ott and A. D. Young: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 8-13-1335 SO AS TO MAKE IT UNLAWFUL FOR AN INDIVIDUAL SEEKING ELECTION TO MEMBERSHIP ON THE GOVERNING BOARD OF A PUBLIC INSTITUTION OF HIGHER LEARNING FILLED BY A VOTE OF THE GENERAL ASSEMBLY TO MAKE OR OFFER TO MAKE A CONTRIBUTION TO A CANDIDATE FOR THE GENERAL ASSEMBLY OR HOST OR SPONSOR ANY FUNDRAISING EVENT FOR SUCH A CANDIDATE FROM THE TIME THE INDIVIDUAL FILES THE NOTICE OF INTENTION TO SEEK MEMBERSHIP ON THE BOARD THROUGH THE DATE THE OFFICE IS FILLED.

Rep. SELLERS asked unanimous consent to have the Bill placed on the Calendar without reference.

Rep. KENNEDY objected.

Referred to Committee on Judiciary

H. 4006 -- Reps. Gilliard, Battle, R. L. Brown, Clyburn, Daning, Dillard, Hodges, Hosey, Limehouse, Mack, Miller, Rice, Sottile, Anderson, Stavrinakis and Hutto: A JOINT RESOLUTION TO ESTABLISH A COMMITTEE TO STUDY VETERAN HOMELESSNESS, UNEMPLOYMENT, JOB PLACEMENT, INCIDENCE OF POST-TRAUMATIC STRESS DISORDER, ACCESS TO BASIC HUMAN SERVICES, AND OTHER ISSUES AFFECTING SOUTH CAROLINA VETERANS AND TO PROVIDE FOR RELATED MATTERS INCLUDING, BUT NOT LIMITED TO, COMMITTEE MEMBERSHIP AND DUTIES, THE FILLING OF VACANCIES, COMMITTEE MEETINGS, AND STAFFING.

Referred to Committee on Medical, Military, Public and Municipal Affairs

**HOUSE RESOLUTION**

The following was introduced:

H. 4007 -- Reps. Sellers and Funderburk: A HOUSE RESOLUTION TO MEMORIALIZE ANY GOVERNMENTAL BODY SUBJECT TO THE SOUTH CAROLINA CONSOLIDATED PROCUREMENT CODE TO MAXIMIZE THE CREATION OF AMERICAN JOBS AND RESTORE ECONOMIC GROWTH AND OPPORTUNITY BY COMMITTING TO SPENDING ECONOMIC RECOVERY PLAN FUNDS PROVIDED TO THAT BODY BY THE AMERICAN TAXPAYERS ON PURCHASING MATERIALS, GOODS, AND SERVICES THAT ARE MADE OR PERFORMED IN THE UNITED STATES OF AMERICA WHENEVER AND WHEREVER POSSIBLE.

The Resolution was ordered referred to the Committee on Invitations and Memorial Resolutions.

**ROLL CALL**

The roll call of the House of Representatives was taken resulting as follows:

|  |  |  |
| --- | --- | --- |
| Agnew | Alexander | Allen |
| Allison | Anthony | Bales |
| Ballentine | Bannister | Barfield |
| Battle | Bedingfield | Bingham |
| Bowen | Bowers | Brady |
| Branham | Brantley | G. A. Brown |
| R. L. Brown | Cato | Chalk |
| Clemmons | Clyburn | Cobb-Hunter |
| Cole | Crawford | Daning |
| Delleney | Dillard | Duncan |
| Edge | Forrester | Frye |
| Funderburk | Gambrell | Gilliard |
| Gullick | Haley | Hamilton |
| Hardwick | Harrell | Harrison |
| Hart | Harvin | Hayes |
| Hearn | Herbkersman | Hiott |
| Hodges | Horne | Hosey |
| Huggins | Jefferson | Jennings |
| Kelly | Kennedy | King |
| Kirsh | Knight | Limehouse |
| Littlejohn | Loftis | Lowe |
| Mack | McEachern | McLeod |
| Merrill | Miller | Millwood |
| Mitchell | Moss | Nanney |
| J. H. Neal | J. M. Neal | Ott |
| Owens | Parker | Parks |
| Pinson | E. H. Pitts | M. A. Pitts |
| Rice | Sandifer | Scott |
| Sellers | Simrill | Skelton |
| D. C. Smith | G. R. Smith | J. R. Smith |
| Sottile | Spires | Stavrinakis |
| Stringer | Thompson | Toole |
| Umphlett | Vick | Weeks |
| White | Whitmire | Williams |
| Wylie | A. D. Young | T. R. Young |

**STATEMENT OF ATTENDANCE**

I came in after the roll call and was present for the Session on Thursday, April 30.

|  |  |
| --- | --- |
| Boyd Brown | Shannon Erickson |
| Jerry Govan | Denny Neilson |
| James E. Stewart | Thad Viers |
| Mark Willis | James E. Smith |
| Carl Anderson | Deborah A. Long |
| Leon Howard | Todd Rutherford |
| Anton J. Gunn |  |

**Total Present--118**

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. HUTTO a leave of absence for the day.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. LUCAS a leave of absence for the day due to illness.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. COOPER a leave of absence for the day due to a death in the family.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. WHIPPER a leave of absence for the day due to a death in the family.

**DOCTOR OF THE DAY**

Announcement was made that Dr. Thomas Rowland of Columbia was the Doctor of the Day for the General Assembly.

**SPECIAL PRESENTATION**

Rep. DUNCAN presented to the House the Bell Street Middle School Science Olympiad Team, the 2009 State Champions, their coaches and other school officials.

**SPECIAL PRESENTATION**

Rep. OTT presented to the House the Calhoun County High School "Saints" Boys Varsity Basketball Team, the 2009 Class A Champions, their coach and other school officials.

**SPECIAL PRESENTATION**

Rep. BATTLE presented to the House the Marion High School "Swamp Foxes" Girls Varsity Basketball Team, the 2009 Class AA Champions, their coaches and other school officials.

**CO-SPONSORS ADDED**

In accordance with House Rule 5.2 below:

"5.2 Every bill before presentation shall have its title endorsed; every report, its title at length; every petition, memorial, or other paper, its prayer or substance; and, in every instance, the name of the member presenting any paper shall be endorsed and the papers shall be presented by the member to the Speaker at the desk. A member may add his name to a bill or resolution or a co‑sponsor of a bill or resolution may remove his name at any time prior to the bill or resolution receiving passage on second reading. The member or co‑sponsor shall notify the Clerk of the House in writing of his desire to have his name added or removed from the bill or resolution. The Clerk of the House shall print the member’s or co‑sponsor’s written notification in the House Journal. The removal or addition of a name does not apply to a bill or resolution sponsored by a committee.”

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3297 |
| Date: | ADD: |
| 04/30/09 | BOWERS |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3047 |
| Date: | ADD: |
| 04/30/09 | PINSON |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3628 |
| Date: | ADD: |
| 04/30/09 | MILLER |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3719 |
| Date: | ADD: |
| 04/30/09 | WEEKS |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3803 |
| Date: | ADD: |
| 04/30/09 | WEEKS |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 4004 |
| Date: | ADD: |
| 04/30/09 | BOWERS |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 4007 |
| Date: | ADD: |
| 04/30/09 | FUNDERBURK |

**SPEAKER *PRO TEMPORE* IN CHAIR**

**SENT TO THE SENATE**

The following Bills and Joint Resolutions were taken up, read the third time, and ordered sent to the Senate:

H. 3917 -- Reps. Harrell, Edge and Hutto: A JOINT RESOLUTION TO PROVIDE THAT THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES SHALL MAINTAIN ITS MEDICALLY FRAGILE CHILDREN'S PROGRAM AND SHALL PURSUE OPTIONS TO OBTAIN AUTHORITY TO MAINTAIN THE EXISTING PROGRAM WITH ITS CURRENT ELIGIBILITY CRITERIA.

H. 3118 -- Reps. Kirsh, J. E. Smith, Funderburk, Weeks and Hutto: A BILL TO AMEND SECTION 63-11-530, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE POWERS AND DUTIES OF GUARDIANS AD LITEM IN CHILD ABUSE AND NEGLECT CASES, SO AS TO PROVIDE THAT THE SOUTH CAROLINA GUARDIAN AD LITEM PROGRAM HAS THE RIGHT TO INTERVENE IN A PROCEEDING TO PETITION TO HAVE THE GUARDIAN AD LITEM REMOVED IF THE GUARDIAN AD LITEM IS NOT IN COMPLIANCE WITH STATE LAW OR IS NOT ACTING IN THE BEST INTEREST OF THE CHILD; AND TO AMEND SECTION 63-11-550, RELATING TO CONFIDENTIALITY OF REPORTS AND INFORMATION MAINTAINED BY THE GUARDIAN AD LITEM PROGRAM, SO AS TO ALSO PROVIDE THAT REPORTS AND INFORMATION MAINTAINED BY A GUARDIAN AD LITEM IS CONFIDENTIAL.

H. 3720 -- Rep. Clemmons: A BILL TO AMEND SECTION 15-9-720, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SERVICE ON UNKNOWN PARTIES BY PUBLICATION IN CERTAIN ACTIONS CONCERNING REAL PROPERTY, SO AS TO PROVIDE FOR SERVICE OF ALL COURT REQUIRED DOCUMENTS BY PUBLICATION AND, FURTHER, IN AN ACTION INVOLVING MULTIPLE UNITS IN A SINGLE HORIZONTAL PROPERTY REGIME, FOR SERVICE BY PUBLICATION BY CONSOLIDATING THE SERVICES INTO A SINGLE SERVICE THAT IDENTIFIES EACH APARTMENT INCLUDED IN THE ACTION BASED ON THE APARTMENT’S DESCRIPTION IN THE MASTER DEED.

H. 3231 -- Reps. E. H. Pitts, T. R. Young, Ballentine, Haley, Harrison, J. E. Smith, Sellers, Govan, Bannister, G. M. Smith, Funderburk, Bedingfield and Hart: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 8, ARTICLE IV OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE ELECTION, QUALIFICATIONS, AND TERM OF THE LIEUTENANT GOVERNOR, SO AS TO PROVIDE FOR THE JOINT ELECTION OF GOVERNOR AND LIEUTENANT GOVERNOR BEGINNING WITH THE GENERAL ELECTION OF 2014.

H. 3919 -- Reps. Mitchell, Alexander, Gunn, Dillard, Hamilton, Limehouse, J. R. Smith, King, Kirsh, Littlejohn, J. M. Neal, Herbkersman, Stavrinakis, Chalk, Cobb-Hunter, Anthony, Branham, Brantley, Parker, Allison, Gilliard, J. H. Neal, Whipper, Mack, Battle, Hosey, Allen, Weeks, Jennings, Loftis, Knight, Vick, Rutherford and Hutto: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 2-1-250 SO AS TO ESTABLISH THE SOUTH CAROLINA HOUSING COMMISSION TO PROVIDE RECOMMENDATIONS TO ENSURE AND FOSTER THE AVAILABILITY OF SAFE, SOUND, AND AFFORDABLE HOUSING AND WORKFORCE HOUSING FOR EVERY SOUTH CAROLINIAN, TO PROVIDE FOR THE MEMBERSHIP OF THE COMMISSION, AND FOR OTHER PROCEDURAL MATTERS.

H. 3488 -- Reps. J. E. Smith, Hart, Williams, R. L. Brown, Hutto and Weeks: A JOINT RESOLUTION TO ESTABLISH A COMMITTEE TO STUDY CERTAIN ISSUES AFFECTING VETERANS AND PROVIDE FOR RELATED MATTERS INCLUDING, BUT NOT LIMITED TO, COMMITTEE MEMBERSHIP AND DUTIES, THE FILLING OF VACANCIES, COMMITTEE MEETINGS, AND STAFFING.

H. 3134 -- Reps. Bowers and Long: A BILL TO AMEND SECTION 56-3-9910, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF GOLD STAR FAMILY SPECIAL LICENSE PLATES, SO AS TO REDUCE THE FEE FOR THIS SPECIAL LICENSE PLATE.

H. 3957 -- Rep. Herbkersman: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 48-1-55 SO AS TO PROVIDE THAT ON ANY NAVIGABLE RIVER IN THIS STATE WHERE AN OYSTER FACTORY IS LOCATED, THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL MAY UTILIZE QUALIFIED PERSONNEL OF THE COUNTY OR MUNICIPALITY IN WHOSE JURISDICTION THE FACTORY OPERATES TO ASSIST WITH THE MONITORING OF WATER QUALITY AND OTHER ENVIRONMENTAL STANDARDS THE DEPARTMENT IS REQUIRED TO ENFORCE.

**RETURNED TO THE SENATE WITH AMENDMENTS**

The following Bill was taken up, read the third time, and ordered returned to the Senate with amendments:

S. 232 -- Senators Ryberg, Hutto, Massey, Coleman, O'Dell, Anderson, L. Martin and Nicholson: A BILL TO AMEND SECTION 48-52-210 OF THE 1976 CODE, RELATING TO THE PLAN FOR THE STATE ENERGY POLICY, TO ENCOURAGE THE USE OF CLEAN ENERGY SOURCES; AND TO AMEND ARTICLE 2, CHAPTER 52, TITLE 48 BY ADDING SECTION 48-52-220 TO PROVIDE A DEFINITION FOR "RENEWABLE ENERGY RESOURCES".

**ORDERED ENROLLED FOR RATIFICATION**

The following Bill was read the third time, passed and, having received three readings in both Houses, it was ordered that the title be changed to that of an Act, and it be enrolled for ratification:

S. 639 -- Senators O'Dell and Nicholson: A BILL TO AMEND SECTION 7-7-290, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN GREENWOOD COUNTY, SO AS TO REVISE AND RENAME CERTAIN VOTING PRECINCTS OF GREENWOOD COUNTY AND REDESIGNATE A MAP NUMBER FOR THE MAP ON WHICH LINES OF THESE PRECINCTS ARE DELINEATED AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

**H. 3814--AMENDED AND ORDERED TO THIRD READING**

The following Joint Resolution was taken up:

H. 3814 -- Reps. Allison, Cole, Forrester, Kelly and Parker: A JOINT RESOLUTION TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO DESIGN AND IMPLEMENT A HIGHWAY BEAUTIFICATION PILOT PROJECT TO REDUCE THE NUMBER OF NONCONFORMING BILLBOARDS THROUGHOUT THE STATE.

The Education and Public Works Committee proposed the following Amendment No. 1 (COUNCIL\SWB\5887CM09), which was adopted:

Amend the joint resolution, as and if amended, by deleting SECTION 1, page two in its entirety and inserting:

/ SECTION 1. The Department of Transportation is authorized to develop and submit to the Federal Highway Administration an outdoor advertising control pilot project that permits qualified applicants to upgrade one nonconforming wooden or I‑beam sign adjacent to Interstate 26 or Interstate 95 in exchange for the applicant’s removal of at least two of his other nonconforming signs of similar or larger size on routes regulated by the Highway Control Act. /

Renumber sections to conform.

Amend title to conform.

Rep. E. H. PITTS spoke in favor of the amendment.

The amendment was then adopted.

The Joint Resolution, as amended, was read the second time and ordered to third reading.

**H. 3814--ORDERED TO BE READ THIRD TIME TOMORROW**

On motion of Rep. E. H. PITTS, with unanimous consent, it was ordered that H. 3814 be read the third time tomorrow.

**H. 3561--DEBATE ADJOURNED**

Rep. WHITE moved to adjourn debate upon the following Joint Resolution until Tuesday, May 12, which was adopted:

H. 3561 -- Ways and Means Committee: A JOINT RESOLUTION TO APPROPRIATE REVENUES FOR THE OPERATIONS OF STATE GOVERNMENT FOR FISCAL YEAR 2009-2010 TO SUPPLEMENT APPROPRIATIONS MADE FOR THOSE PURPOSES BY THE GENERAL APPROPRIATIONS ACT FOR FISCAL YEAR 2009-2010.

**H. 3415--DEBATE ADJOURNED**

Rep. WHITE moved to adjourn debate upon the following Joint Resolution until Tuesday, May 12, which was adopted:

H. 3415 -- Reps. Harrell, Cato, Cooper, Duncan, Harrison, Owens, Sandifer, White, Bingham, Scott, Erickson, Herbkersman, T. R. Young, G. R. Smith, Huggins, Bedingfield, A. D. Young, Pinson, Lucas, E. H. Pitts, Crawford, Allison, Barfield, Brady, Chalk, Daning, Delleney, Edge, Frye, Hamilton, Hearn, Horne, Long, Merrill, Parker, Rice, Sellers, Skelton, G. M. Smith, J. R. Smith, Spires, Stringer, Thompson, Toole, Viers, Willis, Wylie, Neilson, Bales, Clemmons and Millwood: A JOINT RESOLUTION TO ESTABLISH THE SOUTH CAROLINA TAXATION REALIGNMENT COMMISSION; TO PROVIDE FOR THE COMMISSION'S MEMBERSHIP, POWERS, DUTIES, AND RESPONSIBILITIES; TO PROVIDE THAT THE COMMISSION MUST CONDUCT A COMPREHENSIVE STUDY OF THE STATE'S TAX SYSTEM INCLUDING ITS SALES TAX AND EXEMPTIONS STRUCTURE AND SUBMIT A REPORT OF ITS RECOMMENDED CHANGES TO FURTHER THE GOAL OF MAINTAINING AND ENHANCING THE STATE AS AN OPTIMUM COMPETITOR IN THE EFFORT TO ATTRACT BUSINESSES AND INDIVIDUALS TO LOCATE, LIVE, WORK, AND INVEST IN THE STATE; AND TO PROVIDE FOR PROCEDURES GOVERNING THE CONSIDERATION OF LEGISLATION RESULTING FROM THE COMMISSION'S RECOMMENDATIONS.

**H. 3854--DEBATE ADJOURNED**

Rep. WHITE moved to adjourn debate upon the following Bill until Tuesday, May 12, which was adopted:

H. 3854 -- Rep. Cooper: A BILL TO AMEND TITLE 12, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TAXATION, SO AS TO REVISE CERTAIN CHAPTERS AND SECTIONS PERTAINING TO VARIOUS TAX MATTERS.

**H. 3608--DEBATE ADJOURNED**

Rep. WEEKS moved to adjourn debate upon the following Bill until Tuesday, May 12, which was adopted:

H. 3608 -- Reps. Mack, Alexander, Allen, R. L. Brown, Williams and Weeks: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 7-13-25 SO AS TO PROVIDE THAT THE AUTHORITY CHARGED BY LAW CONDUCTING AN ELECTION SHALL ESTABLISH EARLY VOTING CENTERS, TO ESTABLISH EARLY VOTING CENTERS TO ALLOW A REGISTERED COUNTY RESIDENT TO VOTE OUTSIDE THEIR PRECINCT, TO PROVIDE A PROCEDURE BY WHICH A QUALIFIED ELECTOR MAY REGISTER TO VOTE AND CAST A BALLOT DURING THE EARLY VOTING PERIOD, TO PROVIDE FOR THE ESTABLISHMENT OF EARLY VOTING LOCATIONS, AND TO REQUIRE THESE LOCATIONS AND TIMES TO BE IN COMPLIANCE WITH THE PROVISIONS OF SECTION 30-4-80.

**H. 3794--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

H. 3794 -- Rep. Umphlett: A BILL TO AMEND SECTION 50-11-2200, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ESTABLISHMENT OF WILDLIFE MANAGEMENT AREAS, SO AS TO SPECIFY ADDITIONAL PROHIBITED ACTIVITIES; TO AMEND SECTION 50-11-2210, RELATING TO ABUSE OF WILDLIFE MANAGEMENT AREA LANDS, SO AS TO INCLUDE HERITAGE TRUST AND DEPARTMENT OWNED LANDS; TO AMEND SECTION 50-11-2220, AS AMENDED, RELATING TO ADDITIONAL PENALTIES FOR ABUSING WILDLIFE MANAGEMENT AREA LANDS, SO AS TO INCLUDE HERITAGE TRUST AND DEPARTMENT OWNED LANDS; AND BY ADDING SECTION 50-11-2225 SO AS TO CREATE A MISDEMEANOR CRIMINAL OFFENSE FOR ENTERING OR REMAINING ON A CLOSED AREA CONTRARY TO THE INSTRUCTIONS OF A LAW ENFORCEMENT OFFICER, MANAGER, OR DEPARTMENT CUSTODIAL PERSONNEL.

The Agriculture, Natural Resources and Environmental Affairs Committee proposed the following Amendment No. 1 (COUNCIL\GJK\20302SD09), which was adopted:

Amend the bill, as and if amended, by adding a new SECTION appropriately numbered to read:

/SECTION \_\_\_\_. Article 10, Chapter 11, Title 50 of the 1976 Code is amended by adding:

“Section 50‑11‑2215. Nothing contained in Section 50‑11‑2200 or 50‑11‑2210 shall interfere with the use and management of lands by a state agency charged with the management of those lands as part of the functions of the agency authorized by law or with the management and use by a landowner of his lands with the WMA program; nor shall anything contained in this Section 50-11-2200 or 50-11-2210 be deemed to alter in any way the rights of owners of easements and rights of way within the boundaries of those lands.” /

Renumber sections to conform.

Amend title to conform.

Rep. UMPHLETT explained the amendment.

The amendment was then adopted.

Rep. CLEMMONS proposed the following Amendment No. 2 (COUNCIL\MS\7364AHB09), which was adopted:

Amend the bill, as and if amended, by deleting Section 50‑11‑2215, as contained in the unnumbered SECTION, page 3794‑1, lines 29 ‑ 37, and inserting:

/ “Section 50‑11‑2215. (A) Nothing contained in Section 50‑11‑2200 or 50‑11‑2210 shall interfere with the use and management of lands by a state agency charged with the management of those lands as part of the functions of the agency authorized by law or with the management and use by a landowner of his lands with the WMA program; nor shall anything contained in this Section 50‑11‑2200 or 50‑11‑2210 be deemed to alter in any way the rights of owners of easements and rights of way within the boundaries of those lands.

(B) Notwithstanding the provisions of Section 51-17-85, subsection (A) of this section, or another provision of this article, regarding the regulation of heritage preserves, the Department of Natural Resources is directed to cooperate with the Horry County Council for the purpose of construction and paving that portion of International Drive which borders the Lewis Ocean Bay Heritage Preserve of which the department holds title. The Horry County Council is authorized to proceed with construction and paving of that portion of International Drive as described in this subsection to the council’s specifications in order to facilitate the critical, compelling need for the prompt, efficient delivery of fire protection services to the citizens of Horry County. The Horry County Council has authority to oversee the construction and paving of the International Drive area in the best interests of the people of Horry County.”/

Renumber sections to conform.

Amend title to conform.

Rep. CLEMMONS explained the amendment.

The amendment was then adopted.

The Bill, as amended, was read the second time and ordered to third reading.

**OBJECTION TO MOTION**

Rep. UMPHLETT asked unanimous consent that H. 3794 be read a third time tomorrow.

Rep. KENNEDY objected.

**ORDERED TO THIRD READING**

The following Bills and Joint Resolution were taken up, read the second time, and ordered to a third reading:

H. 3678 -- Reps. Moss, Whipper, Anthony, Herbkersman, Merrill, Nanney, G. M. Smith, Thompson and Weeks: A BILL TO AMEND SECTION 56-5-4140, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MAXIMUM ALLOWABLE GROSS WEIGHTS OF VEHICLES THAT MAY BE OPERATED ALONG THE STATE'S HIGHWAYS, SO AS TO MAKE A TECHNICAL CHANGE.

Rep. E. H. PITTS explained the Bill.

S. 711 -- Senator Verdin: A JOINT RESOLUTION TO DIRECT THE CLEMSON UNIVERSITY REGULATORY AND PUBLIC SERVICE PROGRAMS DIVISION TO ESTABLISH A QUARANTINE FOR CITRUS GREENING, ALSO KNOWN AS HUANGLONGBING (CANDIDATUS LIBERIBACTER ASIATICUS) A DISEASE OF CITRUS PLANTS, AND TO PROVIDE REQUIREMENTS FOR AND THE DURATION OF THE QUARANTINE AND PENALTIES FOR VIOLATION.

Rep. FORRESTER explained the Joint Resolution.

H. 3467 -- Reps. M. A. Pitts, Brantley, Allison, Horne, Rice and Spires: A BILL TO AMEND SECTION 8-11-83, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PAYROLL DEDUCTION FOR DUES OF THE STATE EMPLOYEES' ASSOCIATION AND THE SOUTH CAROLINA TROOPERS' ASSOCIATION, SO AS TO ALSO AUTHORIZE A PAYROLL DEDUCTION FOR DUES OF THE SOUTH CAROLINA FRATERNAL ORDER OF POLICE.

Rep. M. A. PITTS explained the Bill.

**OBJECTION TO MOTION**

Rep. E. H. PITTS asked unanimous consent that H. 3678 be read a third time tomorrow.

Rep. KENNEDY objected.

**OBJECTION TO MOTION**

Rep. FORRESTER asked unanimous consent that S. 711 be read a third time tomorrow.

Rep. KENNEDY objected.

**OBJECTION TO MOTION**

Rep. M. A. PITTS asked unanimous consent that H. 3467 be read a third time tomorrow.

Rep. KENNEDY objected.

**S. 488--DEBATE ADJOURNED**

Rep. ALLISON moved to adjourn debate upon the following Joint Resolution until Tuesday, May 12, which was adopted:

S. 488 -- Education Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE STATE BOARD OF EDUCATION, RELATING TO CHARTER SCHOOL APPEALS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4028, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**S. 489--DEBATE ADJOURNED**

Rep. ALLISON moved to adjourn debate upon the following Joint Resolution until Tuesday, May 12, which was adopted:

S. 489 -- Education Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE STATE BOARD OF EDUCATION, RELATING TO ASSESSMENT PROGRAM, DESIGNATED AS REGULATION DOCUMENT NUMBER 4029, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**S. 490--DEBATE ADJOURNED**

Rep. ALLISON moved to adjourn debate upon the following Joint Resolution until Tuesday, May 12, which was adopted:

S. 490 -- Education Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE STATE BOARD OF EDUCATION, RELATING TO PROGRAM FOR ASSISTING, DEVELOPING, AND EVALUATING PRINCIPAL PERFORMANCE (PADEPP), DESIGNATED AS REGULATION DOCUMENT NUMBER 4027, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**S. 583--DEBATE ADJOURNED**

Rep. ALLISON moved to adjourn debate upon the following Joint Resolution until Tuesday, May 12, which was adopted:

S. 583 -- Education Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE BOARD OF EDUCATION, RELATING TO USE AND DISSEMINATION OF TEST RESULTS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4049, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**S. 126--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 126 -- Senators Sheheen and Elliott: A BILL TO AMEND SECTION 56-3-1910, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF SPECIAL LICENSE TAGS TO CERTAIN HANDICAPPED PERSONS, SO AS TO DEFINE THE TERM "HANDICAPPED", DELETE THE TERM "LICENSE TAG" AND REPLACE IT WITH THE TERM "LICENSE PLATE", AND TO REVISE THE CRITERIA FOR THE ISSUANCE OF THE LICENSE PLATE; TO AMEND SECTION 56-3-1950, RELATING TO THE DEFINITION OF THE TERM "HANDICAPPED", AND THE REQUIREMENT THAT A LICENSED PHYSICIAN SHALL CERTIFY THAT A PERSON'S TOTAL AND PERMANENT DISABILITY SUBSTANTIALLY IMPAIRS HIS ABILITY TO WALK, SO AS TO REVISE THE DEFINITION OF THE TERM "HANDICAPPED" AND TO DELETE THE PROVISION RELATING TO THE CERTIFICATION OF A PERSON WHO IS TOTALLY AND PERMANENTLY DISABLED; TO AMEND SECTION 56-3-1960, RELATING TO FREE PARKING FOR HANDICAPPED PERSONS, AND THE ISSUANCE AND DISPLAY OF HANDICAPPED LICENSE PLATES AND PLACARDS, SO AS TO DELETE THE PROVISION THAT PROVIDES FOR THE ISSUANCE OF HANDICAPPED LICENSE PLATES, AND TO REVISE THE PROVISIONS REGARDING THE CONTENT, ISSUANCE PROCEDURE, AND DISPLAY OF HANDICAPPED PLACARDS; TO AMEND SECTION 56-3-1965, RELATING TO MUNICIPALITIES DESIGNATING PARKING SPACES FOR HANDICAPPED PERSONS, SO AS TO REVISE THE PROCEDURES THAT ALLOW A HANDICAPPED PERSON TO PARK IN METERED OR TIMED PARKING PLACES WITHOUT BEING SUBJECT TO PARKING FEES OR FINES; AND TO AMEND SECTION 56-3-2010, RELATING TO THE ISSUANCE OF PERSONALIZED LICENSE PLATES, SO AS TO PROVIDE THAT A PERSON WHO ALSO QUALIFIES IS QUALIFIED TO RECEIVE THIS LICENSE PLATE AND A HANDICAPPED LICENSE PLATE MAY BE ISSUED A PERSONALIZED LICENSE PLATE THAT INCLUDES A DECAL THAT CONTAINS THE INTERNATIONAL SYMBOL OF ACCESS.

The Education and Public Works Committee proposed the following Amendment No. 1 (COUNCIL\SWB\5895CM09), which was adopted:

Amend the bill, as and if amended, Section 56‑3‑1910(E), as contained in SECTION 1, by deleting line 20, on page 3 and inserting:

/ less than five hundred dollars, but not more than one thousand /.

Amend the bill further, Section 56‑3‑1950, as contained in SECTION 2, by deleting lines 26 through 41 on page 4, and inserting:

/Section 56‑3‑1950. As used in this article~~:~~

(1) ~~“Handicapped”~~ ‘handicapped’ means a person ~~who:~~

~~(a)~~ ~~has an obvious physical disability that impairs the ability to walk or requires the use of a wheelchair, braces, walkers, or crutches;~~

~~(b)~~ ~~has lost the use of one or both legs;~~

~~(c)~~ ~~suffers from lung disease to such an extent that he is unable to walk without the aid of a respirator;~~

~~(d)~~ ~~is disabled by an impairment in mobility; or~~

~~(e)~~ ~~is determined by the Social Security Administration or the Veterans Administration to be totally and permanently disabled.~~

~~(2)~~ ~~A licensed physician shall certify that the total and permanent disability substantially impairs the ability to walk, unless the applicant is an agency or organization complying with Section 56‑3‑1910.~~ as defined in Section 56‑3‑1910;

(2) ‘access aisle’ means a designated space for maneuvering a wheelchair or other mobility device when entering or exiting a vehicle, and that is immediately adjacent to a properly designated parking space for handicapped persons as defined in Section 56‑3‑1910(A), on public or private property. Access aisles must be marked so as to discourage parking in them. /

Amend the bill further, Section 56‑3‑1960, as contained in SECTION 3, by deleting lines 19 through 23 on page 6, and inserting:

/ ~~as required by this subsection.~~ (A) The department shall charge a fee of one dollar for a placard ~~and may issue two placards to an individual applicant upon request~~. An agency, organization, or facility may receive a placard for each vehicle registered upon payment of the appropriate fees. /,

by deleting / (A) / and inserting / (B) / on line 34, page 6,

by inserting after the period on line 39, page 6 / Applications for placards must be processed through and issued by the department’s headquarters. Only one placard may be issued to an applicant. /,

by deleting / (B) / and inserting /(C) / on line 5, page 7,

by deleting / (C) / and inserting / (D) / on line 21, page 7,

by deleting lines 30 and 31, on page 7 and inserting / (E) Blue and red placards shall contain the qualified user’s photograph. However, a photograph is not required for a placard issued to an agency, organization, or facility. / ,

by deleting / (E) / and inserting / (F) / on line 32, page 7,

by deleting / (F) / and inserting / (G) / on line 33, page 7,

by deleting / This includes person with handicapped or disabled veterans license plates. / on lines 37 through 39 on page 7,

by deleting / (G) / and inserting / (H) / on line 41, page 7,

by deleting /(H) / and inserting / (I) / on line 5, page 8,

by deleting / The department may charge a fee of five dollars for an identification card. / on lines 9 and 10 on page 8,

by deleting / (I) / and inserting / (J) / on line 11, page 8,

by deleting / (J) / and inserting / (K) / on line 18, page 8,

by deleting line 21, page 8 and inserting / not less than five hundred dollars and not more than one thousand /,

by deleting / (K) / and inserting / (L) / on line 23, page 8, and

by deleting line 27 on page 8 and inserting / (M) Except as provided in subsection (K) of this section, a person violating the provisions of this section is guilty of /.

Amend the bill further, Section 56‑3‑2010(C), as contained in SECTION 5, by deleting / Section 56‑3‑1960(1) / on line 11, page 9, and inserting / Section 56‑3‑1910 / and by deleting / Section 56‑3‑1960(1) / on line 14, page 9, and inserting / Section 56‑3‑1910/.

Amend the bill further, by deleting SECTION 7 on page 9 in its entirety and inserting:

/ SECTION 7. Section 56‑3‑1975 of the 1976 Code is amended to read:

/ Each handicapped parking place must be clearly identified as a handicapped parking place. The handicapped parking place includes all access aisles. If the handicapped parking place is on public property, the marker must be maintained by the political subdivision having jurisdiction over the public property or the street or highway where the handicapped parking place is located. If the handicapped parking place is on private property, the marker must be maintained by the owner of the property.

SECTION 8. This act takes effect six months after the approval of the Governor. However, all handicapped placards that require a photograph affixed to them must be renewed within three years after the effective date of this act. /

Renumber sections to conform.

Amend title to conform.

Rep. BRANHAM explained the amendment.

The amendment was then adopted.

Rep. E. H. PITTS proposed the following Amendment No. 2 (COUNCIL\SWB\5897CM09), which was adopted:

Amend the bill, as and if amended, Section 56‑3‑1960(E), as contained in SECTION 3, by deleting Section 56‑3‑1960(E) and inserting:

/ (E) 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. However, a photograph is not required for a placard issued to an agency, organization, or facility. /

Renumber sections to conform.

Amend title to conform.

Rep. E. H. PITTS explained the amendment.

The amendment was then adopted.

The Bill, as amended, was read the second time and ordered to third reading.

**S. 126--ORDERED TO BE READ THIRD TIME TOMORROW**

On motion of Rep. OWENS, with unanimous consent, it was ordered that S. 126 be read the third time tomorrow.

Further proceedings were interrupted by expiration of time on the uncontested Calendar.

**RECURRENCE TO THE MORNING HOUR**

Rep. SELLERS moved that the House recur to the Morning Hour, which was agreed to.

**H. 3297--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

H. 3297 -- Reps. Sellers, E. H. Pitts, Brady, Hutto and Bowers: A BILL TO AMEND SECTION 59-10-340, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SNACKS SOLD FOR STUDENT CONSUMPTION IN SCHOOLS, SO AS TO PROVIDE FOR FAT, CALORIE, AND SUGAR CONTENT STANDARDS THAT SNACK FOOD AND BEVERAGES MUST MEET IN ORDER TO BE SOLD IN SCHOOLS; AND BY ADDING SECTION 59-10-345 SO AS TO PROVIDE THAT ELEMENTARY SCHOOLS MAY OFFER ONLY FULL MEALS FOR STUDENT CONSUMPTION, AND TO PROVIDE FOR FAT, CALORIE, AND SUGAR CONTENT STANDARDS THAT FOODS AND BEVERAGES MUST MEET IN ORDER TO BE SOLD IN SCHOOLS.

The Education and Public Works Committee proposed the following Amendment No. 1 (COUNCIL\NBD\11460BH09), which was adopted:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/SECTION 1. Section 59‑10‑340 of the 1976 Code, as added by Act 102 of 2005, is amended to read:

“Section 59‑10‑340. (A) Each district’s Coordinated School Health Advisory Council established pursuant to Section 59‑10‑330 shall determine which snacks and beverages may be sold ~~in vending machines~~ for student consumption in elementary, middle, and high schools during the regular school day.

(B) Snacks sold in elementary, middle, and high schools for student consumption may not have more than:

(1) two hundred total calories;

(2) thirty‑five percent of their total calories from fat;

(3) thirty‑five percent of their total weight composed of sugar; and

(4) ten percent of their total calories from saturated fat.

(C) Beverages sold in elementary and middle schools for student consumption may include only the following:

(1) up to eight ounce servings for elementary schools and up to ten ounce servings for middle schools of fruit‑ or vegetable‑based drinks that are composed of no less than one hundred percent juice, have no added sweeteners, contain at least ten percent of the recommended daily value for three or more vitamins and minerals, and have no more than one hundred twenty calories per eight ounces;

(2) drinking water;

(3) up to eight ounce servings for elementary schools and up to ten ounce servings for middle schools of fat‑free milk or low‑fat milk, including nutritionally equivalent milk alternatives.

(D) Beverages sold in high schools for student consumption may include only the following:

(1) drinking water;

(2) zero calorie or low calorie beverages with up to ten calories per eight ounces;

(3) up to twelve ounce servings of fat‑free or low‑fat milk, including nutritionally equivalent milk alternatives with up to 150 calories per eight ounces;

(4) up to twelve ounce servings of fruit‑ or vegetable‑based drinks that are composed of no less than one hundred percent juice, have no added sweeteners, contain at least ten percent of the recommended daily value for three or more vitamins and minerals, and have no more than one hundred twenty calories per eight ounces; and

(5) up to twelve ounce servings of other beverages with no more than sixty‑six calories per eight ounces.

(E) At least fifty percent of nonmilk beverages offered for sale for student consumption in elementary, middle, and high schools must be water and zero calorie or low calorie options.

(F) Snacks and beverages offered for student consumption in vending machines in middle and high schools must conform to the same nutritional standards provided in this section. Snacks and beverages may not be offered for sale for student consumption in vending machines in elementary schools.

(G) For purposes of this section:

(1) ‘regular school day’ means the instructional day, including lunch and recess hours. ‘regular school day’ does not include activities outside the instructional day that occur either before or after the start of the instructional day, such as clubs, yearbook, band and choir practice, student government, drama, and childcare/latchkey programs. Also, ‘regular school day’ does not apply to school‑related events such as interscholastic sporting events, school plays, band concerts, or other school‑related programs where parents and other adults constitute a significant portion of the audience or are selling beverages and snacks for school‑related purposes.

(H) If middle school and high school students have shared access to areas on a common campus or in common buildings, the school community has the option to adopt the high school standard.”

Section 2. Article 3, Chapter 10, Title 59 of the 1976 Code is amended by adding:

“Section 59‑10‑345. (A) Beginning with the 2009‑2010 school year, the only food that may be served to a student in an elementary school during breakfast and lunch periods is food that is sold as a full meal. For purposes of this section, ‘full meal’ means any combination of food items that meets USDA nutrition guidelines and a USDA approved meal pattern. However, if a child brings a meal from home, the child may purchase individual meal items.

(B) Beginning with the 2009‑2010 school year, any food served to a student in an elementary, middle, or high school during the regular school day that is not a ‘full meal’ must contain no more than:

(1) thirty‑five percent of its total calories from fat. This item does not apply to the sale of nuts, nut butters, cheese packaged for individual sale, fruits, vegetables, or legumes;

(2) thirty‑five percent of its total weight from sugar, including naturally occurring or added sugar. This item does not apply to the sale of fruits or vegetables; and

(3) ten percent of its total calories from saturated fat. This item does not apply to eggs or cheese packaged for individual sale.

(C) Portion size for a la carte sales in a cafeteria must not exceed the serving size of the food served in the national school lunch program or school breakfast program.”

SECTION 3. Section 59‑10‑380 of the 1976 Code is amended to read:

“Section 59‑10‑380. ~~Nothing in~~ The provisions of this article may not be construed to prohibit or limit the school‑approved sale or distribution by students, teachers, or groups, of any food or beverage item ~~through fundraisers by students, teachers, or groups when the items are intended for sale off the school campus~~ for fundraising purposes.

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

Renumber sections to conform.

Amend title to conform.

Rep. SELLERS explained the amendment.

The amendment was then adopted.

The Bill, as amended, was read the second time and ordered to third reading.

**H. 3297--ORDERED TO BE READ THIRD TIME TOMORROW**

On motion of Rep. SELLERS, with unanimous consent, it was ordered that H. 3297 be read the third time tomorrow.

**H. 3543--DEBATE ADJOURNED**

The following Bill was taken up:

H. 3543 -- Reps. Brady and Mitchell: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-1-490 SO AS TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO DEVELOP A MODEL DATING VIOLENCE POLICY TO ASSIST SCHOOL DISTRICTS IN DEVELOPING THEIR OWN POLICIES FOR REPORTING AND RESPONDING TO DATING VIOLENCE, TO PROVIDE WHAT MUST BE INCLUDED IN THE POLICIES, TO PROVIDE REPORTING AND PUBLICATION REQUIREMENTS, AND TO REQUIRE SCHOOL DISTRICTS TO INFORM PARENTS AND GUARDIANS OF THE POLICY AND TO PROVIDE PARENTS WITH A COPY OF THE POLICY UPON REQUEST.

The Education and Public Works Committee proposed the following Amendment No. 1 (COUNCIL\NBD\11459BH09):

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/SECTION 1. The General Assembly finds that when a student is a victim of dating violence, his or her academic life suffers and his or her safety at school is jeopardized. The General Assembly further finds that because all students have a right to work and study in a safe, supportive environment that is free from harassment, intimidation, and violence, a policy to create an environment free of dating violence among students in grades six through twelve must be present in each school district.

SECTION 2. Article 5, Chapter 1, Title 59 of the 1976 Code is amended by adding:

“Section 59‑1‑490. (A) As used in this section:

(1) ‘Dating violence’ means a pattern of behavior in which one person uses threats of, or actually uses, physical, sexual, verbal, or emotional abuse to control his or her dating partner, or who engages in stalking as defined in Section 16-3-1700(C).

(2) ‘Dating partner’ means a person, regardless of gender, involved in an intimate relationship with another, primarily characterized by the expectation of affectionate involvement whether casual, serious, or long term.

(3) ‘At school’ means in a classroom, on or immediately adjacent to school premises, on a school bus or other school related vehicle, at an official school bus stop, or at a school sponsored activity or event whether or not it takes place on school grounds.

(4) ‘Department’ means the South Carolina Department of Education.

(B) On or before December 1, 2009, the department shall develop a model dating violence policy to assist school districts in developing policies for reporting and responding to dating violence among students in grades six through twelve. This policy must include, but may not be limited to, a statement that dating violence will not be tolerated, dating violence reporting procedures, guidelines for responding to at school incidents of dating violence, and disciplinary procedures specific to these incidents.

(C)(1) By the beginning of the 2010‑2011 school year, each school district shall establish a specific policy to address incidents of dating violence involving students in grades six through twelve. Each school district annually shall verify with the department compliance with this provision, in a manner established by the department.

(2) To ensure notice of the school district’s dating violence policy, the policy must be published in school and school district handbooks or any publications on the school or district website that provide the rules, procedures, or standards of conduct for students at school.

(D) Each school district shall inform the students’ parents or legal guardians of the school district’s dating violence policy. Upon request, the school district shall provide parents or legal guardians with a copy of the school district’s dating violence policy and relevant information.

(E) This section does not prevent a victim from seeking redress under any other available law, either civil or criminal. This section does not create or alter any tort liability.

(F) The provisions of subsections (B), (C), and (D) of this section are subject to the availability of funds for the purposes provided in those subsections.”

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

Renumber sections to conform.

Amend title to conform.

Rep. WHITMIRE explained the amendment.

Rep. WHITMIRE moved to adjourn debate on the Bill until Tuesday, May 12, which was agreed to.

**ORDERED TO THIRD READING**

The following Joint Resolution was taken up, read the second time, and ordered to a third reading:

H. 3972 -- Education and Public Works Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF PUBLIC SAFETY, RELATING TO CONTACT INFORMATION FROM TRAFFIC STOPS, DESIGNATED AS REGULATION DOCUMENT NUMBER 3208, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

Rep. ALLISON explained the Joint Resolution.

**H. 3972--ORDERED TO BE READ THIRD TIME TOMORROW**

On motion of Rep. ALLISON, with unanimous consent, it was ordered that H. 3972 be read the third time tomorrow.

**S. 491--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 491 -- Senator Hayes: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 18 TO CHAPTER 23, TITLE 57 SO AS TO DESIGNATE CERTAIN HIGHWAYS IN WESTERN YORK COUNTY AS THE WESTERN YORK COUNTY SCENIC BYWAY, AND TO MAKE IT SUBJECT TO THE REGULATIONS OF THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION AND THE SOUTH CAROLINA SCENIC HIGHWAYS COMMITTEE.

Reps. SIMRILL and KIRSH proposed the following Amendment No. 1 (COUNCIL\AGM\19424MM09), which was adopted:

Amend the bill, as and if amended, Section 57‑23‑900(B) as found in SECTION 1, by deleting / All off‑premises outdoor advertisement is prohibited on the routes comprising the Western York County Scenic Byway. /

Amend the bill further, by deleting all before the enacting words and inserting:

/ A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 18 TO CHAPTER 23, TITLE 57 SO AS TO DESIGNATE CERTAIN HIGHWAYS IN WESTERN YORK COUNTY AS THE WESTERN YORK COUNTY SCENIC BYWAY, AND TO MAKE IT SUBJECT TO THE REGULATIONS OF THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION AND THE SOUTH CAROLINA SCENIC HIGHWAYS COMMITTEE. /

Renumber sections to conform.

Amend title to conform.

Rep. KIRSH explained the amendment.

The amendment was then adopted.

The Bill, as amended, was read the second time and ordered to third reading.

**S. 491--ORDERED TO BE READ THIRD TIME TOMORROW**

On motion of Rep. KIRSH, with unanimous consent, it was ordered that S. 491 be read the third time tomorrow.

**H. 3677--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

H. 3677 -- Rep. Cobb-Hunter: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ENACTING THE "VIOLENCE AGAINST WOMEN FEDERAL COMPLIANCE ACT" TO CONFORM STATE LAW TO FEDERAL REQUIREMENTS BY AMENDING SECTION 16-3-740 RELATING TO TESTING CERTAIN CRIMINALS FOR HEPATITIS B AND THE HUMAN IMMUNODEFICIENCY VIRUS AT THE REQUEST OF A VICTIM, SO AS TO REVISE THE DEFINITION OF "OFFENDER" TO INCLUDE ADULTS AND JUVENILES, TO CLARIFY PROCEDURES FOR DISCLOSING TEST RESULTS, TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL SHALL ADVISE THE VICTIM OF AVAILABLE TREATMENT OPTIONS, AND UPON REQUEST OF THE VICTIM PROVIDE TESTING AND POST-TESTING COUNSELING; BY ADDING SECTION 16-3-750 SO AS TO PROHIBIT LAW ENFORCEMENT AND PROSECUTING OFFICERS FROM ASKING OR REQUIRING A VICTIM OF AN ALLEGED CRIMINAL SEXUAL CONDUCT OFFENSE TO SUBMIT TO A POLYGRAPH EXAMINATION AND TO PROVIDE THAT REFUSAL OF A VICTIM TO SUBMIT TO SUCH AN EXAMINATION DOES NOT PREVENT THE INVESTIGATION, CHARGING, OR PROSECUTION OF THE OFFENSE; TO AMEND SECTION 16-3-1350 RELATING TO MEDICOLEGAL EXAMINATIONS FOR VICTIMS OF CRIMINAL SEXUAL CONDUCT OR CHILD SEX ABUSE, SO AS TO DELETE THE PROVISION REQUIRING SUCH A VICTIM TO FILE AN INCIDENT REPORT WITH A LAW ENFORCEMENT AGENCY IN ORDER TO RECEIVE A MEDICOLEGAL EXAMINATION WITHOUT CHARGE; TO AMEND SECTION 16-3-177, AS AMENDED, RELATING TO THE FORM AND CONTENT OF A RESTRAINING ORDER, SO AS TO PROVIDE CIRCUMSTANCES UNDER WHICH A PERSON SUBJECT TO A RESTRAINING ORDER MAY NOT SHIP, TRANSPORT, OR POSSESS A FIREARM; BY ADDING SECTION 16-25-30 SO AS TO PROVIDE THAT A PERSON CONVICTED OF CRIMINAL DOMESTIC VIOLENCE OR CRIMINAL DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE MUST BE NOTIFIED IN WRITING THAT IT IS UNLAWFUL FOR SUCH A DEFENDANT TO SHIP, TRANSPORT, OR POSSESS A FIREARM; AND TO AMEND SECTION 20-4-60, AS AMENDED, RELATING TO THE FORM AND CONTENT OF AN ORDER OF PROTECTION FROM DOMESTIC VIOLENCE, SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON SUBJECT TO AN ORDER OF PROTECTION TO SHIP, TRANSPORT, OR POSSESS A FIREARM.

The Judiciary Committee proposed the following Amendment No. 1 (COUNCIL\NBD\11473AC09), which was adopted:

Amend the bill, as and if amended, by deleting SECTIONS 5 and 7 in their entirety.

Renumber sections to conform.

Amend title to conform.

Rep. KELLY explained the amendment.

The amendment was then adopted.

The Bill, as amended, was read the second time and ordered to third reading.

**H. 3677--ORDERED TO BE READ THIRD TIME TOMORROW**

On motion of Rep. KELLY, with unanimous consent, it was ordered that H. 3677 be read the third time tomorrow.

**S. 351--AMENDED AND INTERRUPTED DEBATE**

The following Bill was taken up:

S. 351 -- Senators Grooms, McConnell and Ford: A BILL TO AMEND ARTICLE 1, CHAPTER 3, TITLE 54 OF THE 1976 CODE, RELATING TO THE CREATION AND ORGANIZATION OF THE SOUTH CAROLINA STATE PORTS AUTHORITY, TO CLARIFY THAT THE POWERS AND DUTIES OF THE AUTHORITY ARE EXERCISED BY A BOARD OF DIRECTORS, TO PROVIDE THAT CANDIDATES FOR APPOINTMENT MUST POSSESS CERTAIN QUALIFICATIONS, TO PROVIDE THAT CANDIDATES MUST BE SCREENED TO DETERMINE WHETHER THEY POSSESS THE REQUIRED QUALIFICATIONS BEFORE THEY MAY SERVE ON THE BOARD, TO PROVIDE THAT MEMBERS OF THE BOARD MAY BE REMOVED FROM OFFICE ONLY FOR CAUSE, TO PROVIDE THAT THE BOARD MUST PERFORM AN ANNUAL PERFORMANCE REVIEW OF THE EXECUTIVE DIRECTOR, TO ESTABLISH THAT DIRECTORS HAVE A DUTY OF GOOD FAITH AND ORDINARY CARE WHEN DISCHARGING THEIR DUTIES AS A DIRECTOR, TO PROHIBIT CONFLICT OF INTEREST TRANSACTIONS, TO ESTABLISH A SOUTH CAROLINA STATE PORTS ADVISORY BOARD, AND SET THE MEMBERSHIP, DUTIES, AND RESPONSIBILITIES OF THE ADVISORY BOARD; TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 2, RELATING TO PORTS AUTHORITY MANAGEMENT, TO PROVIDE THAT THE BOARD OF DIRECTORS MUST HIRE AN EXECUTIVE DIRECTOR OF PORT OPERATIONS AND TO ESTABLISH THE DIRECTOR'S DUTY TO OPERATE THE PORTS IN A MANNER CONSISTENT WITH THE MISSION, POLICIES, AND DIRECTION OF THE BOARD; TO AMEND SECTION 54-3-140(5), TO PROVIDE THAT THE BOARD OF DIRECTORS MUST ADOPT AN ORGANIZATIONAL STRUCTURE FOR AUTHORITY OPERATIONS; TO AMEND SECTION 54-3-140, RELATING TO THE POWERS OF THE PORTS AUTHORITY, BY ADDING TWO NEW ITEMS THAT REQUIRE A LONG-RANGE PORT DEVELOPMENT AND CAPITAL FINANCING PLAN AND TO PROVIDE THAT THE AUTHORITY MUST CONSIDER PUBLIC-PRIVATE PARTNERSHIPS FOR CURRENT AND FUTURE OPERATIONS; TO AMEND SECTION 54-3-1040, RELATING TO THE ANNUAL FINANCIAL STATEMENT, AND TO PROVIDE THAT COPIES OF THE STATEMENT MUST BE FORWARDED TO THE ADVISORY COMMITTEE AND THE GENERAL ASSEMBLY; TO AMEND ARTICLE 11, CHAPTER 3, TITLE 54, RELATING TO FINANCIAL MATTERS, BY ADDING SECTION 54-3-1060, TO PROVIDE THAT THE AUTHORITY MUST MAINTAIN A TRANSACTION REGISTER OF ALL FUNDS EXPENDED OVER ONE HUNDRED DOLLARS AND MUST MAINTAIN ON ITS INTERNET WEBSITE A COPY OF EACH MONTHLY CREDIT CARD STATEMENT FOR ALL CREDIT CARDS MAINTAINED BY THE AUTHORITY; AND TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 13, RELATING TO LEGISLATIVE OVERSIGHT, TO REQUIRE REGULAR OVERSIGHT REVIEW OF THE AUTHORITY AND THE EXECUTIVE DIRECTOR.

The Judiciary Committee proposed the following Amendment No. 1 (COUNCIL\GJK\20338SD09), which was adopted:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/SECTION 1. Article 1, Chapter 3, Title 54 of the 1976 Code is amended to read:

“Article 1

Creation and Organization

Section 54‑3‑10. ~~The~~ There is created the South Carolina State Ports Authority. ~~is hereby created consisting of a~~ The governing body of the authority is a board of directors consisting of nine members~~, hereafter referred to as the Authority~~ who shall be responsible for setting policies and direction for the authority so that the authority may achieve its mission. The powers and duties of the authority shall be exercised by the board. The board may delegate to one or more officers, agents, or employees such powers and duties as it determines are necessary and proper for the effective, efficient operation of the port.

Section 54‑3‑20. (A) The members of the board shall be appointed by the Governor, with the advice and consent of the Senate, for terms of ~~seven~~ six years each and until their successors shall have been appointed, screened, and have qualified. In the event of a vacancy, however caused, a successor shall be appointed in the manner of original appointment for the unexpired term.

(B) Beginning January 15, 2011, the membership of the board shall consist of nine members all of whom must be residents of the State of South Carolina and shall include:

(1) one person appointed by the Governor from each of the six congressional districts;

(2) one person appointed by the Governor from the state at large;

(3) the Secretary of Transportation to serve ex officio;

(4) the Secretary of Commerce to serve ex officio.

(C) The terms of the members of the board serving in office on January 15, 2011, shall expire on this date. Beginning January 15, 2011, new members of the board shall be appointed and shall serve staggered terms. Nothing herein prohibits the reappointment of a former board member. In 2011 the members representing the second and fourth congressional districts must be appointed for terms ending January 15, 2013. Thereafter, members representing the second and fourth congressional districts must be appointed to terms of six years.

In 2011, members representing the first and third congressional districts must be appointed to terms ending January 15, 2015. Thereafter, members representing the first and third congressional districts must be appointed to terms of six years.

In 2011, members representing the fifth and sixth congressional districts as well as the member representing the State at large must be appointed to six‑year terms ending January 15, 2017.

(C) A candidate for appointment to the board may not be confirmed by the Senate or serve on the board, even in an interim capacity, until he is found qualified by possessing the abilities and experience and having the minimum qualifications contained in Section 54‑3‑60 as determined by the Joint Commission on Ports Authority Qualification.

Section 54‑3‑25. (A) There is created a Joint Commission on Ports Authority Qualification consisting of five members of the Senate, appointed by the President *Pro Tempore* of the Senate and five members of the House of Representatives appointed by the Speaker of the House.

(B) The commission by a two‑thirds vote of its membership, may waive the requirements of Section 54‑3‑60(A) for a candidate for the board of directors for the State Ports Authority.

Section 54‑3‑30. ~~They~~ The board shall elect one of ~~their number~~ its members to serve as chairman and there shall be no term limit for a member selected by the board as chairman, one member to serve as vice chairman, and ~~shall also elect a~~ one member to serve as secretary. The board shall meet upon the call of its chairman and a majority of its members shall constitute a quorum for the transaction of its business.

Section 54‑3‑40. The ~~Authority~~ board shall select one of its members to serve as ~~its~~ treasurer. The ~~Authority~~ treasurer shall ~~require~~ give a surety bond ~~of such appointee~~ in ~~such~~ an amount ~~as the Authority may fix~~ fixed by the board and the premium ~~thereon~~ on the bond shall be paid by the authority as a necessary expense ~~of the Authority~~.

Section 54‑3‑50. Members of the board of directors may be removed by the Governor pursuant to Section 1‑3‑240(A), a breach of duty required by Section 54‑3‑80, or entering into a conflict of interest transaction prohibited by Section 54‑3‑90.

Section 54‑3‑60. (A) Each member of the board except for the Secretary of Transportation and the Secretary of Commerce when they become members of the board must possess abilities and experience that enable them to make valuable contributions to the conduct of the authority’s business. These abilities include substantial business skills and experience but are not limited to:

(1) general knowledge of the history, purpose, and operations of the State Ports Authority;

(2) the ability to interpret legal and financial documents and information so as to further the activities and affairs of the authority;

(3) with the assistance of counsel, the ability to understand and apply federal and state laws, rules, and regulations related to the operation of a port; and

(4) with the assistance of counsel, the ability to understand and apply judicial and administrative decisions as they relate to the activities and affairs of a port.

(B) In addition to the abilities and experience required in subsection (A), each board member must possess a background of at least five years in any one or any combination of the following fields of expertise:

(a) maritime shipping;

(b) labor related to maritime shipping;

(c) overland shipping by truck or rail, or both;

(d) international commerce;

(e) finance, economics, or statistics;

(f) accounting;

(g) engineering;

(h) law; or

(i) business management gained from serving as a chief executive officer, president, or managing director of a business or any upper level management position with a business that is equivalent in duties and responsibilities to the positions listed in this item.

(C) When making appointments to the board, the Governor shall ensure that the diverse interests represented by the port are represented. To the greatest extent possible, the Governor shall ensure that the membership of the board includes a certified public accountant, a member representing port users such as manufacturers, shippers, and importers, a member representing the state’s economic development interests, and a member who has served as a corporate chief executive officer. Consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed.

Section 54‑3‑70. The board must conduct an annual performance review of the executive director and submit a written report of its findings to the Governor and the General Assembly. A draft of the performance review must be submitted to the executive director, and the executive director must be provided an opportunity to be heard by the board of directors before the board submits the final draft to the Governor and the General Assembly.

Section 54‑3‑80. (A) A member of the board of directors shall discharge his duties as a director, including his duties as a member of a committee:

(1) in good faith;

(2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

(3) in a manner he reasonably believes to be in the best interests of the authority. As used in this chapter, best interests means a balancing of the following:

(a) achieving the purposes of the authority as provided in Section 54‑3‑130;

(b) preservation of the financial integrity of the State Ports Authority and its ongoing operations;

(c) economic development and job attraction and retention;

(d) consideration given to diminish or mitigate any negative effect port operations or expansion may have upon the environment, transportation infrastructure, and quality of life of residents in communities located near existing or proposed port facilities; and

(e) exercise of the powers of the authority in accordance with good business practices and the requirements of applicable licenses, laws, and regulations.

(B) In discharging his duties, a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(1) one or more officers or employees of the State whom the director reasonably believes to be reliable and competent in the matters presented;

(2) legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person’s professional or expert competence; or

(3) a committee of the board of directors of which he is not a member if the director reasonably believes the committee merits confidence.

(C) A director is not acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (B) unwarranted.

(D) Nothing in this article gives rise to a cause of action against a member of the board of directors or any decision of the board of directors regarding duties of the individual director or the board of directors concerning port operations or development. Willful failure of the board or any individual member of the board to discharge his duties as required by this article may be considered by the Governor in determining whether to reappoint a board member or in the confirmation proceedings of that board member.

Section 54‑3‑90. (A) A conflict of interest transaction is a transaction with the State Ports Authority in which a director has a direct or indirect interest. A conflict of interest transaction is not voidable by the authority solely because of the director’s interest in the transaction if any one of the following is true:

(1) the material facts of the transaction and the director’s interest were disclosed or known to the board or a committee of the board, and the board or a committee of the board authorized, approved, or ratified the transaction; or

(2) the transaction was fair to the authority and its customers.

If item (1) has been accomplished, the burden of proving unfairness of any transaction covered by this section is on the party claiming unfairness. If item (1) has not been accomplished, the party seeking to uphold the transaction has the burden of proving fairness.

(B) For purposes of this section, a director has an indirect interest in a transaction if:

(1) another entity in which he has a material financial interest or in which he is a general partner is a party to the transaction;

(2) another entity of which he is a director, officer, member, or trustee is a party to the transaction and the transaction is or should be considered by the board; or

(3) another entity of which an immediate family member has a material financial interest or in which an immediate family member is a general partner, director, officer, member, or trustee is a party to the transaction and the transaction is or should be considered by the board.

(C) For purposes of subsection (A)(1), a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board of directors, or on the committee, who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved, or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection (A)(1) if the transaction is otherwise authorized, approved, or ratified as provided in that subsection.”

SECTION 2. Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Article 2

Ports Authority Management

Section 54‑3‑101. The board of directors shall employ an Executive Director of Port Operations who shall serve at the pleasure of the board. A person employed to this position shall possess practical and successful business and executive ability and must be knowledgeable in the field of port operations.

Section 54‑3‑102. (A) The executive director is charged with the affirmative duty to carry out the mission, policies, and direction of the authority as established by the board of directors. He must represent the authority in its dealings with other state agencies, local governments, special districts, and the federal government.

(B) The executive director shall appoint a director for each division contained in the organizational structure established by the board of directors, who shall serve at the pleasure of the executive director.

(C) For each division established by the organizational structure created by the board, the executive director must employ personnel and prescribe their duties, powers, and functions as he considers necessary and as may be authorized or directed by the board of directors.

Section 54‑3‑103. Compensation for the executive director and division directors shall be approved by the board of directors in a public vote. For the purpose of this section, compensation includes, but is not limited to, annual salary, bonuses, severance, and vehicle allowances.

Section 54‑3‑104. The Executive Director of the Port Operations also shall employ a director of port operations for the port of Georgetown. A person employed to this position shall possess practical and successful business and executive ability and must be knowledgeable in the field of port operations.

Section 54‑3‑105. The director of port operations for the port of Georgetown is charged with the affirmative duty to carry out the mission, policies, and direction of the authority for the port of Georgetown as established by the board of directors.”

SECTION 3. Section 54‑3‑140(5) of the 1976 Code is amended to read:

“(5) ~~Shall appoint and employ and dismiss at pleasure such employees as may be selected by the board of the Authority and fix and pay the compensation thereof~~ Shall adopt an organizational structure for authority operations implemented by the executive director;”

SECTION 4. Section 54‑3‑140 of the 1976 Code is amended by adding appropriately numbered new items to read:

“( ) Shall develop a long‑range port development and capital financing plan, with a minimum twenty‑year forecast period at the time of adoption that provides for the promotion, development, construction, equipping, maintaining, and operation of the state’s harbors and seaports to maximize their economic benefit to the State, including, but not limited to, Charleston and Georgetown. The plan must be revised at least every five years, to reflect and account for changing conditions. The long‑range plan must be submitted to the General Assembly;

( ) Shall review port operations and proposals for future operations and construction to determine whether utilizing a public‑private partnership to achieve the current or proposed operational goals and development is the most advantageous method to the State and would result in the most timely, economical, efficient, and successful fulfillment of the operational goals or completion of the development project;

( ) is directed to take all necessary steps it finds reasonable to establish rail access to port facilities in Charleston County by any Class I railway operating in Charleston County on the effective date of this item. The authority shall report annually to the General Assembly and the Governor on the status of efforts to establish rail access.”

SECTION 5. Section 54‑3‑1040 of the 1976 Code is amended to read:

“Section 54‑3‑1040. At least once ~~in~~ each year the authority shall ~~publish once in some newspaper published in Charleston County~~ furnish the Governor and conspicuously post on the authority’s Internet website a complete detailed statement of all ~~moneys~~ monies received and disbursed by the authority during the preceding year. Such statement shall also show the several sources from which such funds were received and the balance on hand at the time of publishing the statement and shall show the complete financial condition of the authority.”

SECTION 6. Article 11, Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Section 54‑3‑1060. (A) For the purposes of this section, ‘detailed description of the expenditure’ means a description of an expenditure that distinguishes that expenditure from other expenditures and is particular enough in its account of the expenditure to discern the purpose of the expenditure.

(B) The authority shall maintain a transaction register that includes a complete record of all appropriated funds expended over one hundred dollars, from whatever source for whatever purpose. The register must be prominently posted on the authority’s internet website and made available for public viewing and downloading.

(C)(1) The register must include for each expenditure:

(a) the transaction amount;

(b) the name of the payee; and

(c) a statement providing a detailed description of the expenditure.

(2) The register must not include an entry for salary, wages, or other compensation paid to individual employees.

(3) The register must not include any information that can be used to identify an individual employee.

(4) The register must be accompanied by a complete explanation of any codes or acronyms used to identify a payee or an expenditure.

(D) The register must be searchable and updated at least once a month. Each monthly register must be maintained on the internet website for at least five years.”

SECTION 7. Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Article 13

Legislative Oversight

Section 54‑3‑1300. (A) The Senate Transportation Committee and the House of Representatives Ways and Means Committee must each conduct an oversight review of the authority and its operations at least once every two years. The committees may coordinate their reviews to reduce duplication.

(1) The oversight reviews must consider whether the authority is promoting, developing, constructing, equipping, maintaining, and operating the harbors and seaports of this State in an efficient, effective manner in accordance with all applicable laws and regulations.

(2) A written report of the findings from each oversight review must be published in the journals of both houses and made available on the General Assembly’s Internet website.

(B) Each committee may undertake any additional reviews, studies, or evaluations as it considers necessary.

Section 54‑3‑1310. (A) The oversight report required by this article must at least contain:

(1) a performance review of each member of the board during the previous two years;

(2) a performance review of the State Ports Authority executive director; and

(3) an evaluation of the actions of the board, sufficient to allow the members of the General Assembly to better judge whether these actions serve the best interests of the citizens of South Carolina, both individual and corporate.

(B) To assist the committees in performing the performance reviews and evaluations required by this article, the committees may develop and distribute, as appropriate, an anonymous and confidential survey evaluating the board members and the executive director. At a minimum, the survey must include the following:

(1) knowledge and application of substantive port issues;

(2) the ability to perceive relevant issues;

(3) absence of influence by political considerations;

(4) absence of influence by identities of labor unions;

(5) courtesy to all persons appearing before the board;

(6) temperament and demeanor in general, preparation for hearings, and attentiveness during hearings; and

(7) any other issue the committee deems appropriate.

Section 54‑3‑1320. A draft of a board member’s and executive director’s performance review and the evaluations of the actions of the board, must be submitted to the appropriate party, and that party must be allowed an opportunity to be heard before the committee conducting the oversight review by the performance review or evaluation, as the case may be, is final. The final performance review of a board member must be made a part of the member’s record for consideration if the member seeks reappointment to the board.”

SECTION 8. Article 3, Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Section 54‑3‑155. Without prior approval from the State Budget and Control Board, the authority may not sell any real property or any buildings, terminals, or other permanent structures, excluding equipment, appurtenant to real property that are or may be used to carry out the purposes of the authority as provided in Section 54‑3‑130.”

SECTION 9. Section 54‑3‑110 of the 1976 Code is amended to read:

“Section 54‑3‑110. Through the authority the State may engage in promoting, developing, constructing, equipping, maintaining, and operating the harbors or seaports within the State, namely Charleston, Georgetown, and ~~Port Royal~~ Jasper, and works of internal improvement incident thereto, including the acquisition or construction, maintenance and operation at such seaports of harbor watercraft and terminal railroads, as well as other kinds of terminal facilities, and belt line roads or highways and bridges thereon and other bridges and causeways necessary or useful in connection therewith.”

SECTION 10. Section 54‑3‑130(1) of the 1976 Code is amended to read:

“(1) To develop and improve the harbors or seaports of Charleston, Georgetown, and ~~Port Royal~~ Jasper for the handling of water‑borne commerce from and to any part of the State and other states and foreign countries;”

SECTION 11. Section 54‑3‑130(8) of the 1976 Code is amended to read:

“(8) To promote, develop, construct, equip, maintain, and operate a harbor or harbors within this State on the Savannah River, and in furtherance thereof have all of the powers, purposes, and authority given by law to the authority in reference to the harbors and seaports of Charleston, Georgetown, and ~~Port Royal~~ Jasper; and”

SECTION 12. Article 3, Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Section 54‑3‑115. The authority shall take all action necessary to expeditiously develop a port in Jasper County in accordance with the Intergovernmental Agreement for Development of a Jasper Ocean Terminal on the Savannah River within the State of South Carolina that was entered into between the South Carolina State Ports Authority, the Georgia Ports Authority, and the Georgia Department of Transportation dated on January 27, 2008. In determining whether the development of a Jasper Port is proceeding in an expeditious manner, the board must consider whether timelines or benchmarks included in either the Intergovernmental Agreement or amendments to it or other agreement with a partner to develop the port have been or will be met in a timely manner. A determination that a delay in the planning or construction of the port is reasonable must be based on an objective analysis of all available empirical data and expert opinion, as well as a comparison of the construction timelines of ports of similar size and expected capacity. If it is determined that a partner to an agreement to develop the port is not meeting its obligations that will result in the port not being developed in an expeditious manner, then the authority must take all available and necessary action to compel the partner to meet its obligations and, if necessary, terminate the agreement and transfer to Jasper County the assets and right to develop the port. The authority also shall take all action necessary and as may be requested from time to time by the committees in the House of Representatives and the Senate in connection with the State of South Carolina and the State of Georgia to enter into an Interstate Compact to operate a Jasper Port on or before December 31, 2010, as such compact is generally outlined in the Intergovernmental Agreement. In connection with the development of a port in Jasper County, the authority shall make specific inquiries regarding the merits of using private capital to finance the construction of that port to a greater extent than historically has been used by the South Carolina State Ports Authority in connection with their existing port operations.”

SECTION 13. Article 3, Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Section 54‑3‑117. The authority shall take all action necessary to expeditiously complete construction of a container terminal in North Charleston.”

SECTION 14. Article 3, Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Section 54‑3‑118. The board may fully explore public-private partnership opportunities at its ports. It shall be the policy of the authority that any such public-private partnership that benefits the State of South Carolina are to be entered into by the board. However, the board retains all authority associated with entering a public-private partnership on behalf of the port. ”

SECTION 15. Chapter 1, Title 13 of the 1976 Code is amended by adding:

“Section 13‑1‑1355. All tracks, spurs, switches, terminal, terminal facilities, road beds, rights‑of‑way, bridges, stations, railroad cars, locomotives, or other vehicles constructed for operation over railroad tracks, crossing signs, lights, signals, storage, and all associated structures and equipment which are necessary for the operation of any railroad located on any ‘applicable federal military installation’ or ‘applicable federal facility’ as defined in Section 12‑6‑3450 upon transfer to the State of South Carolina shall immediately vest, in fee simple absolute, in the Division of Public Railways of the Department of Commerce. The provisions of this section are remedial and shall be deemed to be retroactive.

SECTION 16. This act takes effect January 1, 2010. /

Renumber sections to conform.

Amend title to conform.

Rep. HARRISON explained the amendment.

The amendment was then adopted.

Rep. BOWERS proposed the following Amendment No. 2 (COUNCIL\GJK\20292SD09):

Amend the bill, as and if amended, by adding a new SECTION appropriately numbered to read:

/SECTION \_\_\_\_. From the State Ports Authority property at Port Royal in Beaufort County to be sold, a suitable portion identified by the Budget and Control Board shall be retained by the State for the purpose of providing a public access point to navigable water for general public use and access. The Department of Natural Resources shall manage and operate the property for the benefit of the citizens of Beaufort county and the Lowcountry. If no suitable location for this public access area can be identified before the sale, the Budget and Control Board shall retain and use a sufficient portion of the proceeds of the sale to purchase such a location which in turn shall be used and managed in the manner provided in this section. /

Renumber sections to conform.

Amend title to conform.

Rep. BOWERS explained the amendment.

**POINT OF ORDER**

Rep. SKELTON raised the Point of Order that Amendment No. 2 was out of order in that it was not germane to the Bill.

SPEAKER *PRO TEMPORE* CATO stated that previously adopted Amendment No. 1 on the Bill included a section that prohibited the State Ports Authority from selling any excess property without prior approval from the State Budget and Control Board. He stated further that Amendment No. 2 dealt with the sales of excess property of the Ports Authority and where the proceeds would go. He overruled the Point of Order.

Further proceedings were interrupted by expiration of time on the uncontested Calendar.

**H. 3651--REQUESTS FOR DEBATE WITHDRAWN**

Reps. VICK, KENNEDY, HIOTT, LOFTIS, GULLICK, KING, DANING, DUNCAN, SELLERS, PARKER and CRAWFORD withdrew their requests for debate on the following Bill:

H. 3651 -- Reps. Duncan, Umphlett, Anthony, Knight, Forrester and Hayes: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 48-23-205 SO AS TO LIMIT THE AUTHORITY OF COUNTIES AND MUNICIPALITIES TO RESTRICT OR REGULATE CERTAIN FORESTRY ACTIVITIES, AND TO PROVIDE THE TERMS AND CONDITIONS OF CERTAIN PERMITTED REGULATIONS.

**H. 3790--REQUESTS FOR DEBATE WITHDRAWN**

Reps. KENNEDY, J. H. NEAL, HOSEY, KING, H. B. BROWN, OTT and CLYBURN withdrew their requests for debate on H. 3790; however, other requests for debate remained on the Bill.

**H. 3530--REQUESTS FOR DEBATE WITHDRAWN**

Reps. BALES, HOSEY, HART, R. L. BROWN, KENNEDY and MCEACHERN withdrew their requests for debate on the following Bill:

H. 3530 -- Reps. Bannister, Brantley, Simrill, Anthony, Vick, H. B. Brown, Brady, Funderburk, Gambrell, Hardwick, Horne, Knight, Miller, E. H. Pitts, Viers, A. D. Young, Wylie, Branham, Gullick and J. M. Neal: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56-15-361, SO AS TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES MAY IMPOSE AND COLLECT AN ADMINISTRATIVE FINE AGAINST LICENSED MOTOR VEHICLE DEALERS WHO VIOLATE CERTAIN PROVISIONS OF LAW, AND PROVIDE THAT THE DEPARTMENT SHALL EMPLOY THE STAFF NECESSARY TO ENFORCE THE PROVISIONS CONTAINED IN THIS SECTION.

**H. 3790--REQUESTS FOR DEBATE WITHDRAWN**

Reps. HART, JEFFERSON and R. L. BROWN withdrew their requests for debate on H. 3790; however, other requests for debate remained on the Bill.

**OBJECTION TO MOTION**

Rep. MOSS asked unanimous consent that H. 3678 be read a third time tomorrow.

Rep. KENNEDY objected.

**S. 388--RECALLED FROM COMMITTEE ON**

**WAYS AND MEANS**

On motion of Rep. WHITE, with unanimous consent, the following Joint Resolution was ordered recalled from the Committee on Ways and Means:

S. 388 -- Senator Leatherman: A JOINT RESOLUTION TO DIRECT THE STATE TREASURER'S OFFICE TO PROVIDE FINANCING ARRANGEMENTS THROUGH THE MASTER LEASE PROGRAM FOR ANY AGENCY THAT HAS NOT PAID IN FULL FOR ITS SOUTH CAROLINA ENTERPRISE INFORMATION SYSTEM (SCEIS) IMPLEMENTATION COSTS AND HAS NOT UTILIZED THE AGENCY'S SET-ASIDE ACCOUNT TO MEET ITS OBLIGATIONS, TO PROVIDE THAT THE AMOUNTS AND TIMING OF LEASE PAYMENTS BY AN AGENCY SHALL BE DETERMINED BY THE STATE TREASURER'S OFFICE IN COOPERATION WITH THE SCEIS EXECUTIVE OVERSIGHT COMMITTEE, TO REQUIRE AN AGENCY TO MEET ALL OF ITS SCEIS FINANCIAL OBLIGATIONS, AND TO PROVIDE WHEN AN AGENCY MAY WITHDRAW FUNDS FROM ITS SCEIS SET-ASIDE ACCOUNT.

**OBJECTION TO RECALL**

Rep. BATTLE asked unanimous consent to recall S. 360 from the Committee on Ways and Means.

Rep. KENNEDY objected.

**S. 711--ORDERED TO BE READ THIRD TIME TOMORROW**

On motion of Rep. FORRESTER, with unanimous consent, it was ordered that S. 711 be read the third time tomorrow.

**OBJECTION TO RECALL**

Rep. SELLERS asked unanimous consent to recall H. 3848 from the Committee on Judiciary.

Rep. CLEMMONS objected.

**OBJECTION TO RECALL**

Rep. HARVIN asked unanimous consent to recall S. 304 from the Committee on Ways and Means.

Rep. KIRSH objected.

**OBJECTION TO MOTION**

Rep. DUNCAN asked unanimous consent that H. 3794 be read a third time tomorrow.

Rep. KENNEDY objected.

**OBJECTION TO MOTION**

Rep. UMPHLETT asked unanimous consent that S. 617 be read a third time tomorrow.

Rep. KENNEDY objected.

**OBJECTION TO RECALL**

Rep. KELLY asked unanimous consent to recall S. 692 from the Committee on Judiciary.

Rep. HART objected.

**RECURRENCE TO THE MORNING HOUR**

Rep. HARRISON moved that the House recur to the Morning Hour, which was agreed to.

**CONCURRENT RESOLUTION**

On motion of Rep. FUNDERBURK, with unanimous consent, the following was taken up for immediate consideration:

H. 4008 -- Reps. Funderburk, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO DESIGNATE THE MONTH OF NOVEMBER 2009 AS "EPILEPSY AWARENESS MONTH" IN SOUTH CAROLINA AND TO ENCOURAGE COMMUNITY AWARENESS AND UNDERSTANDING OF EPILEPSY.

Whereas, the members of the General Assembly call upon all citizens, government agencies, public and private institutions, businesses, and schools in South Carolina to increase our State’s awareness and understanding of epilepsy, or seizure disorder; and

Whereas, epilepsy is a medical condition that produces seizures affecting a variety of mental and physical functions. A seizure occurs when a brief, strong surge of electrical activity affects part or all of the brain and manifests itself in numerous ways ranging from convulsions to blank stares; and

Whereas, one in ten individuals will have a seizure sometime during his or her life. Presently, more than three million people in the United States have some form of epilepsy, and between seventy thousand and eighty thousand of them are South Carolinians; and

Whereas, a disorder that knows no age or racial boundaries, epilepsy is diagnosed nationally in about two hundred thousand new cases every year; and

Whereas, the Epilepsy Foundation of South Carolina observes Epilepsy Awareness Month each year in November and presents a public education campaign to raise awareness of seizure disorders and their acceptance and to teach helpful first aid and prevention; and

Whereas, activities during this month include a campaign to encourage respect for young people with epilepsy, who are particularly vulnerable to prejudice and ill treatment on the part of their peers; public‑service announcements by celebrities; and presentations by local volunteers aimed at dispelling myths about epilepsy, teaching proper seizure first aid, and improving the quality of life for young people with epilepsy; and

Whereas, the General Assembly commends the Epilepsy Foundation of South Carolina for its fine efforts toward educating the public on the often misunderstood issue of seizure disorders, and the members are pleased to cooperate in the accomplishing of the foundation’s mission. Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

That the members of the South Carolina General Assembly, by this resolution, designate the month of November 2009 as “Epilepsy Awareness Month” in South Carolina and encourage community awareness and understanding of epilepsy.

Be it further resolved that a copy of this resolution be forwarded to the Epilepsy Foundation of South Carolina.

The Concurrent Resolution was agreed to and ordered sent to the Senate.

**S. 351--REQUESTS FOR DEBATE**

Debate was resumed on the following Bill, the pending question being the consideration of amendments:

S. 351 -- Senators Grooms, McConnell and Ford: A BILL TO AMEND ARTICLE 1, CHAPTER 3, TITLE 54 OF THE 1976 CODE, RELATING TO THE CREATION AND ORGANIZATION OF THE SOUTH CAROLINA STATE PORTS AUTHORITY, TO CLARIFY THAT THE POWERS AND DUTIES OF THE AUTHORITY ARE EXERCISED BY A BOARD OF DIRECTORS, TO PROVIDE THAT CANDIDATES FOR APPOINTMENT MUST POSSESS CERTAIN QUALIFICATIONS, TO PROVIDE THAT CANDIDATES MUST BE SCREENED TO DETERMINE WHETHER THEY POSSESS THE REQUIRED QUALIFICATIONS BEFORE THEY MAY SERVE ON THE BOARD, TO PROVIDE THAT MEMBERS OF THE BOARD MAY BE REMOVED FROM OFFICE ONLY FOR CAUSE, TO PROVIDE THAT THE BOARD MUST PERFORM AN ANNUAL PERFORMANCE REVIEW OF THE EXECUTIVE DIRECTOR, TO ESTABLISH THAT DIRECTORS HAVE A DUTY OF GOOD FAITH AND ORDINARY CARE WHEN DISCHARGING THEIR DUTIES AS A DIRECTOR, TO PROHIBIT CONFLICT OF INTEREST TRANSACTIONS, TO ESTABLISH A SOUTH CAROLINA STATE PORTS ADVISORY BOARD, AND SET THE MEMBERSHIP, DUTIES, AND RESPONSIBILITIES OF THE ADVISORY BOARD; TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 2, RELATING TO PORTS AUTHORITY MANAGEMENT, TO PROVIDE THAT THE BOARD OF DIRECTORS MUST HIRE AN EXECUTIVE DIRECTOR OF PORT OPERATIONS AND TO ESTABLISH THE DIRECTOR'S DUTY TO OPERATE THE PORTS IN A MANNER CONSISTENT WITH THE MISSION, POLICIES, AND DIRECTION OF THE BOARD; TO AMEND SECTION 54-3-140(5), TO PROVIDE THAT THE BOARD OF DIRECTORS MUST ADOPT AN ORGANIZATIONAL STRUCTURE FOR AUTHORITY OPERATIONS; TO AMEND SECTION 54-3-140, RELATING TO THE POWERS OF THE PORTS AUTHORITY, BY ADDING TWO NEW ITEMS THAT REQUIRE A LONG-RANGE PORT DEVELOPMENT AND CAPITAL FINANCING PLAN AND TO PROVIDE THAT THE AUTHORITY MUST CONSIDER PUBLIC-PRIVATE PARTNERSHIPS FOR CURRENT AND FUTURE OPERATIONS; TO AMEND SECTION 54-3-1040, RELATING TO THE ANNUAL FINANCIAL STATEMENT, AND TO PROVIDE THAT COPIES OF THE STATEMENT MUST BE FORWARDED TO THE ADVISORY COMMITTEE AND THE GENERAL ASSEMBLY; TO AMEND ARTICLE 11, CHAPTER 3, TITLE 54, RELATING TO FINANCIAL MATTERS, BY ADDING SECTION 54-3-1060, TO PROVIDE THAT THE AUTHORITY MUST MAINTAIN A TRANSACTION REGISTER OF ALL FUNDS EXPENDED OVER ONE HUNDRED DOLLARS AND MUST MAINTAIN ON ITS INTERNET WEBSITE A COPY OF EACH MONTHLY CREDIT CARD STATEMENT FOR ALL CREDIT CARDS MAINTAINED BY THE AUTHORITY; AND TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 13, RELATING TO LEGISLATIVE OVERSIGHT, TO REQUIRE REGULAR OVERSIGHT REVIEW OF THE AUTHORITY AND THE EXECUTIVE DIRECTOR.

Rep. BOWERS proposed the following Amendment No. 2 (COUNCIL\GJK\20292SD09), which was tabled:

Amend the bill, as and if amended, by adding a new SECTION appropriately numbered to read:

/SECTION \_\_\_\_. From the State Ports Authority property at Port Royal in Beaufort County to be sold, a suitable portion identified by the Budget and Control Board shall be retained by the State for the purpose of providing a public access point to navigable water for general public use and access. The Department of Natural Resources shall manage and operate the property for the benefit of the citizens of Beaufort county and the Lowcountry. If no suitable location for this public access area can be identified before the sale, the Budget and Control Board shall retain and use a sufficient portion of the proceeds of the sale to purchase such a location which in turn shall be used and managed in the manner provided in this section. /

Renumber sections to conform.

Amend title to conform.

Rep. BOWERS explained the amendment.

Rep. BOWERS moved to table the amendment, which was agreed to.

Rep. BOWERS proposed the following Amendment No. 3 (COUNCIL\GGS\22343AB09):

Amend the bill, as and if amended, by adding a new SECTION appropriately numbered to read:

/SECTION \_\_\_\_. From the State Ports Authority property at Port Royal in Beaufort County to be sold, a suitable portion from the proceeds of the sale identified by the Budget and Control Board shall be retained by the State for the purpose of providing a public access point to navigable water for general public use and access. The Department of Natural Resources shall manage and operate the property for the benefit of the citizens of South Carolina. If no suitable location for this public access area can be identified before the sale, the Budget and Control Board shall retain and use a sufficient portion of the proceeds of the sale to purchase such a location which in turn shall be used and managed in the manner provided in this section. /

Renumber sections to conform.

Amend title to conform.

Rep. BOWERS explained the amendment.

Rep. BOWERS spoke in favor of the amendment.

Reps. DANING, CRAWFORD, KENNEDY, BOWERS, WILLIAMS, SELLERS, HART, HOSEY, LONG and BEDINGFIELD requested debate on the Bill.

**SPEAKER IN CHAIR**

**S. 704--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 704 -- Senators McGill and Cleary: A BILL TO AMEND SECTION 7-7-270, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN GEORGETOWN COUNTY, SO AS TO REDESIGNATE A MAP NUMBER ON WHICH LINES OF THESE PRECINCTS ARE DELINEATED AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD AND TO CORRECT ARCHAIC REFERENCES.

Rep. MILLER proposed the following Amendment No. 1 (COUNCIL\GGS\22338AHB), which was adopted:

Amend the bill, as and if amended, by adding an appropriately numbered SECTION at the end to read:

/ SECTION \_\_\_. Section 7‑7‑270 of the 1976 Code, as last amended by Act 223 of 2004, is further amended by adding an appropriately lettered subsection at the end to read:

“( ) The process for the establishment of polling places for the precincts provided in this subsection (C) also must be coordinated with the State Election Commission and the Office of Research and Statistics.” /

Renumber sections to conform.

Amend title to conform.

Rep. MILLER explained the amendment.

The amendment was then adopted.

The Bill, as amended, was read the second time and ordered to third reading.

**S. 704--ORDERED TO BE READ THIRD TIME TOMORROW**

On motion of Rep. MILLER, with unanimous consent, it was ordered that S. 704 be read the third time tomorrow.

**ORDERED TO THIRD READING**

The following Bills were taken up, read the second time, and ordered to a third reading:

S. 13 -- Senators Leatherman, Elliott and Campbell: A BILL TO AMEND SECTION 56-3-910 OF THE 1976 CODE, RELATING TO MOTOR VEHICLE FEES, TO PROVIDE THAT FEES BE PLACED IN THE STATE HIGHWAY ACCOUNT OF THE TRANSPORTATION INFRASTRUCTURE BANK INSTEAD OF THE DEPARTMENT OF TRANSPORTATION.

Rep. LIMEHOUSE explained the Bill.

H. 3987 -- Reps. Lowe and Crawford: A BILL TO PROVIDE THAT IN FLORENCE COUNTY A PERSON MUST OBTAIN PERMISSION FROM THE GOVERNING BODY OF A HOMEOWNER'S ASSOCIATION OR A RESIDENTIAL SUBDIVISION BEFORE HE MAY DISCHARGE A FIREARM ON ANY PROPERTY OWNED BY OR UNDER THE CONTROL OF THE HOMEOWNER'S ASSOCIATION OR THE RESIDENTIAL SUBDIVISION, TO PROVIDE A FINE FOR THE VIOLATION OF THE SECTION, AND TO PROVIDE THAT A FINE MAY NOT BE IMPOSED UPON A PERSON WHOSE DISCHARGE OF A FIREARM IS COVERED BY A LEGAL DEFENSE.

Rep. LOWE explained the Bill.

**OBJECTION TO MOTION**

Rep. LIMEHOUSE asked unanimous consent that S. 13 be read a third time tomorrow.

Rep. KENNEDY objected.

**H. 3987--ORDERED TO BE READ THIRD TIME TOMORROW**

On motion of Rep. LOWE, with unanimous consent, it was ordered that H. 3987 be read the third time tomorrow.

**H. 3651--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

H. 3651 -- Reps. Duncan, Umphlett, Anthony, Knight, Forrester and Hayes: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 48-23-205 SO AS TO LIMIT THE AUTHORITY OF COUNTIES AND MUNICIPALITIES TO RESTRICT OR REGULATE CERTAIN FORESTRY ACTIVITIES, AND TO PROVIDE THE TERMS AND CONDITIONS OF CERTAIN PERMITTED REGULATIONS.

The Agriculture, Natural Resources and Environmental Affairs Committee proposed the following Amendment No. 1 (COUNCIL\GJK\20305SD09):

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/SECTION 1. Chapter 23, Title 48 of the 1976 Code is amended by adding:

“Section 48‑23‑300. (A) For purposes of this section, the following definitions apply to this section:

(1) ‘Development’ means any activity, including timber harvesting, that is associated with the conversion of forestland to nonforest or nonagricultural use.

(2) ‘Forestland’ means land supporting a stand or potential stand of trees that may be utilized for timber products, watershed or wildlife protection, recreational uses, or for other purposes.

(3) ‘Forestry service’ means any professional service relating to a forestry management plan or activity including, but not limited to, consultation, investigation, evaluation, planning, or responsible supervision of forest management, protection, silviculture, measurements, utilization, economics, education, or other forestry activities in connection with any public or private lands.

(4) ‘Forest management plan’ means a document or documents prepared or approved by a forester registered in this State that defines a landowner’s forest management objectives and describes specific measures to be taken to achieve those objectives. A management plan shall include silvicultural practices, objectives, and measures to achieve them, that relate to a stand or potential stand of trees that may be utilized for timber products, watershed or wildlife protection, recreational uses, or for other purposes.

(5) ‘Forestry activity’ means any activity associated with the growing, managing, harvesting, and related transportation, reforestation, or protection of trees and timber, provided that these activities comply with existing regulations pertaining to forestry.

(B) A county or municipality shall not adopt or enforce any ordinance, rule, regulation, resolution, or permit related to forestry activities on forestland:

(1) that is taxed on the basis of its present‑use value as forestland under Section 12‑43‑220(d);

(2) that are conducted in accordance with a forest management plan;

(3) certified under the Sustainable Forestry Initiative, the Forest Stewardship Council, the American Forest Foundations Tree Farm System, or other nationally recognized forest certification system; or

(4) that is covered by a legally binding conservation easement under which the owner limits the right to develop or subdivide the land.

(C) This section does not limit, expand, or otherwise alter the authority of a county or municipality to:

(1) regulate activities associated with development, provided that:

(a) a county or municipality may only defer a building permit, a site disturbance or subdivision plan, or any other approval for development that if implemented would result in a change from forestland to nonforest or nonagricultural use, for a period of up to:

(i) two years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees from the area included in the building permit, site disturbance or subdivision plan in item (a) that were protected under county or municipal regulations governing development from the portion of the tract of land for which the permit or approval is sought; or

(ii) five years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees from the area included in the building permit, site disturbance, or subdivision plan in item (a) that were protected under county or municipal regulations governing development from the portion of the tract of land for which the permit or approval is sought and the harvest was a wilful violation of the county regulations;

(b) a county or municipality may not defer a permit pursuant to item (a) if ownership of the tract of land for which the permit is sought transfers through inheritance;

(2) regulate trees pursuant to any local act of the General Assembly;

(3) adopt ordinances that are necessary to comply with any federal or state law, regulation, or rule; or

(4) exercise its development permitting, planning, or zoning authority as provided by law.

(D) A person whose application for a building permit, a site disturbance or subdivision plan, or any other approval for development is deferred pursuant to the provisions contained in this section may appeal the decision to the appropriate governmental authority or court of competent jurisdiction.”

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

Renumber sections to conform.

Amend title to conform.

Rep. VICK moved to adjourn debate on the amendment, which was agreed to.

Rep. DUNCAN proposed the following Amendment No. 2 (COUNCIL\NBD\11468AC09), which was adopted:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/SECTION 1. Chapter 23, Title 48 of the 1976 Code is amended by adding:

“Section 48‑23‑300. (A) For purposes of this section:

(1) ‘Development’ means any activity, including timber harvesting, that is associated with the conversion of forestland to nonforest or nonagricultural use.

(2) ‘Forestland’ means land supporting a stand or potential stand of trees valuable for timber products, watershed or wildlife protection, recreational uses, or for other purposes.

(3) ‘Forest management plan’ means a document or documents prepared or approved by a forester registered in this State that defines a landowner’s forest management objectives and describes specific measures to be taken to achieve those objectives. A management plan shall include silvicultural practices, objectives, and measures to achieve them, that relate to a stand or potential stand of trees that may be utilized for timber products, watershed or wildlife protection, recreational uses, or for other purposes.

(4) ‘Forestry activity’ includes, but is not limited to, timber harvest, site preparation, controlled burning, tree planting, applications of fertilizers, herbicides, and pesticides, weed control, animal damage control, fire control, insect and disease control, forest road construction, and any other generally accepted forestry practices.

(B) A county or municipality must not adopt or enforce any ordinance, rule, regulation, resolution, or permit related to forestry activities on forestland that is:

(1) taxed on the basis of its present use value as forestland under Section 12‑43‑220(d);

(2) managed in accordance with a forest management plan;

(3) certified under the Sustainable Forestry Initiative, the Forest Stewardship Council, the American Forest Foundations Tree Farm System, or any other nationally recognized forest certification system;

(4) subject to a legally binding conservation easement under which the owner limits the right to develop or subdivide the land; or

(5) managed and harvested in accordance with the best management practices established by The State Commission on Forestry pursuant to Section 48‑36‑30.

(C) This section does not limit, expand, or otherwise alter the authority of a county or municipality to:

(1) regulate activities associated with development, provided that a county or municipality may defer consideration of an application for a building permit, a site disturbance or subdivision plan, or any other approval for development that if implemented would result in a change from forest land to nonforest or nonagricultural use, for a period of up to:

(a) two years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees from the specific area included in a building permit, site disturbance or subdivision plan in item (1), and the removal qualified for an exemption contained in subsection (B); or

(b) five years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees from the specific area included in a building permit, site disturbance or subdivision plan in item (1), and the removal qualified for an exemption contained in subsection (B) for which the permit or approval is sought and the harvest was a willful violation of the county regulations;

(2) regulate trees pursuant to any act of the General Assembly;

(3) adopt ordinances that are necessary to comply with any federal or state law, regulation, or rule; or

(4) exercise its development permitting, planning, or zoning authority as provided by law.

(D) A person whose application for a building permit, a site disturbance or subdivision plan, or any other approval for development is deferred pursuant to the provisions contained in this section may appeal the decision to the appropriate governmental authority.”

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

Renumber sections to conform.

Amend title to conform.

Rep. VICK explained the amendment.

The amendment was then adopted.

Rep. LOFTIS proposed the following Amendment No. 3 (COUNCIL\GGS\22342AB09), which was adopted:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Chapter 23, Title 48 of the 1976 Code is amended by adding:

“Section 48‑23‑300. (A) For purposes of this section:

(1) ‘Development’ means any activity, including timber harvesting, that is associated with the conversion of forestland to nonforest or nonagricultural use.

(2) ‘Forestland’ means land supporting a stand or potential stand of trees valuable for timber products, watershed or wildlife protection, recreational uses, or for other purposes.

(3) ‘Forest management plan’ means a document or documents prepared or approved by a forester registered in this State that defines a landowner’s forest management objectives and describes specific measures to be taken to achieve those objectives. A management plan shall include silvicultural practices, objectives, and measures to achieve them, that relate to a stand or potential stand of trees that may be utilized for timber products, watershed or wildlife protection, recreational uses, or for other purposes.

(4) ‘Forestry activity’ includes, but is not limited to, timber harvest, site preparation, controlled burning, tree planting, applications of fertilizers, herbicides, and pesticides, weed control, animal damage control, fire control, insect and disease control, forest road construction, and any other generally accepted forestry practices.

(B) A county or municipality must not adopt or enforce any ordinance, rule, regulation, resolution, or permit related to forestry activities on forestland that is:

(1) taxed on the basis of its present use value as forestland under Section 12‑43‑220(d);

(2) managed in accordance with a forest management plan;

(3) certified under the Sustainable Forestry Initiative, the Forest Stewardship Council, the American Forest Foundations Tree Farm System, or any other nationally recognized forest certification system;

(4) subject to a legally binding conservation easement under which the owner limits the right to develop or subdivide the land; or

(5) managed and harvested in accordance with the best management practices established by The State Commission on Forestry pursuant to Section 48‑36‑30.

(C) This section does not limit, expand, or otherwise alter the authority of a county or municipality to:

(1) regulate activities associated with development, provided that a county or municipality may defer consideration of an application for a building permit, a site disturbance or subdivision plan, or any other approval for development that if implemented would result in a change from forest land to nonforest or nonagricultural use, for a period of up to:

(a) one year after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees from the specific area included in a building permit, site disturbance or subdivision plan in item (1), and the removal qualified for an exemption contained in subsection (B); or

(b) five years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees from the specific area included in a building permit, site disturbance or subdivision plan in item (1), and the removal qualified for an exemption contained in subsection (B) for which the permit or approval is sought and the harvest was a willful violation of the county regulations;

(2) regulate trees pursuant to any act of the General Assembly;

(3) adopt ordinances that are necessary to comply with any federal or state law, regulation, or rule; or

(4) exercise its development permitting, planning, or zoning authority as provided by law.

(D) A person whose application for a building permit, a site disturbance or subdivision plan, or any other approval for development is deferred pursuant to the provisions contained in this section may appeal the decision to the appropriate governmental authority.”

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

Renumber sections to conform.

Amend title to conform.

Rep. LOFTIS explained the amendment.

The amendment was then adopted.

The Agriculture, Natural Resources and Environmental Affairs Committee proposed the following Amendment No. 1 (COUNCIL\GJK\20305SD09), which was tabled:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/SECTION 1. Chapter 23, Title 48 of the 1976 Code is amended by adding:

“Section 48‑23‑300. (A) For purposes of this section, the following definitions apply to this section:

(1) ‘Development’ means any activity, including timber harvesting, that is associated with the conversion of forestland to nonforest or nonagricultural use.

(2) ‘Forestland’ means land supporting a stand or potential stand of trees that may be utilized for timber products, watershed or wildlife protection, recreational uses, or for other purposes.

(3) ‘Forestry service’ means any professional service relating to a forestry management plan or activity including, but not limited to, consultation, investigation, evaluation, planning, or responsible supervision of forest management, protection, silviculture, measurements, utilization, economics, education, or other forestry activities in connection with any public or private lands.

(4) ‘Forest management plan’ means a document or documents prepared or approved by a forester registered in this State that defines a landowner’s forest management objectives and describes specific measures to be taken to achieve those objectives. A management plan shall include silvicultural practices, objectives, and measures to achieve them, that relate to a stand or potential stand of trees that may be utilized for timber products, watershed or wildlife protection, recreational uses, or for other purposes.

(5) ‘Forestry activity’ means any activity associated with the growing, managing, harvesting, and related transportation, reforestation, or protection of trees and timber, provided that these activities comply with existing regulations pertaining to forestry.

(B) A county or municipality shall not adopt or enforce any ordinance, rule, regulation, resolution, or permit related to forestry activities on forestland:

(1) that is taxed on the basis of its present‑use value as forestland under Section 12‑43‑220(d);

(2) that are conducted in accordance with a forest management plan;

(3) certified under the Sustainable Forestry Initiative, the Forest Stewardship Council, the American Forest Foundations Tree Farm System, or other nationally recognized forest certification system; or

(4) that is covered by a legally binding conservation easement under which the owner limits the right to develop or subdivide the land.

(C) This section does not limit, expand, or otherwise alter the authority of a county or municipality to:

(1) regulate activities associated with development, provided that:

(a) a county or municipality may only defer a building permit, a site disturbance or subdivision plan, or any other approval for development that if implemented would result in a change from forestland to nonforest or nonagricultural use, for a period of up to:

(i) two years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees from the area included in the building permit, site disturbance or subdivision plan in item (a) that were protected under county or municipal regulations governing development from the portion of the tract of land for which the permit or approval is sought; or

(ii) five years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees from the area included in the building permit, site disturbance, or subdivision plan in item (a) that were protected under county or municipal regulations governing development from the portion of the tract of land for which the permit or approval is sought and the harvest was a wilful violation of the county regulations;

(b) a county or municipality may not defer a permit pursuant to item (a) if ownership of the tract of land for which the permit is sought transfers through inheritance;

(2) regulate trees pursuant to any local act of the General Assembly;

(3) adopt ordinances that are necessary to comply with any federal or state law, regulation, or rule; or

(4) exercise its development permitting, planning, or zoning authority as provided by law.

(D) A person whose application for a building permit, a site disturbance or subdivision plan, or any other approval for development is deferred pursuant to the provisions contained in this section may appeal the decision to the appropriate governmental authority or court of competent jurisdiction.”

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

Renumber sections to conform.

Amend title to conform.

Rep. VICK moved to table the amendment, which was agreed to.

The Bill, as amended, was read the second time and ordered to third reading.

**H. 3651--ORDERED TO BE READ THIRD TIME TOMORROW**

On motion of Rep. VICK, with unanimous consent, it was ordered that H. 3651 be read the third time tomorrow.

**H. 3530--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

H. 3530 -- Reps. Bannister, Brantley, Simrill, Anthony, Vick, H. B. Brown, Brady, Funderburk, Gambrell, Hardwick, Horne, Knight, Miller, E. H. Pitts, Viers, A. D. Young, Wylie, Branham, Gullick and J. M. Neal: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56-15-361, SO AS TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES MAY IMPOSE AND COLLECT AN ADMINISTRATIVE FINE AGAINST LICENSED MOTOR VEHICLE DEALERS WHO VIOLATE CERTAIN PROVISIONS OF LAW, AND PROVIDE THAT THE DEPARTMENT SHALL EMPLOY THE STAFF NECESSARY TO ENFORCE THE PROVISIONS CONTAINED IN THIS SECTION.

The Education and Public Works Committee proposed the following Amendment No. 1 (COUNCIL\SWB\5846CM09), which was adopted:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Section 56‑15‑350 of the 1976 Code is amended to read:

“Section 56‑15‑350. (A) Any license issued under this chapter may be denied, suspended, or revoked, if the applicant or licensee or an agency of the applicant or licensee acting for the applicant or licensee is determined by the Department of Motor Vehicles to have:

~~(a)~~(1) made a material misstatement in the application for the license;

~~(b)~~(2) violated any provision of ~~this chapter~~ Chapters 3, 15, or 19 of this Title;

~~(c)~~(3) been found by a court of competent jurisdiction to have committed any fraud connected with the sale or transfer of a motor vehicle;

~~(d)~~(4) employed fraudulent devices, methods, or practices in connection with meeting the requirements placed on dealers and wholesalers by the laws of this State;

~~(e)~~(5) been convicted of any violation of law involving the acquisition or transfer of a title to a motor vehicle or of any violation of law involving tampering with, altering, or removing motor vehicle identification numbers or markings;

~~(f)~~(6) been found by a court of competent jurisdiction to have violated any federal or state law regarding the disconnecting, resetting, altering, or other unlawful tampering with a motor vehicle odometer, including the provisions of 49 U.S.C. 32701‑32711 (Title 49, Subtitle VI, Part C, Chapter 327);

~~(g)~~(7) refused or failed to comply with the department’s reasonable requests to inspect or copy the records, books, and files of the dealer or wholesaler or failed to maintain records of each motor vehicle transaction as required by this chapter or by state and federal law pertaining to odometer records; or

~~(h)~~(8) Given, loaned, or sold a dealer license plate to any person or otherwise to have allowed the use of any dealer license plate in any way not authorized by Section 56‑3‑2320. Any dealer license plate issued to a dealer or wholesaler pursuant to Section 56‑3‑2320 which is determined by the department to be improperly displayed on any vehicle or in the possession of any unauthorized person is prima facie evidence of a violation of this section by the dealer or wholesaler to whom the license plate was originally issued.

(B) The department shall notify the licensee or applicant in writing at the mailing address provided in his application of its intention to deny, suspend, or revoke his license, or impose an administrative penalty contained in subsection (c) of this section, at least twenty days in advance and shall inform the licensee of his right to request a contested case hearing with the Office of Motor Vehicle Hearings in accordance with the rules of procedure for the Administrative Law Court and pursuant to the Administrative Procedures Act of this State. A licensee desiring a hearing shall file a request in writing with the Office of Motor Vehicle Hearings within ten days of receiving notice of the proposed denial, suspension, or revocation of his dealer’s or wholesaler’s license.

Upon a denial, suspension, or revocation of a license, the licensee shall immediately return to the department the license and all dealer license plates.

(C) Instead of any other fees, fines, or sanctions against a dealer license provided pursuant to subsection (A) of this section, the department may impose and collect an administrative penalty not to exceed one thousand dollars for each of the acts, omissions, or violations of the provisions set forth in subsection (A). The penalties collected pursuant to this subsection must be placed in a special restricted account by the Comptroller General to be used to defray the department’s expenses.

(D) Nothing in this section may be construed as precluding a prosecuting authority from prosecuting any acts, omissions, or violations that may constitute a violation of applicable criminal law.”

SECTION 2. Article 3, Chapter 15, Title 56 of the 1976 Code is amended by adding:

“Section 56‑15‑351. The department may impose and collect an administrative penalty of not more than nine thousand dollars against a person or business for each vehicle sold without a license required by this chapter. The person or business is entitled to a hearing pursuant to the Administrative Procedures Act if the person or business contests an imposed penalty.

The penalties collected pursuant to this section must be placed in a special restricted account by the Comptroller General to be used to defray the expenses of the department.”

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

Renumber sections to conform.

Amend title to conform.

Rep. BRANHAM explained the amendment.

The Bill, as amended, was read the second time and ordered to third reading.

**H. 3530--ORDERED TO BE READ THIRD TIME TOMORROW**

On motion of Rep. BRANHAM, with unanimous consent, it was ordered that H. 3530 be read the third time tomorrow.

**OBJECTION TO RECALL**

Rep. HART asked unanimous consent to recall H. 3953 from the Committee on Ways and Means.

Rep. VIERS objected.

**OBJECTION TO RECALL**

Rep. SELLERS asked unanimous consent to recall H. 3648 from the Committee on Judiciary.

Rep. BOWEN objected.

**OBJECTION TO RECALL**

Rep. TOOLE asked unanimous consent to recall S. 116 from the Committee on Ways and Means.

Rep. KENNEDY objected.

**OBJECTION TO RECALL**

Rep. HERBKERSMAN asked unanimous consent to recall H. 3693 from the Committee on Judiciary.

Rep. KENNEDY objected.

**S. 360--RECALLED FROM COMMITTEE ON   
WAYS AND MEANS**

On motion of Rep. BATTLE, with unanimous consent, the following Bill was ordered recalled from the Committee on Ways and Means:

S. 360 -- Senator Hayes: A BILL TO AMEND SECTION 4-10-310, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE IMPOSITION OF A ONE PERCENT CAPITAL PROJECT SALES AND USE TAX BY A COUNTY GOVERNING BODY, SO AS TO DELETE A REQUIREMENT THAT THE TAX IS TO COLLECT A LIMITED AMOUNT OF MONEY; TO AMEND SECTION 4-10-330, AS AMENDED, RELATING TO THE COUNTY ORDINANCE AND BALLOT QUESTION FOR THE REFERENDUM REQUIRED, SO AS TO FURTHER PROVIDE FOR THE CONTENTS OF THE ORDINANCE AND THE DATES AND PURPOSES OF THE REFERENDUM; AND TO AMEND SECTION 4-10-340, AS AMENDED, RELATING TO THE IMPOSITION AND TERMINATION OF THE TAX, SO AS TO FURTHER PROVIDE FOR THE TERMINATION OF A NEWLY IMPOSED AND A REIMPOSED TAX.

**S. 463--RECALLED FROM COMMITTEE ON MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

On motion of Rep. GUNN, with unanimous consent, the following Bill was ordered recalled from the Committee on Medical, Military, Public and Municipal Affairs:

S. 463 -- Senators Peeler and Rose: A BILL TO AMEND SECTION 44-36-10 OF THE 1976 CODE, RELATING TO THE PURPOSE AND FUNCTIONS OF THE ALZHEIMER'S DISEASE REGISTRY, TO EXPAND THE TYPES OF DATA COLLECTED BY THE ALZHEIMER'S DISEASE REGISTRY, AND TO PROVIDE FOR THE AUTHORIZATION OF STUDIES ABOUT ALZHEIMER'S DISEASE AND THE CAREGIVERS OF PERSONS WITH ALZHEIMER'S DISEASE.

**OBJECTION TO RECALL**

Rep. BEDINGFIELD asked unanimous consent to recall H. 3164 from the Committee on Judiciary.

Rep. KENNEDY objected.

**OBJECTION TO MOTION**

Rep. DUNCAN asked unanimous consent that H. 3794 be read a third time tomorrow.

Rep. COBB-HUNTER objected.

**OBJECTION TO RECALL**

Rep. KELLY asked unanimous consent to recall H. 3956 from the Committee on Labor, Commerce and Industry.

Rep. KENNEDY objected.

**H. 3311--POINT OF ORDER**

The Senate Amendments to the following Bill were taken up for consideration:

H. 3311 -- Reps. Brady, Harrison, Erickson, Umphlett, A. D. Young, Agnew, Allison, Battle, Bowen, Bowers, Clemmons, Cooper, Duncan, Gambrell, Hardwick, Hearn, Horne, Kirsh, Long, Lowe, McLeod, Parker, Simrill, Whitmire, Willis, Toole, G. M. Smith, Harvin, Hutto, Neilson, Nanney, Miller, G. R. Smith, Hamilton, Jennings, T. R. Young, Limehouse, Sottile, Viers, Williams, White, Weeks, Wylie, Forrester, Sellers, Rice, Hiott, Owens, Bannister and Bedingfield: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SUBARTICLE 8 TO ARTICLE 1, CHAPTER 9, TITLE 63 SO AS TO ESTABLISH THE RESPONSIBLE FATHER REGISTRY WITHIN THE DEPARTMENT OF SOCIAL SERVICES AND TO PROVIDE THAT AN UNMARRIED BIOLOGICAL FATHER OF A CHILD, OR A MALE CLAIMING TO BE THE UNMARRIED BIOLOGICAL FATHER OF A CHILD, MUST FILE A CLAIM OF PATERNITY WITH THIS REGISTRY IN ORDER TO RECEIVE NOTICE OF A TERMINATION OF PARENTAL RIGHTS ACTION OR AN ADOPTION ACTION PERTAINING TO THIS CHILD, TO PROVIDE THAT FAILURE TO FILE A CLAIM CONSTITUTES IMPLIED IRREVOCABLE CONSENT TO THE TERMINATION OF HIS PARENTAL RIGHTS AND TO THE CHILD'S ADOPTION, TO PROVIDE THAT CERTAIN CONDUCT BY AN UNMARRIED BIOLOGICAL FATHER IS DEEMED TO BE NOTICE TO THIS FATHER OF THE BIOLOGICAL MOTHER'S PREGNANCY, AND TO FURTHER ESTABLISH FILING PROCEDURES AND PROCEDURES FOR THE OPERATION OF THE REGISTRY; TO AMEND SECTION 63-9-730, RELATING TO PERSONS AND ENTITIES ENTITLED TO NOTICE OF TERMINATION OF PARENTAL RIGHTS ACTIONS AND ADOPTION ACTIONS, SO AS TO INCLUDE A PERSON WHO HAS REGISTERED WITH THE RESPONSIBLE FATHER REGISTRY; TO AMEND SECTION 63-7-2530, RELATING TO THE FILING OF A PETITION FOR TERMINATION OF PARENTAL RIGHTS, SO AS TO REQUIRE A TERMINATION OF PARENTAL RIGHTS ACTION TO BE HEARD WITHIN ONE HUNDRED TWENTY DAYS OF THE DATE THE PETITION IS FILED AND TO PROVIDE CONDITIONS UNDER WHICH A CONTINUANCE MAY BE GRANTED; TO AMEND SECTION 63-7-2550, RELATING TO PERSONS OR ENTITIES ENTITLED TO BE SERVED WITH A PETITION FOR TERMINATION OF PARENTAL RIGHTS, SO AS TO FURTHER SPECIFY THE AGE AS FOURTEEN FOR SERVING A CHILD, TO PROVIDE SERVICE ON THE GUARDIAN AD LITEM OF A CHILD UNDER FOURTEEN YEARS OF AGE, AND TO SPECIFY THE NOTICE PROVISIONS APPLICABLE TO AN UNMARRIED BIOLOGICAL FATHER OF A CHILD WHOSE PARENTAL RIGHTS ARE BEING TERMINATED.

**POINT OF ORDER**

Rep. HARRISON made the Point of Order that the Senate Amendments were improperly before the House for consideration since its number and title have not been printed in the House Calendar at least one statewide legislative day prior to second reading.

The SPEAKER sustained the Point of Order.

**SENT TO THE SENATE**

The following Bill was taken up, read the third time, and ordered sent to the Senate:

H. 3707 -- Reps. T. R. Young, Cato, Cobb-Hunter, Toole, Ott, Cooper, Gambrell, Bowen, Agnew, McLeod, J. H. Neal, Gunn, Hayes, Stewart, Thompson, White, Duncan, Moss, H. B. Brown, Knight, Frye, Spires, Neilson, Vick, Hutto, Sellers and Rice: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 39-41-235 SO AS TO REQUIRE MOTOR FUEL TERMINALS TO OFFER FOR SALE PRODUCTS THAT ARE SUITABLE FOR SUBSEQUENT BLENDING EITHER WITH ETHANOL OR BIODIESEL; TO PROHIBIT A PERSON OR ENTITY FROM TAKING AN ACTION TO DENY A MOTOR FUEL DISTRIBUTOR OR RETAILER FROM BEING THE BLENDER OF RECORD; TO REQUIRE MOTOR FUEL DISTRIBUTORS, RETAILERS, AND REFINERS TO UTILIZE THE RENEWABLE IDENTIFICATION NUMBER; AND TO DECLARE VIOLATIONS AN UNFAIR TRADE PRACTICE.

**MOTION PERIOD**

The motion period was dispensed with on motion of Rep. HIOTT.

**S. 12--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 12 -- Senators Leatherman, Alexander, O'Dell, Cleary, Leventis, Elliott, Ford, Rankin, Lourie, Malloy and Setzler: A BILL TO ESTABLISH THE SOUTH CAROLINA TAXATION REALIGNMENT COMMISSION, TO PROVIDE FOR THE COMMISSION'S MEMBERSHIP, POWERS, DUTIES, AND RESPONSIBILITIES, TO PROVIDE THAT THE COMMISSION MUST CONDUCT A COMPREHENSIVE STUDY OF THE STATE'S TAX SYSTEM AND SUBMIT A REPORT OF ITS RECOMMENDED CHANGES TO FURTHER THE GOAL OF MAINTAINING AND ENHANCING THE STATE AS AN OPTIMUM COMPETITOR IN THE EFFORT TO ATTRACT BUSINESSES AND INDIVIDUALS TO LOCATE, LIVE, WORK, AND INVEST IN THE STATE, AND TO PROVIDE FOR PROCEDURES GOVERNING THE CONSIDERATION OF LEGISLATION RESULTING FROM THE COMMISSION'S RECOMMENDATIONS.

Rep. WHITE proposed the following Amendment No. 10 (COUNCIL\GJK\20317SD09), which was adopted:

Amend the bill, as and if amended, by striking subsection (A), as contained in SECTION 1, and inserting:

/ (A) There is created the South Carolina Taxation Realignment Commission to be comprised of seventeen members appointed as follows:

(1) two members appointed by the Governor;

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

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

(4) two members appointed by the Chairman of the Senate Finance Committee;

(5) two members appointed by the Chairman of the House Ways and Means Committee;

(6) three members of the Senate to serve ex officio, to be appointed by the President *Pro Tempore* of the Senate;

(7) three members of the House to serve ex officio, to be appointed by the Speaker of the House of Representatives;

(8) the Director of the Department of Revenue to serve ex officio.

The members appointed pursuant to items (1) through (5) above must not be members of the General Assembly and must have substantial academic or professional experience or specialization in one or more areas of public finance, government budgeting and administration, tax administration, economics, accounting, or tax law.

The members appointed pursuant to items (1) through (7) above shall serve at the pleasure of their appointing authority.

All vacancies must be filled in the manner of original appointment. /

Amend the bill further, as and if amended, by striking subsection (B) of SECTION 1 and inserting:

/ (B) The members of the commission:

(1) must meet as soon as practicable after appointment and organize itself by electing one of its members as chairman and such other officers as the commission may consider necessary. Thereafter, the commission must meet as necessary to fulfill the duties required by this act at the call of the chairman or by a majority of the members. A quorum consists of a majority of its members;

(2) shall serve without compensation and are ineligible for the usual mileage, subsistence, and per diem allowed by law for member’s of boards, committees, and commissions. Staffs of the Senate Finance Committee and the House Ways and Means Committee shall be available to assist the commission in its work. Any expenses incurred by the commission shall be paid equally from each respective house’s approved accounts subject to the prior approval of the President *Pro Tempore* of the Senate and Speaker of the House of Representatives;

(3) unless authorized by a further or subsequent enactment, conclude the commission’s business by January 1, 2011, at which time the commission is dissolved. The General Assembly may extend the dates by which the commission shall submit reports required by this act. /

Amend the bill further, as and if amended, by striking the second paragraph of subsection (C)(2), as contained in SECTION 1, and inserting:

/ After reviewing the adequacy, equity, and efficiency of the state’s revenue structure, the commission’s report may recommend that no changes are necessary if it determines that such findings are warranted. Following the report and recommendation required by subsection (C)(2), the commission shall continue studying the subjects identified in subsection (C)(2). The commission may make further legislative recommendations by January 1, 2011, at which time it shall be dissolved as provided in subsection (B)(3). /

Amend the bill further, as and if amended, by striking subsection (F) of SECTION (1) and inserting:

/ (F) Commission members shall not receive information regarding the business of the commission from a lobbyist except through formal presentation to the commission at a meeting called in compliance with the Freedom of Information Act. Any lobbyist violating the provisions of this subsection is deemed guilty of a misdemeanor and, upon conviction, must be punished as provided in Section 2‑17‑130 of the 1976 Code. /

Renumber sections to conform.

Amend title to conform.

The amendment was then adopted.

Rep. OTT proposed the following Amendment No. 11 (COUNCIL\BBM\9382HTC09), which was tabled:

Amend the bill, as and if amended, in SECTION 1, beginning on page 12‑1, by striking subsection (A) and inserting:

/ (A) There is created the South Carolina Taxation Realignment Commission to be comprised of eleven members appointed as follows:

(1) one member each appointed by the President *Pro Tempore* of the Senate, the Senate Finance Committee Chairman, the Senate Majority Leader, and the Senate Minority Leader;

(2) one member each appointed by the Speaker of the House, the House Ways and Means Committee Chairman, the House Majority Leader, and the House Minority Leader;

(3) two members appointed by the Governor; and

(4) the Director of the Department of Revenue, to serve ex officio.

Members of the General Assembly may not be appointed to the commission. Members of the commission must have substantial academic or professional experience or specialization in one or more areas of public finance, government budgeting and administration, tax administration, economics, accounting, or tax law. /

Renumber sections to conform.

Amend title to conform.

Rep. OTT explained the amendment.

Rep. WHITE moved to table the amendment.

Rep. OTT demanded the yeas and nays which were taken, resulting as follows:

Yeas 63; Nays 46

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allison | Bannister | Barfield |
| Bedingfield | Bingham | Bowen |
| Brady | Cato | Chalk |
| Clemmons | Cole | Crawford |
| Daning | Delleney | Duncan |
| Erickson | Forrester | Frye |
| Gambrell | Haley | Hamilton |
| Hardwick | Harrell | Harrison |
| Herbkersman | Horne | Huggins |
| Kelly | Kirsh | Limehouse |
| Loftis | Long | Lowe |
| Merrill | Millwood | Nanney |
| Owens | Parker | Pinson |
| E. H. Pitts | M. A. Pitts | Rice |
| Sandifer | Scott | Simrill |
| Skelton | D. C. Smith | G. R. Smith |
| J. R. Smith | Sottile | Spires |
| Stewart | Stringer | Thompson |
| Toole | Umphlett | Viers |
| White | Whitmire | Willis |
| Wylie | A. D. Young | T. R. Young |

**Total--63**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Allen | Anderson |
| Anthony | Bales | Ballentine |
| Battle | Bowers | Branham |
| H. B. Brown | Clyburn | Cobb-Hunter |
| Dillard | Funderburk | Gilliard |
| Govan | Gunn | Hart |
| Harvin | Hayes | Hiott |
| Hodges | Hosey | Howard |
| Jefferson | Kennedy | King |
| Knight | Mack | McEachern |
| McLeod | Miller | Mitchell |
| Moss | J. H. Neal | J. M. Neal |
| Neilson | Ott | Parks |
| Rutherford | Sellers | J. E. Smith |
| Stavrinakis | Vick | Weeks |
| Williams |  |  |

**Total--46**

So, the amendment was tabled.

Rep. OTT proposed the following Amendment No. 13 (COUNCIL\NBD\11478HTC09), which was tabled:

Amend the bill, as and if amended, in SECTION 1(C), page 12-3, by striking items (2) and (3) and inserting:

/ (2) no later than March 15, 2010, prepare and deliver a report and recommendation to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee, including the text of an amendment that effectuates the recommendations. The commission’s report must be a detailed, comprehensive, and careful evaluation of the state’s tax system structure. The commission’s report must consider, but is not limited to consideration of:

(a) sales and use tax exemptions or limitations to be retained, modified, or repealed;

(b) the assessment of state and local taxes levied and other provisions affecting state and local revenue to fund the operation and responsibilities of state and local government, respectively; and

(c) any fee, fine, license, forfeiture, or ‘other funds’.

After reviewing the adequacy, equity, and efficiency of the state’s revenue structure, the commission’s report may recommend that no changes are necessary if it determines that such findings are warranted. Following the report and recommendation required by this item (2), the commission shall continue studying the subjects identified in this item (2). The commission may make further legislative recommendations at any time. Also, the commission shall submit a report to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee on August first and February first of each year detailing the commission’s progress and points of focus.

For purposes of the scope of the commission’s study, local taxes are defined as local levies related to ad valorem taxation, including, but not limited to, assessment ratios, classification and valuation of property, assessable transfers of interest, valuation limitation, local millages, and fee in lieu of tax agreements.

The commission’s report may not recommend any action that would nullify any existing agreement entered into by a local government.

The commission shall forward its recommendation to the Board of Economic Advisors and that board shall prepare a revenue impact detailing the sources of revenue at the state and local level the commission recommends should be increased or decreased, the projected amount of increase or decrease to each source of revenue, and the net gain or loss of total revenue at both the state and local levels that would result from the recommendation. The report must be attached to any legislative recommendation made by the commission before it is submitted to any member of the General Assembly./

Renumber sections to conform.

Amend title to conform.

Rep. OTT explained the amendment.

Rep. WHITE moved to table the amendment.

Rep. OTT demanded the yeas and nays which were taken, resulting as follows:

Yeas 66; Nays 46

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allison | Bannister | Barfield |
| Bedingfield | Bingham | Bowen |
| Brady | Cato | Chalk |
| Clemmons | Cole | Crawford |
| Daning | Delleney | Duncan |
| Edge | Erickson | Forrester |
| Frye | Gambrell | Haley |
| Hamilton | Hardwick | Harrell |
| Harrison | Hearn | Herbkersman |
| Hiott | Horne | Huggins |
| Kelly | Limehouse | Loftis |
| Long | Lowe | Merrill |
| Millwood | Nanney | Owens |
| Parker | Pinson | E. H. Pitts |
| M. A. Pitts | Rice | Sandifer |
| Scott | Simrill | Skelton |
| D. C. Smith | G. R. Smith | J. R. Smith |
| Sottile | Spires | Stavrinakis |
| Stewart | Stringer | Thompson |
| Toole | Umphlett | Viers |
| White | Whitmire | Willis |
| Wylie | A. D. Young | T. R. Young |

**Total--66**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Allen | Anderson |
| Anthony | Bales | Ballentine |
| Battle | Bowers | Branham |
| H. B. Brown | Clyburn | Cobb-Hunter |
| Dillard | Funderburk | Gilliard |
| Govan | Gullick | Gunn |
| Hart | Harvin | Hayes |
| Hodges | Hosey | Howard |
| Jefferson | Kennedy | King |
| Kirsh | Knight | Mack |
| McEachern | McLeod | Miller |
| Mitchell | Moss | J. H. Neal |
| J. M. Neal | Neilson | Ott |
| Parks | Rutherford | Sellers |
| J. E. Smith | Vick | Weeks |
| Williams |  |  |

**Total--46**

So, the amendment was tabled.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. CATO a leave of absence for the remainder of the day.

Rep. COBB-HUNTER proposed the following Amendment No. 2 (COUNCIL\GJK\20249SD09), which was tabled:

Amend the bill, as and if amended, by striking subsection (A) of SECTION 1 and inserting:

/ (A) There is created the South Carolina Taxation Realignment Commission to be comprised of eleven members appointed as follows:

(1) one member each appointed by the President *Pro Tempore* of the Senate, the Senate Finance Committee Chairman, the Senate Majority Leader, and the Senate Minority Leader;

(2) one member each appointed by the Speaker of the House, the House Ways and Means Committee Chairman, the House Majority Leader, and the House Minority Leader;

(3) two members appointed by the Governor; and

(4) the Director of the Department of Revenue, to serve ex officio.

Members of the General Assembly may not be appointed to the commission. Members of the commission must have substantial academic or professional experience or specialization in one or more areas of public finance, government budgeting and administration, tax administration, economics, accounting, tax law, or business.

No member of the commission may enter upon his official responsibilities with the commission unless he has filed a statement of economic interests in accordance with the provisions of Article 11, Chapter 13, Title 8, with the State Ethics Commission. /

Renumber sections to conform.

Amend title to conform.

Rep. COBB-HUNTER explained the amendment.

Rep. COBB-HUNTER spoke in favor of the amendment.

Rep. WHITE moved to table the amendment.

Rep. COBB-HUNTER demanded the yeas and nays which were taken, resulting as follows:

Yeas 63; Nays 44

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allison | Bannister | Barfield |
| Bedingfield | Bingham | Bowen |
| Brady | Chalk | Clemmons |
| Cole | Crawford | Daning |
| Delleney | Duncan | Edge |
| Erickson | Forrester | Frye |
| Gambrell | Haley | Hamilton |
| Hardwick | Harrell | Harrison |
| Hearn | Herbkersman | Hiott |
| Horne | Huggins | Kelly |
| Kirsh | Limehouse | Loftis |
| Long | Lowe | Merrill |
| Millwood | Nanney | Owens |
| Parker | Pinson | E. H. Pitts |
| M. A. Pitts | Rice | Sandifer |
| Scott | Simrill | Skelton |
| D. C. Smith | G. R. Smith | J. R. Smith |
| Sottile | Spires | Stewart |
| Stringer | Thompson | Toole |
| Viers | White | Whitmire |
| Wylie | A. D. Young | T. R. Young |

**Total--63**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Allen | Anderson |
| Anthony | Bales | Ballentine |
| Battle | Bowers | Branham |
| H. B. Brown | Clyburn | Cobb-Hunter |
| Dillard | Funderburk | Gilliard |
| Govan | Gunn | Hart |
| Harvin | Hayes | Hodges |
| Hosey | Howard | Jefferson |
| Kennedy | King | Knight |
| Mack | McEachern | McLeod |
| Miller | Mitchell | Moss |
| J. H. Neal | J. M. Neal | Neilson |
| Ott | Parks | Rutherford |
| Sellers | J. E. Smith | Stavrinakis |
| Weeks | Williams |  |

**Total--44**

So, the amendment was tabled.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. HIOTT a leave of absence for the remainder of the day.

Rep. COBB-HUNTER proposed the following Amendment No. 3 (COUNCIL\GJK\20251SD09), which was tabled:

Amend the bill, as and if amended, in subsection (D) of SECTION 1, by striking the second paragraph and inserting:

/ An amendment is germane to legislation recommended by the commission only if the amendment seeks to make a technical change necessary to effectuate the purpose of the particular provision to be amended. An amendment that seeks to add, delete, or substantively change a recommendation or other provision affecting state revenue included in any legislation recommended by the commission may only be adopted or concurred in by a two-thirds majority of those present and voting in each respective house. /

Renumber sections to conform.

Amend title to conform.

Rep. COBB-HUNTER explained the amendment.

Rep. KENNEDY spoke in favor of the amendment.

Rep. KENNEDY spoke in favor of the amendment.

Rep. WHITE moved to table the amendment.

Rep. COBB-HUNTER demanded the yeas and nays which were taken, resulting as follows:

Yeas 65; Nays 42

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allison | Ballentine | Bannister |
| Barfield | Bedingfield | Bingham |
| Bowen | Brady | Chalk |
| Clemmons | Cole | Crawford |
| Daning | Delleney | Duncan |
| Edge | Erickson | Forrester |
| Frye | Gambrell | Haley |
| Hamilton | Hardwick | Harrell |
| Harrison | Hearn | Herbkersman |
| Horne | Huggins | Kelly |
| Limehouse | Loftis | Long |
| Lowe | Merrill | Millwood |
| Moss | Nanney | Owens |
| Parker | Pinson | E. H. Pitts |
| M. A. Pitts | Rice | Sandifer |
| Scott | Simrill | Skelton |
| D. C. Smith | G. R. Smith | J. R. Smith |
| Sottile | Spires | Stewart |
| Stringer | Thompson | Toole |
| Umphlett | Viers | White |
| Whitmire | Willis | Wylie |
| A. D. Young | T. R. Young |  |

**Total--65**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Allen | Anderson |
| Anthony | Bales | Battle |
| Bowers | Branham | H. B. Brown |
| Clyburn | Cobb-Hunter | Dillard |
| Funderburk | Gilliard | Govan |
| Gunn | Hart | Hayes |
| Hodges | Hosey | Howard |
| Jefferson | Jennings | Kennedy |
| King | Kirsh | Knight |
| Mack | McEachern | McLeod |
| Miller | Mitchell | J. H. Neal |
| J. M. Neal | Neilson | Ott |
| Rutherford | Sellers | J. E. Smith |
| Stavrinakis | Weeks | Williams |

**Total--42**

So, the amendment was tabled.

Rep. HART spoke against the Bill.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. CHALK a leave of absence for the remainder of the day.

Rep. HART continued speaking.

Rep. WHITE moved cloture on the entire matter.

Rep. J. E. SMITH demanded the yeas and nays which were taken, resulting as follows:

Yeas 59; Nays 40

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allison | Bannister | Barfield |
| Bedingfield | Bingham | Bowen |
| Brady | Clemmons | Cole |
| Crawford | Daning | Delleney |
| Duncan | Edge | Erickson |
| Forrester | Frye | Gambrell |
| Hamilton | Hardwick | Harrell |
| Harrison | Hearn | Herbkersman |
| Horne | Huggins | Kelly |
| Limehouse | Loftis | Long |
| Lowe | Merrill | Millwood |
| Moss | Nanney | Owens |
| Parker | Pinson | E. H. Pitts |
| M. A. Pitts | Rice | Sandifer |
| Scott | Simrill | Skelton |
| D. C. Smith | G. R. Smith | J. R. Smith |
| Sottile | Spires | Stringer |
| Toole | Umphlett | Viers |
| White | Whitmire | Willis |
| Wylie | A. D. Young |  |

**Total--59**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Allen | Anderson | Anthony |
| Bales | Ballentine | Battle |
| Bowers | Branham | H. B. Brown |
| Clyburn | Cobb-Hunter | Dillard |
| Funderburk | Gilliard | Govan |
| Gunn | Hart | Harvin |
| Hayes | Hodges | Hosey |
| Jefferson | Jennings | Kennedy |
| King | Kirsh | Knight |
| Mack | McEachern | McLeod |
| Mitchell | J. H. Neal | J. M. Neal |
| Neilson | Ott | Sellers |
| J. E. Smith | Stavrinakis | Thompson |
| Weeks |  |  |

**Total--40**

So, cloture was ordered.

RECORD FOR VOTING

I was temporarily out of the Chamber on constituent business during the vote on cloture for S. 12. If I had been present, I would have voted in favor of invoking cloture on the Bill.

Rep. Tom Young

Rep. J. H. NEAL spoke against the Bill.

Rep. J. E. SMITH spoke against the Bill.

Rep. OTT spoke against the Bill.

Rep. DUNCAN spoke in favor of the Bill.

Rep. HART spoke against the Bill.

Rep. GOVAN spoke against the Bill.

The question then recurred to the passage of the Bill.

Pursuant to Rule 7.7 the yeas and nays were taken resulting as follows:

Yeas 67; Nays 30

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allison | Ballentine | Bedingfield |
| Bingham | Bowen | Bowers |
| Brady | Clemmons | Cole |
| Crawford | Daning | Delleney |
| Duncan | Edge | Erickson |
| Forrester | Frye | Funderburk |
| Gambrell | Gunn | Haley |
| Hamilton | Hardwick | Harrell |
| Harrison | Hearn | Herbkersman |
| Horne | Huggins | Kelly |
| Kirsh | Knight | Limehouse |
| Loftis | Long | Lowe |
| Merrill | Miller | Millwood |
| Moss | Nanney | Owens |
| Parker | Pinson | E. H. Pitts |
| M. A. Pitts | Rice | Sandifer |
| Scott | Sellers | Simrill |
| Skelton | D. C. Smith | G. R. Smith |
| J. R. Smith | Sottile | Stavrinakis |
| Stewart | Stringer | Thompson |
| Toole | Umphlett | White |
| Whitmire | Wylie | A. D. Young |
| T. R. Young |  |  |

**Total--67**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Allen | Anderson | Anthony |
| Battle | Branham | H. B. Brown |
| Clyburn | Cobb-Hunter | Dillard |
| Gilliard | Govan | Hart |
| Harvin | Hayes | Hodges |
| Hosey | Jefferson | Jennings |
| Kennedy | King | Mack |
| McEachern | McLeod | J. H. Neal |
| J. M. Neal | Neilson | Ott |
| Rutherford | J. E. Smith | Weeks |

**Total--30**

So, the Bill, as amended, was read the second time and ordered to third reading.

**S. 184--DEBATE ADJOURNED**

Rep. SANDIFER moved to adjourn debate upon the following Bill until Tuesday, May 12, which was adopted:

S. 184 -- Senators McConnell and Ford: A BILL TO AMEND SECTION 40-27-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO A PERSON WHO BUYS JUNK, SO AS TO REQUIRE A PERSON WHO BUYS JUNK THAT CONSISTS OF TWENTY-FIVE POUNDS OF SCRAP METAL OR VEHICLE PARTS TO KEEP WITH THE RECORD OF PURCHASE A PHOTOCOPY OF THE SELLER'S DRIVER'S LICENSE OR OTHER GOVERNMENT ISSUED PICTURE IDENTIFICATION CARD THAT SHOWS THE SELLER'S NAME AND ADDRESS; TO AMEND SECTION 40-27-40, RELATING TO PENALTIES FOR VIOLATING PROVISIONS OF THE JUNK DEALER ARTICLE, SO AS TO INCREASE THE FINE FROM A MAXIMUM OF ONE HUNDRED DOLLARS TO FIVE HUNDRED DOLLARS AND TO ESTABLISH THAT EACH VIOLATION CONSTITUTES A SEPARATE OFFENSE; TO AMEND SECTION 56-5-5670, RELATING TO A DEMOLISHER PURCHASING OR ACQUIRING A VEHICLE TO DEMOLISH, SO AS TO REQUIRE A DEMOLISHER THAT ACQUIRES A VEHICLE OR VEHICLE PARTS WITH A TOTAL WEIGHT OF TWENTY-FIVE POUNDS OR MORE TO KEEP A PHOTOCOPY OF THE SELLER'S DRIVER'S LICENSE OR OTHER GOVERNMENT ISSUED PICTURE IDENTIFICATION CARD THAT SHOWS THE SELLER'S NAME AND ADDRESS AND TO ESTABLISH THAT A VIOLATION OF THOSE PROVISIONS IS A MISDEMEANOR WITH A FINE NO MORE THAN FIVE HUNDRED DOLLARS FOR EACH OFFENSE OR NOT EXCEEDING FIVE THOUSAND DOLLARS FOR THE SAME SET OF TRANSACTIONS OR IMPRISONED FOR NO MORE THAN SIXTY DAYS, WITH EACH VIOLATION CONSTITUTING A SEPARATE OFFENSE; AND TO AMEND SECTION 56-5-5945, RELATING TO A DEMOLISHER OBTAINING A VEHICLE TITLE, SO AS TO REQUIRE A DEMOLISHER WHO PURCHASES OR ACQUIRES A VEHICLE OR VEHICLE PART WITH A TOTAL WEIGHT OF TWENTY-FIVE OR MORE POUNDS TO KEEP A PHOTOCOPY OF THE SELLER'S DRIVER'S LICENSE OR OTHER GOVERNMENT PICTURE IDENTIFICATION CARD THAT SHOWS THE PERSON'S NAME AND ADDRESS AND THE YEAR, MAKE, MODEL, AND IDENTIFICATION NUMBER OF THE VEHICLE, IF AVAILABLE, ALONG WITH ANY OTHER IDENTIFYING FEATURES, AND TO PROVIDE A VIOLATION CONSTITUTES A MISDEMEANOR WITH A FINE NO MORE THAN FIVE HUNDRED DOLLARS FOR EACH OFFENSE OR NO MORE THAN FIVE THOUSAND DOLLARS FOR THE SAME SET OF TRANSACTIONS OR IMPRISONED FOR NO MORE THAN SIXTY DAYS, OR BOTH, AND TO ESTABLISH THAT EACH VIOLATION CONSTITUTES A SEPARATE OFFENSE.

**H. 3790--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

H. 3790 -- Rep. Sandifer: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "SOUTH CAROLINA MORTGAGE LENDING ACT", BY ADDING CHAPTER 22 TO TITLE 37 SO AS TO REQUIRE THE LICENSING OF A MORTGAGE LENDER, LOAN ORIGINATOR, OR SOMEONE ACTING AS A MORTGAGE LENDER; PROVIDE DEFINITIONS; ESTABLISH QUALIFICATIONS FOR LICENSURE AND GROUNDS FOR REVOCATION, SUSPENSION, RENEWAL, AND TERMINATION; DESCRIBE PROHIBITED ACTIVITIES; PROVIDE FOR RECORD-KEEPING, TRUST AND ESCROW ACCOUNTS, AND ANNUAL REPORTS; PROVIDE FOR ENFORCEMENT THROUGH ADMINISTRATIVE ACTION BY THE COMMISSIONER OF THE CONSUMER FINANCE DIVISION OF THE BOARD OF FINANCIAL INSTITUTIONS AND THROUGH CRIMINAL PENALTIES, AND TO PROVIDE FOR PARTICIPATION IN A NATIONAL MORTGAGE REGISTRY; TO AMEND SECTIONS 37-1-301, 37-3-105, 37-3-501, AND 37-23-20, ALL RELATING TO DEFINITIONS IN CONNECTION WITH MORTGAGE LENDING AND BROKERING AND HIGH-COST AND CONSUMER HOME LOANS, SO AS TO CONFORM DEFINITIONS, AND TO ADD A DEFINITION FOR "ADJUSTABLE RATE MORTGAGE"; TO AMEND SECTIONS 37-23-40, 37-23-45, AND 37-23-75, ALL RELATING TO PROTECTIONS FOR THE BORROWER IN A HIGH-COST OR CONSUMER HOME LOAN TRANSACTION, SO AS TO REQUIRE CERTAIN DISCLOSURES IN CONNECTION WITH AN ADJUSTABLE RATE MORTGAGE; TO AMEND SECTION 29-4-20, RELATING TO THE DEFINITION OF "REVERSE MORTGAGE", SO AS TO CONFORM THE DEFINITION; AND TO AMEND CHAPTER 58, TITLE 40, RELATING TO THE REGISTRATION OF MORTGAGE LOAN BROKERS, SO AS TO CHANGE THE REGISTRATION REQUIREMENTS TO LICENSING REQUIREMENTS, TO CONFORM DEFINITIONS TO THOSE SET FORTH IN THE SOUTH CAROLINA MORTGAGE LENDING ACT, REQUIRE CERTAIN PROFESSIONAL COURSES, AN ADDITIONAL YEAR OF EXPERIENCE, AND A FINGERPRINT CHECK FOR MORTGAGE BROKERS AND LOAN ORIGINATORS, REQUIRE CERTAIN RECORDS BE KEPT AND MADE ACCESSIBLE, ADD CERTAIN PROHIBITIONS IN CONNECTION WITH A REAL ESTATE APPRAISAL, REQUIRE AND PRESCRIBE MORTGAGE BROKER AGREEMENTS, AUTHORIZE ENFORCEMENT BY THE DEPARTMENT OF CONSUMER AFFAIRS AND PRESCRIBE ADMINISTRATIVE PENALTIES INCLUDING FINES AND INJUNCTIONS AND A CRIMINAL PENALTY, REQUIRE CERTAIN REPORTS AND FILINGS, AND PROVIDE FOR PARTICIPATION IN A NATIONWIDE MORTGAGE REGISTRY.

The Labor, Commerce and Industry Committee proposed the following Amendment No. 1 (COUNCIL\AGM\19403MM09), which was adopted:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. This act may be cited as the “South Carolina Mortgage Lending Act”.

SECTION 2. Title 37 of the 1976 Code is amended by adding:

“CHAPTER 22

Mortgage Lending

Section 37‑22‑110. The following definitions apply in this chapter:

(1) ‘Act as a mortgage broker’ means to act, for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, by: (i) soliciting, processing, placing, or negotiating a mortgage loan for a borrower from a mortgage lender or depository institution or offering to process, place, or negotiate a mortgage loan for a borrower from a mortgage lender or depository institution, (ii) engaging in tablefunding of mortgage a loan, or (iii) acting as a loan correspondent, as that term is defined in 24 C.F.R. Part 202 et seq., whether those acts are done by telephone, by electronic means, by mail, or in person with the borrowers or potential borrowers. ‘Act as a mortgage broker’ also includes bringing a borrower and lender together to obtain a mortgage loan or rendering a settlement service as described in 12 U.S.C. 2602(3) and 24 C.F.R. Part 3500.2(b).

(2) ‘Act as a mortgage lender’ means to engage in the business of making or servicing a mortgage loan for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, including soliciting, processing, placing, or negotiating a mortgage loan.

(3) ‘Administrator’ means the administrator of the Department of Consumer Affairs (department) or the administrator’s designees.

(4) ‘Advertising’ means a commercial message in a medium that promotes, either directly or indirectly, a mortgage loan transaction.

(5) ‘Affiliate’ means a company that controls, is controlled by, or is under common control with another company, as set forth in the Bank Holding Company Act of 1956 (12 U.S.C. Section 1841 et seq.). For purposes of this item, the term ‘control’ means ownership of all of the voting stock or comparable voting interest of the controlled person.

(6) ‘Board’ means the State Board of Financial Institutions as that term is used in Chapter 1, Title 34.

(7) ‘Borrower’ means a natural person in whose dwelling a security interest is or is intended to be retained or acquired if that person’s ownership interest in the dwelling is or is to be subject to the security interest.

(8) ‘Branch manager’ means the natural person who is in charge of and who is responsible for the business operations of a branch office of a licensee.

(9) ‘Branch office’ means an office of the licensee that is separate and distinct from the licensee’s principal office.

(10) ‘Commissioner’ means the designee of the State Board of Financial Institutions for purposes of licensing and regulation of mortgage lenders and mortgage loan originators pursuant to this chapter.

(11) ‘Control’, except as provided in item (5), means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. A person is presumed to have ‘control’ of a company if that person, (i) is a director, general partner or executive officer, (ii) directly or indirectly has the right to vote ten percent or more of a class of a voting security or has the power to sell or direct the sale of ten percent or more of a class of voting securities, (iii) in the case of an LLC, is the managing member, or (iv) in the case of a partnership, has the right to receive upon dissolution, or has contributed, ten percent or more of the capital.

(12) ‘Depository institution’ has the same meaning as in Section 3 of the Federal Deposit Insurance Act (12 U.S.C. Section 1811, et. seq.), and includes a credit union.

(13) ‘Dwelling’ means the same as the term ‘dwelling’ means in Section 226.2(a)19 of Title 12 of the Code of Federal Regulations and the Federal Reserve Board’s Official Staff Commentary to that section.

(14) ‘Employee’ means a natural person who has an employment relationship, acknowledged by both the natural person and the mortgage lender, and is treated like an employee for purposes of compliance with the federal income tax laws.

(15) ‘Escrow account’ means an account that a mortgage lender establishes or controls on behalf of a borrower to pay taxes, insurance premiums including flood insurance, or other charges with respect to a mortgage loan, including charges that the borrower and mortgage lender have voluntarily agreed that the mortgage lender collects and pays. The definition encompasses an account established for this purpose. For purposes of this item, the term ‘escrow account’ excludes an account that is under the borrower’s total control.

(16) ‘Escrow funds’ means money entrusted to a mortgage lender by a borrower for the purpose of payment of taxes and insurance or other payments to be made in connection with the servicing of a mortgage loan.

(17) ‘Exempt person’ means:

(a) an employee of a licensee whose responsibilities are limited to clerical and administrative tasks for the employer and who does not solicit borrowers, accept applications, or negotiate the terms of loans on behalf of the employer;

(b) a depository institution or a subsidiary that is wholly owned and controlled by the depository institution and regulated by a federal banking agency or an institution regulated by the Farm Credit Administration. This chapter does not apply to the exempt persons described in this subitem;

(c) an officer, registered loan originator or employee of an exempt person described in subitem (b) of this section when acting in the scope of employment for the exempt person;

(d) a person who offers or negotiates terms of a mortgage loan with or on behalf of an immediate family member of the individual;

(e) an individual who offers or negotiates terms of a mortgage loan secured by a dwelling that served as the person’s residence;

(f) a natural person who sells residential real estate and who lends or services, in one calendar year, no more than five purchase money notes secured by mortgages, deeds of trust, or other security instruments on the real estate sold as security for the purchase money obligation, unless the United States Department of Housing and Urban Development or a court of competent jurisdiction determines that this exemption is not in compliance with the SAFE Act pursuant to Section 1508 of Title V of The Housing and Economic Recovery Act of 2008, Public Law 110‑289;

(g) an employee whose employment as a processor or underwriter is undertaken pursuant to the direction and supervision of a licensee or exempt person except when the processor or underwriter is working as an independent contractor;

(h) an attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney’s representation of the client, unless the attorney is compensated by a mortgage lender, a mortgage broker, or other mortgage loan originator or by an agent of the mortgage lender, mortgage broker, or other mortgage loan originator;

(i) an attorney who works for a mortgage lender, pursuant to a contract, for loss mitigation efforts or third party independent contractor who is HUD‑certified, Neighborworks‑certified, or similarly certified, who works for a mortgage lender, pursuant to a contract, for loss mitigation efforts; or

(j) a manufactured home retailer and its employees if performing only administrative or clerical tasks in connection with the sale or lease of a manufactured home and the manufactured home retailer and its employees receive no compensation or other gain from a mortgage lender or a mortgage broker for the performance of the administrative or clerical tasks.

(18) ‘Federal banking agencies’ means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(19) ‘Financial Services or financial services related’ means pertaining to securities, commodities, banking, insurance, consumer lending, or real estate including, but not limited to, acting as or being associated with a bank or savings association, credit union, mortgage lender, mortgage servicer, mortgage broker, real estate broker, real estate salesperson or agent, closing agent, title company, or escrow agent.

(20) ‘Immediate family member’ means a spouse, child, sibling, parent, grandparent, or grandchild including stepparents, stepchildren, stepsiblings, and adoptive relationships.

(21) ‘Individual servicing a mortgage loan’ means an employee of a mortgage lender licensed in this State, that:

(a) collects or receives payments including payments of principal, interest, escrow amounts, and other amounts due on existing obligations due and owing to the licensed mortgage lender for a mortgage loan when:

(i) the borrower is in default; or

(ii) the borrower is in reasonably foreseeable likelihood of default;

(b) works with the borrower and the licensed mortgage lender, collects data, and makes decisions necessary to modify, either temporarily or permanently, certain terms of those obligations; or

(c) otherwise finalizes collection through the foreclosure process.

(22) ‘Licensee’ means a person who is licensed pursuant to this chapter.

(23) ‘Loan commitment’ or ‘commitment’ means a statement, written or electronic, by the mortgage lender setting forth the terms and conditions upon which the mortgage lender is willing to make a particular mortgage loan to a particular borrower.

(24) ‘Loan originator’ means a natural person who, in exchange for compensation or gain or in the expectation of compensation or gain as an employee of a licensed mortgage lender, solicits, negotiates, accepts, or offers to accept applications for mortgage loans, including electronic applications, or includes direct contact with, or informing mortgage loan applicants of, the rates, terms, disclosures, and other aspects of the mortgage loan. The definition of ‘loan originator’ does not include an exempt person described in item (17) of this section or a person solely involved in extensions of credit relating to timeshare plans, as that term is defined in section 101(53D) of Title 11, United States Code. The definition of loan originator does not apply to an individual servicing a mortgage loan as that term is defined in this chapter until July 31, 2011, unless the United States Department of Housing and Urban Development or a court of competent jurisdiction determines before that time that those individuals servicing mortgage loans are ‘loan originators’ as that term is defined in the SAFE Act pursuant to Section 1508 of Title V of The Housing and Economic Recovery Act of 2008, Public Law 110‑289.

(25) ‘Make a mortgage loan’ means to close a mortgage loan, advance funds, offer to advance funds, or make a commitment to advance funds to a borrower under a mortgage loan.

(26) ‘Managing principal’ means a natural person who meets the requirements of Section 37‑22‑140(C) and who agrees to be primarily responsible for the operations of a licensed mortgage lender.

(27) ‘Mortgage broker’ means a person who acts as a mortgage broker, as that term is defined in subitem (1) of this section.

(28) ‘Mortgage lender’ means a person who acts as a mortgage lender as that term is defined in subitem (2) of this section or engages in the business of servicing mortgage loans for others or collecting or otherwise receiving mortgage loan payments directly from borrowers for distribution to another person. This definition does not include engaging in a tablefunded transaction.

(29) ‘Mortgage loan’ means a loan made to a natural person primarily for personal, family, or household use, primarily secured by a mortgage, deed of trust, or other security interest on residential real property or security interest arising under an installment sales contract or equivalent security interest against the borrower’s dwelling and: (i) located in South Carolina, (ii) negotiated, offered or otherwise transacted within this State, in whole or in part, or (iii) made or extended within this State.

(30) ‘Nationwide Mortgage Licensing System and Registry’ means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators of licensees licensed pursuant to this chapter.

(31) ‘Nontraditional mortgage product’ means a mortgage product other than a thirty‑year fixed rate mortgage loan.

(32) ‘Person’ means a natural person, partnership, limited liability company, limited partnership, corporation, association, or other group engaged in joint business activities, however organized.

(33) ‘Processor or underwriter’ means an employee of a mortgage broker, mortgage lender, or exempt person who performs clerical or support duties at the direction of and subject to the supervision and instruction of a licensee or exempt person and may include direct contact with applicants but does not include soliciting, negotiating, accepting, or offering to accept applications that include personal identifying information as defined in Section 16‑13‑510(D) for mortgage loans including electronic applications or informing applicants of the rates, terms, disclosures, and other aspects of the mortgage loan.

(a) Clerical or support duties may include after the receipt of an application: (i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a mortgage loan, and (ii) communication with a consumer to obtain the information necessary for the processing or underwriting of a mortgage loan, to the extent that the communication does not include offering or negotiating loan rates or terms or counseling consumers about mortgage loans.

(b) A person engaging solely in loan processor or underwriter activities may not represent to the public, through advertising or other means of communicating or providing information including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items that the person may or will perform any of the activities of a loan originator.

(c) A processor or underwriter who is an independent contractor may not engage in the activities of a processor or underwriter unless the independent contractor processor or underwriter obtains and maintains a license as provided by rule or regulation pursuant to Section 37‑22‑270.

(34) ‘Registered loan originator’ means a natural person who meets the definition of loan originator and is an employee of a depository institution or a subsidiary that is wholly owned and controlled by the depository institution and regulated by a federal banking agency or an institution regulated by the Farm Credit Administration and is registered with and maintains a unique identifier through the Nationwide Mortgage Licensing System and Registry.

(35) ‘Residential real property’ means real property located in the State of South Carolina upon which there is located or is to be located one or more single‑family dwellings or dwelling units that are to be occupied as the owner’s dwelling, and includes real estate and residential manufactured home (land/home) transactions.

(36) ‘RESPA’ means the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. Section 2601 et seq. and regulations adopted pursuant to it by the Department of Housing and Urban Development.

(37) ‘Soliciting, processing, placing, or negotiating a mortgage loan’ means, for compensation or gain or in the expectation of compensation or gain, either directly or indirectly, accepting or offering to accept an application for a mortgage loan, assisting or offering to assist in the processing of an application for a mortgage loan, soliciting or offering to solicit a mortgage loan, or negotiating or offering to negotiate the terms or conditions of a mortgage loan.

(38) ‘Tablefunding’ means a settlement at which a loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds.

(39) ‘TILA’ means the Truth in Lending Act, 15 U.S.C. Section 1601 et seq. and regulations adopted pursuant to it by the Board of Governors of the Federal Reserve System.

(40) ‘Unique identifier’ means a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.

Section 37‑22‑120. (A) Without first obtaining a license pursuant to this chapter it is unlawful for a person, other than an exempt person, doing business in this State to:

(1) act as a mortgage lender or, directly or indirectly, engage in the business of a mortgage lender under any name or title; or

(2) circulate or use advertising, including electronic means, make a representation or give information to a person which indicates or reasonably implies activity within the scope of this chapter.

(B) It is unlawful for a person to employ, compensate, or appoint as its agent a loan originator unless the loan originator is licensed as a loan originator pursuant to this chapter. An exempt person is not subject to this subsection.

(C) The license of a loan originator is not effective during a period that the person is not employed by a mortgage lender licensed pursuant to this chapter.

(D) If a loan originator ceases to be employed by a mortgage lender licensed pursuant to this chapter, the loan originator and the mortgage lender by whom that person is employed promptly shall notify the commissioner in writing. The mortgage lender’s notice must include a statement of the specific reason or reasons for the termination of the loan originator’s employment. The reason for termination is confidential information and must not be released to the public.

(E) A loan originator must not be employed simultaneously by more than one mortgage lender licensed pursuant to this chapter.

(F) Independent contractors, except for exempt persons, must be separately licensed. Processors and underwriters who are independent contractors must be licensed as provided in Section 37‑22‑110(33)(c).

Section 37‑22‑130. (A) A person aggrieved by an administrative order issued by the commissioner may request a contested case hearing before the Administrative Law Court in accordance with the court’s rules of procedure. If the person fails to request a contested case hearing within the time provided in the court’s rules of procedure, the administrative order becomes final and the commissioner may bring an action to enforce its order pursuant to Chapter 23, Title 1. This section does not limit utilization of, or the scope of judicial review available under, other means of review, redress, relief, or trial de novo provided by law. A preliminary, procedural, or intermediate action or ruling of the Administrative Law Court is reviewable immediately if review of the final decision of the Administrative Law Court would not provide an adequate remedy.

(B) Contested case proceedings are instituted by filing a request for a contested case hearing with the Administrative Law Court according to the rules of procedure of the Administrative Law Court. Copies of the request for a contested case hearing must be served upon the commissioner and all parties of record. The final decision of the administrative law judge may be appealed as provided in Sections 1‑23‑380 and 1 23‑610 or Chapter 23, Title 1.

Section 37‑22‑140. (A) A person desiring to obtain a license pursuant to this chapter shall make application for licensure to the commissioner on forms prescribed by the commissioner. The application must contain the information the commissioner considers necessary including, but not limited to, the applicant’s:

(1) name, address, and social security number or if applicable Employer Identification Number (EIN);

(2) form and place of organization, if applicable;

(3) proposed method of and locations for doing business, if applicable;

(4) qualifications and business history and, if applicable, the business history of any partner, officer, or director, a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the applicant, including: (i) a description of any injunction or administrative order by a state or federal authority to which the person is or has been subject, including denial, suspension or revocation of a financial services or financial services related license or registration; (ii) a conviction, or plea of guilty or nolo contendere to a misdemeanor within the last ten years involving financial services or a financial services related business or any fraud, false statements or omissions, theft or wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, money laundering, breach of trust or a conspiracy to commit any of these offenses; and (iii) a conviction of, or plea of guilty or nolo contendere to, a felony;

(5) financial condition, credit history, and business history, with respect to an application for licensing as a mortgage lender; and credit history and business history, with respect to the application for licensing as a loan originator; and

(6) consent to a national and state fingerprint‑based criminal history record check pursuant to Section 37‑22‑240 and submission of a set of the applicant’s fingerprints in a form acceptable to the commissioner. In the case of an applicant that is a corporation, partnership, limited liability company, association, or trust, each natural person who has control of the applicant or who is the managing principal or a branch manager shall consent to a national and state fingerprint‑based criminal history record check pursuant to Section 37‑22‑240 and submit a set of that natural person’s fingerprints pursuant to this item. Refusal to consent to a criminal history record check constitutes grounds for the commissioner to deny licensure to the applicant as well as to any entity (i) by whom or by which the applicant is employed, (ii) over which the applicant has control, or (iii) as to which the applicant is the current or proposed managing principal or a current or proposed branch manager.

(B) In addition to the requirements imposed by the commissioner in subsection (A), each applicant for licensure as a loan originator shall:

(1) have attained the age of at least eighteen years of age;

(2) work for a licensed mortgage lender;

(3) have satisfactorily completed pre‑licensing education of at least twenty hours and a written examination approved pursuant to 12 U.S.C. 5101 et seq. To satisfy the twenty hours of prelicensing education, an applicant may show proof of the equivalent of twenty or more semester hours of satisfactorily completed course work in real estate finance or real estate law or course work that is equivalent to the education requirements in the SAFE Act pursuant to Section 1508 of Title V of The Housing and Economic Recovery Act of 2008, Public Law 110‑289 if the course work counts toward the successful completion of a degree that is baccalaureate level or more advanced with a major or minor in finance, accounting, business administration, real estate finance economics, or similar baccalaureate or more advanced degree, approved by the commissioner, from an accredited college or university. The coursework must be approved pursuant to 12 U.S.C. 5101 et seq.;

(4) have never had a loan originator license revoked in any governmental jurisdiction; and

(5) have not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court (i) during the ten‑year period preceding the date of the application for licensing or (ii) at any time, if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering.

(C) In addition to the requirements of subsection (A) of this section, each applicant for licensure as a mortgage lender at the time of application and at all times after that shall comply with the following requirements:

(1) If the applicant is a sole proprietor, the applicant shall have at least three years of experience in financial services or financial services related business or other experience or competency requirements as the commissioner may impose.

(2) If the applicant is a general or limited partnership, at least one of its general partners shall have the experience described in item (1).

(3) If the applicant is a corporation, at least one of its principal officers shall have the experience described in item (1).

(4) If the applicant is a limited liability company, at least one of its members or managers shall have the experience described in item (1).

(5) Instead of a showing of three years’ experience, an applicant may show proof of three years’ employment with a federally insured depository institution or a VA, FHA, or HUD‑approved mortgagee.

(D) Each applicant shall identify one person meeting the requirements of subsections (B) and (C) to serve as the applicant’s managing principal.

(E) Every applicant for initial licensure shall pay a filing fee of one thousand dollars for licensure as a mortgage lender or fifty dollars for licensure as a loan originator, in addition to the actual cost of obtaining credit reports and national and state fingerprint‑based criminal history record checks. If a licensed loan originator changes employment, a new license must be issued and a fee of twenty‑five dollars must be paid.

(F) A mortgage lender shall post and maintain a surety bond in an amount determined by the commissioner, based on the total dollar amount of mortgage loans originated in a calendar year in this State pursuant to the following: (i) dollar volume of mortgage loans from $0 to $49,999,999, surety bond of $150,000; (ii) dollar volume of mortgage loans from $50,000,000 to $249,999,999, surety bond of $250,000; (iii) dollar volume of mortgage loans greater than $250,000,000 surety bond of $500,000. In no case is the surety bond less than one hundred fifty thousand dollars. The surety bond must be executed by a surety company authorized by the laws of this State to transact business within this State. The surety bond must be in a form satisfactory to the commissioner, must be executed to the commissioner, and must be for the use of the State for the recovery of expenses, fines, and fees, or any of them, levied pursuant to this chapter and for consumers who have losses or damages as a result of noncompliance with this chapter by the mortgage lender. The full amount of the surety bond must be in effect at all times. The license of a licensee expires upon the termination of the bond by the surety company, unless a new bond is filed with the commissioner before the termination of the previous bond. If the license expires based on bond termination, all licensed activity must cease and the person must apply for a license pursuant to subsection (A).

(G) Any sole proprietor, general partner, member or manager of a limited liability company, or officer of a corporation who meets individually the requirements of subsection (B), upon payment of the applicable fee, meets the qualifications for licensure as a loan originator subject to the provisions of subsection (I).

(H) Each principal office and each branch office of a licensed mortgage lender at which business is conducted must be licensed pursuant to this chapter and must be issued a separate license. A licensed mortgage lender shall file with the commissioner an application on a form prescribed by the commissioner which identifies the address of the principal office and each branch office and branch manager. A licensing fee of one hundred fifty dollars must be assessed by the commissioner for each branch office issued a license.

(I) If the commissioner determines that an applicant meets the qualifications for licensure and finds that the financial responsibility, character, and general fitness of the applicant are such as to command the confidence of the community and to warrant belief that the business is to be operated honestly, fairly, and efficiently according to the purposes of this chapter and in accordance with all applicable state and federal laws, the commissioner shall issue a license to the applicant. If the commissioner does not make that determination, the commissioner shall refuse to license the applicant and shall notify him of the denial.

(J) Issuance of a license does not indicate approval or acceptance of any contract, agreement or other document submitted in support of the application. A licensee may not represent that its services or contracts are approved by the State or state agency.

(K) A person who obtains a license as a mortgage lender, upon notice to the commissioner on a form prescribed by the commissioner, may act as a mortgage broker as defined in Section 37‑22‑110(1). The commissioner shall provide to the administrator notification of which mortgage lenders are also acting as brokers. A mortgage lender who also acts as a mortgage broker is not required to obtain a license as a mortgage broker pursuant to Chapter 58, Title 40 and is not subject to regulation by the administrator, except that the mortgage lender acting as a mortgage broker must comply with Sections 40‑58‑70, 40‑58‑75, and 40‑58‑78.

(L)(1) A person with three years’ experience as a loan originator who applies for a license as a loan originator and who has completed and filed with the Nationwide Mortgage Licensing System and Registry all information, documents, and requirements for licensure pursuant to this chapter and who has been assigned a unique identifier by the Registry must be provided a provisional license as a loan originator before the commissioner takes action on his application if the applicant is employed by a mortgage lender licensed pursuant to this chapter and a senior officer or managing principal of that licensee attests to the commissioner that:

(a) the applicant, within the six‑month period before the date of application for licensure, has not been acting as a registered loan originator or a state‑licensed loan originator in another state under provisions of Section 1507 of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, and:

(i) the applicant has never had a loan originator license denied, revoked, or suspended in any governmental jurisdiction;

(ii) the applicant during the previous five years, ending on the date of the filing of the current application, has not had an application for a professional license denied, a professional license revoked, or any adverse action taken on a professional license;

(iii) the applicant has not been convicted of a felony that would otherwise authorize the commissioner to deny a license;

(iv) the application meets all of the applicable requirements of this chapter for licensure; and

(v) the licensee will be responsible for the acts of the applicant during the period that such application is pending; or

(b) the applicant is currently, or has within the six‑month period before the date of the application, been acting as a registered loan originator or a state‑licensed loan originator in another state under provisions of Section 1507 of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 and the applicant has never had a loan originator license denied, revoked, or suspended in any governmental jurisdiction and has not been convicted of a felony that would otherwise authorize the commissioner to deny a license.

(2) A provisional license issued pursuant to this section expires on the earlier of the following:

(a) the date upon which the commissioner issues or denies the permanent license applied for; or

(b) ninety days from the date the provisional license is issued.

(3) The commissioner may deny or suspend the rights of a licensee pursuant to this chapter to employ a loan originator acting under item (1) of this subsection if the commissioner finds that the licensee, the senior officer, or managing principal does not make the certification or undertaking set forth in item (1)(b) of the subsection in good faith.

(M) If the information contained in a document filed with the commissioner is or becomes inaccurate or incomplete, the licensee promptly shall file a correcting amendment to the information contained in the document.

(N) All advertisements of mortgage loans must comply with the Truth in Lending Act, 15 U.S.C. 1601 et seq. and the South Carolina Consumer Protection Code, Title 37.

Section 37‑22‑150. (A) All licenses issued by the commissioner pursuant to this chapter expire annually on the thirty‑first day of December or on another date that the commissioner may determine. The license is invalid after that date unless renewed. The renewal period for all licensees is from November first through December thirty‑first annually or on another date the commissioner may determine. A licensee desiring to renew its license must submit an application to the commissioner on forms and containing information the commissioner requires. Applications received after December thirty‑first or another date the commissioner determines, are late and the late fees in subsection (B) apply. A license may be renewed by compliance with this section and by paying to the commissioner, in addition to the actual cost of obtaining credit reports and national and state fingerprint‑based criminal history record checks as the commissioner may require, a renewal fee as prescribed by the Board for each of the following:

(1) for a licensed mortgage lender, an annual renewal fee of no more than eight hundred dollars and no more than one hundred fifty dollars for each branch office; and

(2) for a licensed loan originator, an annual fee of no more than fifty dollars.

(B) If a license of a licensed mortgage lender is not renewed during the renewal period, a late fee of not more than five hundred dollars as prescribed by the board, in addition to the renewal fee in subsection (A)(1), must be assessed. If a license of a licensed loan originator is not renewed during the renewal period, a late fee of not more than one hundred dollars as prescribed by the board, in addition to the renewal fee in subsection (A)(2) of this section, must be assessed as a late fee to a renewal. If a licensee fails to renew its license within thirty days after the date the license expires or otherwise fails to maintain a valid license, the commissioner shall require the licensee to comply with the requirements for the initial issuance of a license pursuant to this chapter, in addition to paying any fee that has accrued.

(C) At any time required by the commissioner, each person described in Section 37‑22‑140 shall furnish to the commissioner consent to a national and state fingerprint‑based criminal history record check and a set of fingerprints in a form acceptable to the commissioner. Refusal to consent to a criminal history record check may constitute grounds for the commissioner to deny renewal of the license of the person as well as the license of another person by which he is employed, over which he has control, or as to which he is the current or proposed managing principal or a current or proposed branch manager.

(D) A license issued pursuant to this chapter is not assignable or transferable. Control of a licensee must not be acquired through a stock purchase or other device without the prior written consent of the commissioner. The commissioner may not give written consent if the commissioner finds that any of the grounds for denial, revocation, or suspension of a license pursuant to Section 37‑22‑200 are applicable to the acquiring person.

Section 37‑22‑160. (A) As a condition of license renewal, a licensee must complete at least eight hours of continuing professional education annually for the purpose of enhancing professional competence and responsibility. The continuing professional education completed must be reported to the commissioner annually. Documentation of courses completed must be maintained by all licensees. This documentation is subject to inspection by the commissioner for up to two years after the date of course completion.

(B) Continuing education credit may be granted only for the year in which the class is taken and may not be granted for the same course in successive years.

(C) If a licensee fails to complete the continuing professional education before the license expiration date, his license expires and he shall pay a penalty of not more than one hundred dollars, in addition to other fees or penalties that have accrued, to reinstate the license.

(D) All prelicensing education, continuing education, and written examinations must be approved through the Nationwide Mortgage Licensing System and Registry, pursuant to 12 U.S.C. 5101 et seq. before credit can be awarded. Applicants and licensees that successfully complete education or testing approved through the Nationwide Mortgage Licensing System and Registry fulfill the requirements of this State.

Section 37‑22‑170. A mortgage lender licensed pursuant to this chapter shall have a managing principal who operates the business under that manager’s full charge, control, and supervision. A mortgage lender may operate a branch office subject to the requirements of this chapter. Each principal and branch office of a mortgage lender licensed pursuant to this chapter shall have a branch manager who meets the requirements of Section 37‑22‑140(B) and (C)(1). Each mortgage lender licensed pursuant to this chapter shall file a form prescribed by the commissioner indicating the business’s designation of managing principal and branch manager for each branch and their acceptance of the responsibility. The managing principal for a licensee’s business also may serve as the branch manager of one of the licensee’s branch offices. A mortgage lender licensed pursuant to this chapter shall notify the commissioner of a change in its managing principal or any branch manager. The license of a licensee who does not comply with this provision must be suspended pursuant to Section 37‑22‑200 until the licensee complies with this section. A licensee who operates as a sole proprietorship is a managing principal for the purposes of this chapter.

Section 37‑22‑180. (A) A licensee shall report to the commissioner a change of address of the principal place of business or a branch office at least seven days before the change. Change of address notification of a licensed location must be accompanied by a fee of twenty‑five dollars.

(B) A mortgage lender licensed pursuant to this chapter shall display in plain view in its principal office and in each branch the license issued by the commissioner. A loan originator licensed pursuant to this chapter shall display in each branch office in which mortgage loans are originated a copy of the license issued by the commissioner.

Section 37‑22‑190. (A) In addition to the activities prohibited by other provisions of state or federal law, it is unlawful for a person licensed pursuant to this chapter, in the course of a mortgage loan origination, to:

(1) misrepresent or conceal the material facts or make false promises likely to influence, persuade, or induce an applicant for a mortgage loan or a mortgagor to take a mortgage loan, or to pursue a course of misrepresentation through agents or otherwise;

(2) refuse improperly or fail to issue a satisfaction of a mortgage pursuant to Section 29‑3‑310;

(3) fail to account for or deliver to a person entitled to receive them funds, documents, or other things of value obtained in connection with a mortgage loan including money provided by a borrower for a real estate appraisal or a credit report, which the mortgage lender or loan originator is not entitled to retain under the circumstances;

(4) pay, receive, or collect in whole or in part any commission, fee, or other compensation for a mortgage loan origination in violation of this chapter including any unlicensed person other than an exempt person;

(5) charge or collect a fee or rate of interest or to make or service a mortgage loan with terms or conditions or in a manner contrary to the provisions of this chapter;

(6) advertise mortgage loans including rates, margins, discounts, points, fees, commissions, or other material information including material limitations on the loans, unless the person is able to make the mortgage loans available as advertised to qualified applicants;

(7) fail to disburse funds in good faith and in accordance with a written commitment or agreement to make a mortgage loan that has been accepted by the borrower;

(8) engage in a transaction, practice, or course of business in connection with the making or servicing of, or purchase or sale of, a mortgage loan that is not in good faith or fair dealing, that is unconscionable, as set forth in Section 37‑5‑108, or that constitutes a fraud upon a person;

(9) fail to pay reasonable fees within a reasonable time to a licensed third party for services that are:

(a) requested from the third party in writing by the mortgage lender or an employee of the mortgage lender; and

(b) performed by the third party in connection with the origination or closing of a mortgage loan for a customer or mortgage lender;

(10) influence or attempt to influence through coercion, extortion, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan. This item does not prohibit a mortgage lender or servicer from asking the appraiser to do one or more of the following:

(a) consider additional appropriate property information;

(b) provide further detail, substantiation, or explanation for the appraiser’s value conclusion; or

(c) correct errors in the appraisal report;

(11) fail to comply with the mortgage loan servicing transfer, escrow account administration, or borrower inquiry response requirements imposed by sections 6 and 10 of the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. Section 2605 and Section 2609, and regulations adopted pursuant to them by the Secretary of the Department of Housing and Urban Development and state law;

(12) fail to provide within a reasonable time, upon written request of a borrower, a payment history statement in a form easily understood by the borrower including payment dates and amounts and charges within the twelve months preceding the month in which the request is received and the total amount unpaid as of the end of the period covered by the statement. The statement must be provided without charge once during each year of the term of the obligation. If additional statements are requested, the borrower may be charged a reasonable fee, not to exceed five dollars for each additional statement;

(13) take a security interest in a borrower’s principal dwelling where the amount of the mortgage loan is less than five thousand dollars;

(14) fail to provide disclosures as required by state or federal law or collect any fee before providing required disclosures;

(15) fail to comply with this chapter or other state or federal law including rules and regulations applicable to business regulated by this chapter;

(16) falsely advertise or misuse names in violation of 18 U.S.C. Section 709 or state law; or

(17) use any trade name or insignia of membership in an organization of which the licensee is not a member or advertise falsely through any material including, but not limited to, business card, stationary, or signage concerning a designation or certification of special education, credentials, trade organization membership, or business.

(B) A violation of a state or federal law applicable to a business covered by this chapter is a violation of this chapter and may be enforced by the commissioner.

Section 37‑22‑200. (A) The commissioner, by order, may deny, suspend, revoke, or refuse to issue or renew a license of a licensee or applicant pursuant to this chapter or may restrict or limit the activities relating to mortgage loans of a licensee or a person who owns an interest in or participates in the business of a licensee, if the commissioner finds that both:

(1) the order is in the public interest; and

(2) the applicant, licensee, or any partner, member, manager, officer, director, loan originator, managing principal, or other person occupying a similar status or performing similar functions or a person directly or indirectly controlling the applicant or licensee:

(a) has filed an application for license that, as of its effective date or as of a date after filing, contained a statement that, in light of the circumstances under which it was made, is false or misleading with respect to a material fact;

(b) has violated or failed to comply with a provision of this chapter or order of the commissioner;

(c) within the past ten years has been convicted of, or pled guilty or nolo contendere to, a misdemeanor involving financial services or financial services related business or an offense involving breach of trust or fraudulent or dishonest dealing, or money laundering or has been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court;

(d) is permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing conduct or practice involving financial services or financial services related business;

(e) is the subject of an order of the commissioner denying, suspending, or revoking that person’s license;

(f) is the subject of an order entered by the authority of a governmental entity with jurisdiction over the financial services or financial services related industry denying or revoking that person’s license;

(g) does not meet the qualifications or the financial responsibility, character, or general fitness requirements, or a bond or capital requirements, pursuant to this chapter;

(h) has been the executive officer or controlling shareholder or owned a controlling interest in a financial services or financial services related business that has been subject to an order or injunction described in subitems (d), (e), or (f);

(i) has failed to pay the proper filing or renewal fee pursuant to this chapter or a fine, penalty, or fee imposed by any governmental entity. However, the commissioner may enter only a denial order pursuant to this subitem, and the commissioner shall vacate the order when the deficiency is corrected; or

(j) has falsely certified attendance or completion of hours at an approved education course.

(B) The commissioner, by order, summarily may postpone or suspend the license of a licensee pending final determination of a proceeding pursuant to this section. Upon entering the order, the commissioner shall notify promptly the applicant or licensee that the order has been entered, the reasons for the order, and the procedure for requesting a hearing before the Administrative Law Court. If a licensee does not request a hearing and the commissioner does not request a hearing, the order remains in effect until it is modified or vacated by the commissioner.

(C) The commissioner, by order, may impose an administrative penalty upon a licensee or any member, partner, officer, director, or other person occupying a similar status or performing similar functions on behalf of a licensee for a violation of this chapter. The administrative penalty may not exceed ten thousand dollars for each violation of this chapter by a licensee. The commissioner may impose an administrative penalty that may not exceed ten thousand dollars for each violation of this chapter by a person other than a licensee or exempt person.

(D) In addition to other powers pursuant to this chapter, upon finding that an action of a person is in violation of this chapter, the commissioner may order the person to cease from the prohibited action. If the person subject to the order fails to request a contested case hearing in accordance with Section 37‑22‑130, or if the person requests the hearing and it is denied or dismissed, and the person continues to engage in the prohibited action in violation of the commissioner’s order, the person is subject to an administrative penalty that may not exceed twenty‑five thousand dollars for each violation of the commissioner’s order. The penalty provision of this section is in addition to and not instead of another provision of law for failure to comply with an order of the commissioner.

(E) Unless otherwise provided, all actions and hearings pursuant to this chapter are governed by Chapter 23, Title 1.

(F) If a licensee is accused of any act, omission, or misconduct that subjects the licensee to disciplinary action, the licensee, with the consent and approval of the commissioner, may surrender the license and the rights and privileges pertaining to it and is not eligible to receive, or to submit an application for, licensure for a period of time established by the commissioner.

(G) If the commissioner has reasonable grounds to believe that a licensee or other person has violated this chapter or that facts exist that would be the basis for an order against a licensee or other person, the commissioner, either personally or by a person duly designated by the commissioner, at any time may investigate or examine the loans and business of the licensee and examine the books, accounts, records, and files of the licensee or other person relating to the complaint or matter under investigation. The reasonable cost of this investigation or examination must be charged against the licensee. The commissioner may require the licensee or other person to submit a consent to a national and state fingerprint‑based criminal history record check and a set of that person’s fingerprints in a form acceptable to the commissioner in connection with an examination or investigation. Refusal to submit the requested criminal history record check or a set of fingerprints is grounds for disciplinary action.

(H) The commissioner may subpoena documents and witnesses and compel their production and attendance, to examine under oath all persons whose testimony the commissioner considers relative to the person’s business and require the production of books, papers, or other materials.

(I) The commissioner, at the licensee’s expense, may conduct routine examinations of the books and records of a licensee to determine compliance with this chapter.

(J) The commissioner shall cooperate and share information with an agency of this State, other states, or the federal government concerning activity regulated by this chapter. The commissioner shall accept or participate in examinations conducted by one of these agencies.

(K) In addition to the authority described in this section, the commissioner may require a person to pay to a borrower or other natural person amounts received by the person or its employees in violation of this chapter.

(L) If the commissioner finds that the managing principal, branch manager, or loan originator of a licensee had knowledge of, or reasonably should have had knowledge of, or participated in an activity that results in the entry of an order suspending or withdrawing the license of a licensee, the commissioner may prohibit the branch manager, managing principal, or loan originator from serving as a branch manager, managing principal, or loan originator for the period of time the commissioner considers necessary.

(M) Orders issued by the commissioner or by the Administrative Law Court pursuant to this chapter must be reported by the commissioner to the Nationwide Mortgage Licensing System and Registry.

Section 37‑22‑210. (A) The commissioner shall keep a list of all applicants for licensure pursuant to this chapter which includes the date of application, name, and place of residence and whether the license was granted or refused.

(B) The commissioner shall keep a current roster containing the names and places of business of all licensees and containing their respective loan originators. The rosters must: (i) be kept on file in the office of the commissioner; (ii) contain information regarding all orders or other action taken against the licensees, loan originators, and other persons; and (iii) be open to public inspection.

(C)(1) A licensee shall make and keep the accounts, correspondence, memoranda, papers, books, and other records prescribed by the commissioner. Records must be preserved for three years unless the commissioner prescribes otherwise for particular types of records. A licensee should develop, maintain, and test disaster recovery plans for all records that are maintained. The recordkeeping requirements imposed by the commissioner or this subsection must not be greater than those imposed by applicable state or federal law. Licensee’s records may be maintained electronically, if approved by the commissioner, so long as they are readily accessible for examination by the commissioner.

(2) Beginning on January 1, 2010, in addition to the records required to be maintained by licensees pursuant to subitem (1), each licensee shall maintain a mortgage log that contains these specific data elements: (i) credit score of the borrower, (ii) adjustable or fixed type of the loan, (iii) term of the loan, (iv) annual percentage rate of the loan, and (v) appraised value of the collateral. Each licensee shall submit to the commissioner by March thirty‑first of each year its mortgage log data and the data identified in 12 C.F.R. Part 203 et seq., in a form determined by the commissioner. The licensee shall pay a fine of one hundred dollars a day for late or incomplete data submissions. Data collected by the commissioner pursuant to this section is confidential and may be released to the public only in composite form. The commissioner annually shall submit to the department, in a form prescribed by the department and no later than April thirtieth, the data that it collected. The department shall prepare and make available to the public a report based on the data. The report must be available by June thirtieth each year.

(D) If the information contained in a document filed with the commissioner is or becomes inaccurate or incomplete in a material respect, the licensee promptly shall file a correcting amendment to the information contained in the document.

(E) A licensee shall maintain in a segregated escrow fund or trust account funds that come into the licensee’s possession, but which are not the licensee’s property and which the licensee is not entitled to retain under the circumstances. The escrow fund or trust account must be held on deposit in a federally insured financial institution. Escrow funds must be accounted for in compliance with the rules under RESPA.

(F) A licensee clearly shall display the unique identifier assigned by the Nationwide Mortgage Licensing System and Registry on all mortgage loan forms, solicitations, or advertisements including business cards or websites and any other documents furnished in connection with a mortgage loan transaction.

(G) A licensee ceasing activities regulated by this chapter and desiring no longer to be licensed shall inform the commissioner at least seven days in advance. The licensee shall include with the notification a plan of withdrawal that includes a timetable for the disposition of the business, the location of the books, records, and accounts until the end of the retention period, and certification of the proper disposal of those records after that.

Section 37‑22‑220. (A) A licensee shall maintain records in conformity with generally accepted accounting principles and practices in a manner that will enable the commissioner to determine if the licensee is complying with the provisions of this chapter and other state and federal laws. The recordkeeping system of a licensee is sufficient if it makes the required information reasonably available. The records need not be kept in the place of business where loans are made if the commissioner is given free access to the records wherever located and the licensee pays the reasonable cost of their examination.

(B) On or before March thirty‑first each year, a licensee shall file with the commissioner an annual report in the form prescribed by the commissioner relating to all mortgage loans made, serviced, or brokered by it. The licensee shall pay a fine of one hundred dollars a day for each late or incomplete annual reports.

(C) The mortgage loan report shall include, but is not limited to, the total number and dollar amounts in connection with all mortgage loans, of:

(1) first and subordinate lien loans originated by licensee and closed in the name of another party;

(2) first and subordinate lien loans originated by another party and closed in the name of the licensee;

(3) first and subordinate lien loans originated by and closed in the name of the licensee;

(4) first and subordinate lien loans originated by and closed in the name of another party but funded by licensee;

(5) loans purchased by licensee;

(6) first and subordinate lien loans serviced by licensee;

(7) loans owned with and without servicing rights;

(8) loans sold with and without servicing rights;

(9) loans paid off before and at maturity;

(10) unpaid loans at the beginning and end of the reporting year;

(11) delinquent loans that are 30‑59, 60‑89, and ninety days or more delinquent, of all the loans the licensee owned as of December thirty‑first;

(12) loans in foreclosure as of December thirty‑first and foreclosed in the previous calendar year by licensee;

(13) mortgage loans charged against reserve for loan losses as a result of foreclosures during the reporting year; and

(14) loans repurchased during the previous calendar year.

(D) The annual report also must include the total gross revenue earned in this State under this license, the total dollar amount of points paid to the licensee by borrowers on first and subordinate lien mortgage loans, the total dollar amount of points paid to brokers by the licensee on first and subordinate lien mortgage loans, including yield spread premiums, and the lending institution, maximum amount available, outstanding balance, and expiration date of licensee’s four largest warehouse lines of credit during the previous calendar year.

(E) Information contained in annual reports is confidential and may be published only in composite form.

(F) The commissioner annually shall submit to the department, in a form prescribed by the Department of Consumer Affairs and no later than April thirtieth, the data that it collected. The department shall prepare and make available to the public a report based on the data. The report must be available by June thirtieth each year.

Section 37‑22‑230. A person who wilfully violates a 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 six months, or both, for each violation. Each transaction involving the unlawful making or servicing of a mortgage loan is a separate offense.

Section 37‑22‑240. (A) The South Carolina Law Enforcement Division (SLED) shall provide a criminal history record check to the commissioner for a person who has applied for or holds a mortgage lender or loan originator license through the commissioner pursuant to this chapter.

(B) In addition, if a person described in subsection (A) is a corporation, partnership, limited liability company, association, or trust, SLED shall provide a criminal history record check to the commissioner for a person who has control of that person, or who is the managing principal or a branch manager of that person.

(C) The commissioner shall provide to SLED, along with the request, the fingerprints of the person, additional information required by SLED, records check fees required by SLED and the Federal Bureau of Investigation (FBI), and a form signed by the person consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the state or national repositories. Using the information supplied by the commissioner to SLED, the applicant must undergo a state criminal records check, supported by fingerprints, by SLED, and a national criminal records check, supported by fingerprints, by the FBI. The results of these criminal records checks must be reported to the commissioner. SLED is authorized to retain the fingerprints for certification purposes and for notification of the commissioner regarding subsequent criminal charges which may be reported to SLED or the FBI or both. The commissioner shall keep all information pursuant to this section privileged, in accordance with applicable state and federal guidelines.

Section 37‑22‑250. All funds specified in this chapter must be paid to the commissioner, must be used to implement the provisions of this chapter, and are nonrefundable.

Section 37‑22‑260. (A) The commissioner may promulgate regulations necessary to effectuate the purposes of this chapter.

(B) For the purpose of participating in the Nationwide Mortgage Licensing System and Registry, the commissioner may waive or modify, in whole or in part, by rule, regulation, or order, any or all of the requirements of this chapter and establish new requirements as reasonably necessary to participate in the Nationwide Mortgage Licensing System and Registry.

(C) For the purposes of implementing an orderly and efficient licensing process, the commissioner may establish licensing rules or regulations and interim procedures for licensing and acceptance of applications. For previously registered or licensed individuals, the commissioner may establish expedited reviews, expedited licensing procedures, and grandfather provisions.

Section 37‑22‑270. (A) The commissioner may participate in a Nationwide Mortgage Licensing System and Registry and may:

(1) facilitate and participate in the establishment and implementation of the Nationwide Mortgage Licensing System and Registry;

(2) enter into agreements and contracts including cooperative, coordinating, and information sharing agreements;

(3) contract with third parties to process, maintain and store information collected by the Nationwide Mortgage Licensing System and Registry;

(4) authorize the Nationwide Mortgage Licensing System and Registry to collect fingerprints on the commissioner’s behalf in order to receive national and state criminal history background records checks from the FBI and SLED and furnish the fingerprints to SLED to retain for certification purposes and for notification of the commissioner regarding subsequent criminal charges which may be reported to SLED, or the FBI or both in accordance with Sections 37‑22‑140 and 37‑22‑240;

(5) authorize the Nationwide Mortgage Licensing System and Registry to collect credit reports on the commissioner’s behalf for all licensees in accordance with Section 37‑22‑140;

(6) require persons that must be licensed by this chapter to utilize the Nationwide Mortgage Licensing System and Registry;

(7) require all applicants and licensees to pay all applicable funds provided for in this chapter through the Nationwide Mortgage Licensing System and Registry;

(8) provide information to and receive information from the Nationwide Mortgage Licensing System and Registry;

(9) authorize a third party to collect funds associated with licensure on behalf of the commissioner; and

(10) authorize the Nationwide Mortgage Licensing System and Registry to collect and disburse consumer complaints.

(B) Persons required to be licensed pursuant to this chapter must be required to pay all applicable fees to utilize the Nationwide Mortgage Licensing System and Registry and consent to utilizing the Nationwide Mortgage Licensing System and Registry to obtain fingerprint‑based criminal history background records checks and credit reports.

(C) The commissioner shall provide licensees with written notice sent to the address of record on file with the commissioner through the United States Postal Service the date the Nationwide Mortgage Licensing System and Registry will be available for their use. Licensees shall have one hundred and twenty days from the date the system is available for use to enter all their licensing information into the Nationwide Mortgage Licensing System and Registry. All filings required by the commissioner pursuant to this chapter after the date the system is available for use must be made through the Nationwide Mortgage Licensing System and Registry, except for exempt persons.

(D) All licensees licensed through the Nationwide Mortgage Licensing System and Registry must use the unique identifier assigned in all advertising and on all mortgage loan documents.

(E) Notwithstanding another provision of law to the contrary, the Nationwide Mortgage Licensing System and Registry is not intended to and does not replace or affect the commissioner’s authority to grant, suspend, revoke, or deny a license required pursuant to this chapter.

(F) The Commissioner shall develop a plan that ensures an orderly transition to the Nationwide Mortgage Licensing System and Registry. This transition plan must address issues of prelicensing education, written examinations, credit reports, and national and state fingerprint‑based criminal histories and record checks.”

SECTION 3.A. Section 34‑1‑20 of the 1976 Code, as last amended by Act 252 of 2006, is further amended to read:

“Section 34‑1‑20. The State Board of Financial Institutions is composed of ~~ten~~ eleven members, one of whom is the State Treasurer as an ex officio member and as the chairman. The remaining ~~nine~~ ten members must be appointed by the Governor with the advice and consent of the Senate. Four must be engaged in banking and recommended by the South Carolina Bankers Association, one must be recommended by the association of supervised lenders, one must be engaged in the mortgage lending business and recommended by the Mortgage Bankers Association of the Carolinas, one must be engaged in the licensed consumer finance business as a restricted lender or a supervised lender and recommended by the Independent Consumer Finance Association, two must be engaged in the cooperative credit union business and recommended by the State Cooperative Credit Union League, and one must be unaffiliated with a financial organization and serve as a representative of the consumer of the State. The terms of the present members are not affected. Each member shall represent the best interests of the public and shall not serve more than two consecutive four‑year terms. The association which is to provide a member to fill a vacancy on the board, except for a consumer representative, shall submit three names, from three different institutions, from which the Governor shall select one.”

B. Section 34‑1‑110(A) of the 1976 Code, as last amended by Act 42 of 1999, is further amended to read:

“(A) Notwithstanding any other provision of law and in addition to all of the powers granted under Chapters 1 through 31 ~~of~~ , Title 34 and Chapter 3 ~~of~~ , Title 37, the State Board of Financial Institutions, by regulation or by issuing operational instructions, may permit:

(1) state‑chartered banks to engage in any activity authorized for national banks by federal law or regulation of the Comptroller of the Currency or for state‑chartered savings and loan associations by this title or regulation or operational instruction of the State Board of Financial Institutions;

(2) state‑chartered savings and loan associations to engage in any activity authorized for federally~~‑~~chartered savings and loan associations by federal law or regulation of the Office of Thrift Supervision or for state‑chartered banks by this title or regulation or operational instruction of the State Board of Financial Institutions;

(3) cooperative credit unions to engage in any activity authorized for federally~~‑~~chartered credit unions by federal law or by regulation of the National Credit Union Administration; ~~and~~

(4) consumer finance companies operating pursuant to a license to make supervised loans as provided in Part 5, Chapter 3, Title 37, to engage in any lending activity authorized for supervised financial organizations by law or by regulation of an agency given supervisory authority over those institutions, except where otherwise restricted by statute~~.~~ ; and

(5) mortgage lenders and loan originators operating pursuant to a license to make mortgage loans as provided in Chapter 22, Title 37, to engage in a mortgage lending activity authorized for licensed mortgage lenders and loan originators by law or by regulation of an agency given supervisory authority over those institutions, except where otherwise restricted by statute.”

SECTION 4.A. Section 37‑1‑301(29) of the 1976 Code is amended to read:

“(29) ‘Licensee’ means ~~a supervised lender licensed under Section 37‑3‑503~~ a person licensed pursuant to this title.”

B. Section 37‑3‑105(3) of the 1976 Code is amended to read:

“(3) Loans excluded from the definition of a ‘consumer loan’ pursuant to subsection (1) also are subject to the provisions of Chapter 7, Chapter 10, Chapter 22, and Chapter 23 of this title.”

C. Section 37‑3‑501(1) of the 1976 Code is amended to read:

“(1) ‘Supervised loan’ means a consumer loan in which the rate of the loan finance charge exceeds twelve percent per year as determined according to the provisions on the loan finance charge for consumer loans (Section 37‑3‑201). A supervised loan does not include a mortgage loan as defined in Section 37‑22‑110(29).”

D. Section 37‑23‑20(9), (10) and (12) of the 1976 Code, as added by Act 42 of 2003, is amended to read:

“(9) ‘High‑cost home loan’ means:

(a) a loan, other than an open‑end credit plan or a reverse mortgage transaction, in which the:

~~(a)~~(i) principal amount of the loan does not exceed the conforming loan size limit for a single‑family dwelling as established from time to time by the Federal National Mortgage Association;

~~(b)~~(ii) borrower is a natural person;

~~(c)~~(iii) debt is incurred by the borrower primarily for personal, family, or household purposes;

~~(d)~~(iv) loan is secured by either a security interest in a residential manufactured home, as defined in Section 37‑1‑301(24) which is to be occupied by the borrower as the borrower’s principal dwelling, or a mortgage on real estate upon which there is located or there is to be located a structure designed principally for occupancy from one to four families and which is or is to be occupied by the borrower as the borrower’s principal dwelling; and

~~(e)~~(v) terms of the loan exceed one or more of the ~~threshold~~ thresholds as defined in item (15) of this section~~.~~; or

(b) an adjustable rate mortgage at the fully indexed rate assuming a fully amortizing repayment schedule that would exceed one or more of the thresholds as defined in item (15) of this section.

(10) ‘Lender’ includes, but is not limited to, a mortgage broker ~~or a mortgage banker~~ originating a loan in a tablefunded loan transaction in which the broker ~~or banker~~ is identified as the original payee of the note.

(12) ‘Originator’ or ‘loan originator’ means an employee of a mortgage ~~loan~~ broker or mortgage lender whose primary job responsibilities include direct contact with ~~and~~ or informing loan applicants of the rates, terms, disclosure, ~~and~~ or other aspects of the mortgage. It does not mean an employee whose primary job responsibilities are clerical in nature, such as processing the loan.”

E. Section 37‑23‑20 of the 1976 Code, as added by Act 42 of 2003, is amended by adding:

“(17) An adjustable rate mortgage (ARM) is a mortgage in which the interest rate and monthly payment may vary over time.”

F. Section 37‑23‑40(2) of the 1976 Code, as added by Act 42 of 2003, is amended to read:

“(2) make a high‑cost home loan unless the lender reasonably believes at the time the loan is consummated that one or more of the obligors, when considered individually or collectively, is able to make the scheduled payments to repay the obligation based upon a consideration of their current and expected income, current obligations, employment status, and other financial resources other than the borrower’s equity in the dwelling that secures repayment of the loan. If the loan is an adjustable rate mortgage (ARM), the analysis of the obligor must include an evaluation of the ability to repay by final maturity at the fully indexed rate assuming a fully amortizing repayment schedule. An obligor is presumed to be able to make the scheduled payments to repay the obligation if, at the time the loan is consummated, the obligor’s total monthly debts, including amounts owed pursuant to the loan including, but not limited to, principal, interest, current property taxes, and current insurance, do not exceed fifty percent of the obligor’s monthly gross income as verified by the credit application, ~~the obligor’s financial statement, a credit report, financial information provided to the lender by or on behalf of the obligor, or another authoritative means~~ a credit report, and information provided to a lender by a third party, including the Internal Revenue Service (IRS). A presumption of inability to make the scheduled payments to repay the obligation does not arise solely from the fact that, at the time the loan is consummated, the obligor’s total monthly debts, including amounts owed under the loan, exceed fifty percent of the obligor’s monthly gross income;”

G. Section 37‑23‑45 of the 1976 Code, as added by Act 42 of 2003, is amended by adding:

“(4) for a loan that is an ARM as defined in Section 37‑23‑20(17), a listing of the schedule when the loan may be reset, for each and every reset, and a listing of the monthly payment that is owed for each change that is allowed by the terms of the contract. If the consumer escrows the insurance and taxes with each monthly payment, it must be reflected in the payment listed.”

H. Section 37‑23‑75 of the 1976 Code, as added by Act 42 of 2003, is amended by adding:

“(4) for a loan that is an ARM as defined in Section 37‑23‑20(17), a listing of the schedule when the loan may be reset, for each and every reset, and a listing of the monthly payment that is owed for each change that is allowed by the terms of the contract. If the consumer escrows the insurance and taxes with each monthly payment, it must be reflected in the payment listed.”

I. Section 29‑4‑20(1) and (3) of the 1976 Code is amended to read:

“(1) provides cash advances to a borrower based on the equity or future appreciation in value in a borrower’s owner‑occupied principal residence;

(3) is made by a lender authorized to engage in business as a bank, savings institution, or credit union under the laws of the United States or of South Carolina, or ~~authorized seller‑servicers selling mortgage loans to the Federal National Mortgage Association or to the Federal Home Loan Mortgage Corporation, or supervised lenders regulated by the State Board of Financial Institutions.~~ a mortgage lender licensed pursuant to Chapter 22, Title 37.”

SECTION 5. Chapter 58, Title 40 of the 1976 Code is amended to read:

“CHAPTER 58

~~Registration~~ Licensing of Mortgage ~~Loan~~ Brokers

Section 40‑58‑10. (A) This chapter may be cited as the Licensing of Mortgage Brokers ~~Requirements~~ Act ~~of Certain Brokers of Mortgages on Residential Real Property~~.

(B) ~~No~~ A person~~, partnership, corporation, banking organization, or other organization~~ ~~shall~~ may not broker a ~~residential~~ mortgage loan as defined in this chapter unless the broker of the mortgage loan:

(1) is an exempt person ~~or organization~~ as defined by Section 40‑58‑20(15); or

(2) has complied with the provisions of this chapter.

Section 40‑58‑20. As used in this chapter:

~~(1)~~ ~~‘Mortgage’ means a loan to a natural person made primarily for personal, family, or household use primarily secured by a mortgage on residential real property.~~

~~(2)~~ ~~‘Residential real property’ means real property located in this State upon which there is located or there is to be located one or more single family, owner‑occupied dwellings or dwelling units.~~

~~(3)~~ ~~‘Mortgage broker’ means a person or organization in the business of soliciting, processing, placing, or negotiating mortgages for others or offering to process, place, or negotiate mortgages for others. Mortgage broker also includes a person or organization who brings borrowers or lenders together to obtain mortgages or renders a settlement service as described in 24 CFR Part 3500.2(a)(16)(ii).~~

~~(4)~~ ~~‘Soliciting, processing, placing, or negotiating a mortgage loan’ means for compensation or gain, either directly or indirectly, accepting or offering to accept an application for a mortgage, assisting or offering to assist in the processing of an application for a mortgage, soliciting or offering to solicit a mortgage on behalf of a third party, or negotiating or offering to negotiate the terms or conditions of a mortgage with a lender on behalf of a third party.~~

~~(5)~~ ~~‘Exempt person or organization’ means:~~

~~(a)~~ ~~a bank, bank holding company, credit union, savings and loan association, savings and loan association holding company, their affiliates and subsidiaries, a supervised licensed lender under Title 37 and a restricted lender under Title 34 and their affiliates and subsidiaries, a Department of Housing and Urban Development or Federal Housing Administration approved mortgagee authorized, chartered, licensed, or approved under the laws of this State or of the United States or an instrumentality of them; or persons or organizations which sell or place all of their conventional mortgages on real property with federally insured and/or regulated financial institutions including, but not limited to, banks, savings and loan associations, and credit unions.~~

~~(b)~~ ~~an attorney at law licensed to practice law in South Carolina who is not engaged principally in negotiating mortgages when the attorney renders services in the course of his practice as an attorney at law;~~

~~(c)~~ ~~a person employed by an organization defined in subitem (a) of this item;~~

~~(d)~~ ~~title company which is qualified to issue title insurance, directly or through its agents.~~

~~(6)~~ ~~‘Licensee’ means a person or organization who is licensed pursuant to Section 40‑58‑50 which engages in the business of soliciting, processing, placing, or negotiating mortgages for others or offering to process, place, or negotiate mortgages for others. Licensee includes mortgage brokers as defined in item (3) and originators as defined in item (14).~~

~~(7)~~ ~~‘Administrator’ means the administrator of the Department of Consumer Affairs of this State.~~

~~(8)~~ ~~‘RESPA’ means the Real Estate Settlement Procedures Act of 1974, 12 USC Section 2601 et seq., as amended.~~

~~(9)~~ ~~‘Recasting’ means a promise for an individual to recoup a home sold to a third party with the intent of the original seller to rent back the property for a specific time at which the original seller will have the option to purchase the property back at a specific price. The specific period of time would normally be one year.~~

~~(10)~~ ~~‘HUD’ means the Department of Housing and Urban Development.~~

~~(11)~~ ~~‘Department’ means the South Carolina Department of Consumer Affairs.~~

~~(12)~~ ~~‘Regular business hours’ means open for business not less than thirty hours a week, Monday through Friday.~~

~~(13)~~ ~~‘Satellite office’ means a location at which a mortgage broker may conduct mortgage broker business other than at a location that is open for regular business hours and is not required to be staffed full time by one or more employees who have the authority to contract on behalf of the broker and to accept service on behalf of the broker.~~

~~(14)~~ ~~‘Originator’ means an employee of a mortgage broker whose primary job responsibilities include direct contact with and informing mortgage applicants of the rates, terms, disclosure, and other aspects of the mortgage, including accepting or offering to accept applications for mortgages. It does not mean an employee, including processors, whose job responsibilities are limited to clerical and administrative tasks and who does not solicit borrowers or negotiate the rates, terms, disclosure, or other aspects of a mortgage on behalf of the employer which do not require licensure.~~

~~(15)~~ ~~‘Processor’ means an employee of a mortgage broker whose primary job responsibilities are mortgage processing and may include direct contact with applicants but does not include informing applicants of rates, terms, disclosure, or solicitation of mortgages.~~

(1) ‘Act as a mortgage broker’ means to act, for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, by: (i) soliciting, processing, placing, or negotiating a mortgage loan for a borrower from a mortgage lender or depository institution or offering to process, place, or negotiate a mortgage loan for a borrower from a mortgage lender or depository institution, (ii) engaging in tablefunding of mortgage a loan, or (iii) acting as a loan correspondent, as that term is defined in 24 C.F.R. Part 202 et seq., whether those acts are done by telephone, by electronic means, by mail, or in person with the borrowers or potential borrowers. ‘Act as a mortgage broker’ also includes bringing a borrower and lender together to obtain mortgage loan or rendering a settlement service as described in 12 U.S.C. 2602(3) and 24 C.F.R. Part 3500.2(b).

(2) ‘Act as a mortgage lender’ means to engage in the business of making or servicing mortgage loan for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, including soliciting, processing, placing, or negotiating a mortgage loan.

(3) ‘Administrator’ means the administrator of the Department of Consumer Affairs (department) or the administrator’s designees.

(4) ‘Advertising’ means a commercial message in a medium that promotes, either directly or indirectly, a mortgage loan transaction.

(5) ‘Affiliate’ means a company that controls, is controlled by, or is under common control with another company, as set forth in the Bank Holding Company Act of 1956 (12 U.S.C. Section 1841 et seq.). For purposes of this item, the term ‘control’ means ownership of all of the voting stock or comparable voting interest of the controlled person.

(6) ‘Borrower’ means a natural person in whose dwelling a security interest is or is intended to be retained or acquired if that person’s ownership interest in the dwelling is or is to be subject to the security interest.

(7) ‘Branch manager’ means the natural person who is in charge of and who is responsible for the business operations of a branch office of a licensee.

(8) ‘Branch office’ means an office of the licensee that is separate and distinct from the licensee’s principal office.

(9) ‘Control’, except as provided in item (5), means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. A person is presumed to have ‘control’ of a company if that person, (i) is a director, general partner or executive officer, (ii) directly or indirectly has the right to vote ten percent or more of a class of a voting security or has the power to sell or direct the sale of ten percent or more of a class of voting securities, (iii) in the case of an LLC, is the managing member, or (iv) in the case of a partnership, has the right to receive upon dissolution, or has contributed, ten percent or more of the capital.

(10) ‘Depository institution’ has the same meaning as in Section 3 of the Federal Deposit Insurance Act (12 U.S.C. Section 1811, et seq.), and includes a credit union.

(11) ‘Dwelling’ means the same as the term ‘dwelling’ means in Section 226.2(a)19 of Title 12 of the Code of Federal Regulations and the Federal Reserve Board’s Official Staff Commentary to that section.

(12) ‘Employee’ means a natural person who has an employment relationship, acknowledged by both the natural person and the mortgage broker, and is treated like an employee for purposes of compliance with the federal income tax laws.

(13) ‘Escrow account’ means an account that a mortgage lender establishes or controls on behalf of a borrower to pay taxes, insurance premiums including flood insurance, or other charges with respect to a mortgage loan, including charges that the borrower and mortgage lender have voluntarily agreed that the mortgage lender collects and pays. The definition encompasses an account established for this purpose. For purposes of this item, the term ‘escrow account’ excludes an account that is under the borrower’s total control.

(14) ‘Escrow funds’ means money entrusted to a mortgage lender by a borrower for the purpose of payment of taxes and insurance or other payments to be made in connection with the servicing of a mortgage loan.

(15) ‘Exempt person’ means:

(a) an employee of a licensee whose responsibilities are limited to clerical and administrative tasks for the employer and who does not solicit borrowers, accept applications, or negotiate the terms of loans on behalf of the employer;

(b) a depository institution or a subsidiary that is wholly owned and controlled by the depository institution and regulated by a federal banking agency or an institution regulated by the Farm Credit Administration. This chapter does not apply to the exempt persons described in this subitem;

(c) an officer, registered loan originator or employee of an exempt person described in subitem (b) of this section when acting in the scope of employment for the exempt person;

(d) a person who offers or negotiates terms of a mortgage loan with or on behalf of an immediate family member of the individual;

(e) an individual who offers or negotiates terms of a mortgage loan secured by a dwelling that served as the person’s residence;

(f) a natural person who sells residential real estate and who lends or services, in one calendar year, no more than five purchase money notes secured by mortgages, deeds of trust, or other security instruments on the real estate sold as security for the purchase money obligation, unless the United States Department of Housing and Urban Development or a court of competent jurisdiction determines that this exemption is not in compliance with the SAFE Act pursuant to Section 1508 of Title V of The Housing and Economic Recovery Act of 2008, Public Law 110‑289;

(g) an employee whose employment as a processor or underwriter is undertaken pursuant to the direction and supervision of a licensee or exempt person except when the processor or underwriter is working as an independent contractor;

(h) an attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney’s representation of the client, unless the attorney is compensated by a mortgage lender, a mortgage broker, or other mortgage loan originator or by an agent of the mortgage lender, mortgage broker, or other mortgage loan originator;

(i) an attorney who works for a mortgage lender, pursuant to a contract, for loss mitigation efforts or third party independent contractor who is HUD‑certified, Neighborworks‑certified, or similarly certified, who works for a mortgage lender, pursuant to a contract, for loss mitigation efforts; or

(j) a manufactured home retailer and its employees if performing only administrative or clerical tasks in connection with the sale or lease of a manufactured home and the manufactured home retailer and its employees receive no compensation or other gain from a mortgage lender or a mortgage broker for the performance of the administrative or clerical tasks.

(16) ‘Federal banking agencies’ means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(17) ‘Financial Services or financial services related’ means pertaining to securities, commodities, banking, insurance, consumer lending, or real estate including, but not limited to, acting as or being associated with a bank or savings association, credit union, mortgage lender, mortgage servicer, mortgage broker, real estate broker, real estate salesperson or agent, closing agent, title company, or escrow agent.

(18) ‘Immediate family member’ means a spouse, child, sibling, parent, grandparent, or grandchild including stepparents, stepchildren, stepsiblings, and adoptive relationships.

(19) ‘Individual servicing a mortgage loan’ means an employee of a mortgage lender licensed in this State, that:

(a) collects or receives payments including payments of principal, interest, escrow amounts, and other amounts due on existing obligations due and owing to the licensed mortgage lender for a mortgage loan when:

(i) the borrower is in default; or

(ii) the borrower is in reasonably foreseeable likelihood of default;

(b) works with the borrower and the licensed mortgage lender, collects data, and makes decisions necessary to modify, either temporarily or permanently, certain terms of those obligations; or

(c) otherwise finalizes collection through the foreclosure process.

(20) ‘Licensee’ means a person who is licensed pursuant to this chapter.

(21) ‘Loan commitment’ or ‘commitment’ means a statement, written or electronic, by the mortgage lender setting forth the terms and conditions upon which the mortgage lender is willing to make a particular mortgage loan to a particular borrower.

(22) ‘Loan originator’ means a natural person who, in exchange for compensation or gain or in the expectation of compensation or gain as an employee of a licensed mortgage broker, solicits, negotiates, accepts, or offers to accept applications for mortgage loans, including electronic applications, or includes direct contact with, or informing mortgage loan applicants of, the rates, terms, disclosures, and other aspects of the mortgage loan. The definition of ‘loan originator’ does not include an exempt person described in item (15) of this section or a person solely involved in extensions of credit relating to timeshare plans, as that term is defined in Section 101(53D) of Title 11, United States Code. The definition of loan originator does not apply to an individual servicing a mortgage loan as that term is defined in this chapter until July 31, 2011, unless the United States Department of Housing and Urban Development or a court of competent jurisdiction determines before that time that those individuals servicing mortgage loans are ‘loan originators’ as that term is defined in the SAFE Act pursuant to Section 1508 of Title V of The Housing and Economic Recovery Act of 2008, Public law 110‑289.

(23) ‘Make a mortgage loan’ means to close a mortgage loan, advance funds, offer to advance funds, or make a commitment to advance funds to a borrower under a mortgage loan.

(24) ‘Managing principal’ means a natural person who meets the requirements of Section 40‑58‑50(B) and who agrees to be primarily responsible for the operations of a licensed mortgage broker.

(25) ‘Mortgage broker’ means a person who acts as a mortgage broker, as that term is defined in subitem (1) of this section.

(26) ‘Mortgage lender’ means a person who acts as a mortgage lender as that term is defined in subitem (2) of this section or engages in the business of servicing mortgage loans for others or collecting or otherwise receiving mortgage loan payments directly from borrowers for distribution to another person. This definition does not include engaging in a tablefunded transaction.

(27) ‘Mortgage loan’ means a loan made to a natural person primarily for personal, family, or household use, primarily secured by a mortgage, deed of trust, or other security interest on residential real property or security interest arising under an installment sales contract or equivalent security interest against the borrower’s dwelling and: (i) located in South Carolina, (ii) negotiated, offered or otherwise transacted within this State, in whole or in part, or (iii) made or extended within this State.

(28) ‘Nationwide Mortgage Licensing System and Registry’ means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators of licensees licensed pursuant to this chapter.

(29) ‘Nontraditional mortgage product’ means a mortgage product other than a thirty‑year fixed rate mortgage loan.

(30) ‘Person’ means a natural person, partnership, limited liability company, limited partnership, corporation, association, or other group engaged in joint business activities, however organized.

(31) ‘Processor or underwriter’ means an employee of a mortgage broker, mortgage lender, or exempt person who performs clerical or support duties at the direction of and subject to the supervision and instruction of a licensee or exempt person and may include direct contact with applicants but does not include soliciting, negotiating, accepting, or offering to accept applications that include personal identifying information as defined in Section 16‑13‑510(D) for mortgage loans including electronic applications or informing applicants of the rates, terms, disclosures, and other aspects of the mortgage loan.

(a) Clerical or support duties may include after the receipt of an application: (i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a mortgage loan, and (ii) communication with a consumer to obtain the information necessary for the processing or underwriting of a mortgage loan, to the extent that the communication does not include offering or negotiating loan rates or terms or counseling consumers about mortgage loans.

(b) A person engaging solely in loan processor or underwriter activities may not represent to the public, through advertising or other means of communicating or providing information including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items that the person may or will perform any of the activities of a loan originator.

(c) A processor or underwriter who is an independent contractor may not engage in the activities of a processor or underwriter unless the independent contractor processor or underwriter obtains and maintains a license as provided by rule or regulation pursuant to Section 40‑58‑100.

(32) ‘Registered loan originator’ means a natural person who meets the definition of loan originator and is an employee of a depository institution or a subsidiary that is wholly owned and controlled by the depository institution and regulated by a federal banking agency or an institution regulated by the Farm Credit Administration and is registered with and maintains a unique identifier through the Nationwide Mortgage Licensing System and Registry.

(33) ‘Residential real property’ means real property located in the State of South Carolina upon which there is located or is to be located one or more single‑family dwellings or dwelling units that are to be occupied as the owner’s dwelling, and includes real estate and residential manufactured home (land/home) transactions.

(34) ‘RESPA’ means the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. Section 2601 et seq. and regulations adopted pursuant to it by the Department of Housing and Urban Development.

(35) ‘Soliciting, processing, placing, or negotiating a mortgage loan’ means, for compensation or gain or in the expectation of compensation or gain, either directly or indirectly, accepting or offering to accept an application for a mortgage loan, assisting or offering to assist in the processing of an application for a mortgage loan, soliciting or offering to solicit a mortgage loan, or negotiating or offering to negotiate the terms or conditions of a mortgage loan.

(36) ‘Tablefunding’ means a settlement at which a loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds.

(37) ‘TILA’ means the Truth in Lending Act, 15 U.S.C. Section 1601 et seq. and regulations adopted pursuant to it by the Board of Governors of the Federal Reserve System.

(38) ‘Unique identifier’ means a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.

Section 40‑58‑30. (A) A ~~mortgage broker, as defined in Section 40‑58‑20(3), or an originator, as defined in Section 40‑58‑20(14)(13),~~ person may not ~~engage in the business of processing, placing, or negotiating a mortgage or offering to process, place, or negotiate a mortgage~~ act as a mortgage broker in this State without first being licensed with the administrator. A person, required to be licensed pursuant to this chapter, may not do business without a license under any name or title, or circulate or use advertising, including electronic means, or make a representation or give information to any person, which indicates or reasonably implies activity within the scope of this chapter unless that person has a license.

(B) It is unlawful for a person to employ, to compensate, or to appoint as its agent ~~an~~ a loan originator unless the loan originator is licensed pursuant to this chapter. The license of ~~an~~ a loan originator is not effective during any period when that person is not employed by a mortgage broker licensed pursuant to this chapter. When ~~an~~ a loan originator ceases to be employed by a licensed mortgage broker, the loan originator and the mortgage broker by whom that person was employed shall promptly notify the ~~department~~ administrator in writing. The mortgage broker’s notice must include a statement of the specific reason or reasons for the termination of the loan originator’s employment. The reason for termination is confidential information and must not be released to the public. ~~An~~ A loan originator must not be employed simultaneously by more than one mortgage broker. If a licensed loan originator changes employment, a new license must be issued and a fee of twenty‑five dollars must be paid for issuance of the new license.

(C) Notwithstanding subsection (A) of this section, the provisions of this chapter do not apply to an exempt person ~~or organization as defined in Section 40‑58‑20(5)~~ .

(D) Independent contractors, including processors and underwriters. must be separately licensed.

Section 40‑58‑40. ~~A person or organization may not offer or agree to offer mortgage brokerage services in this State without first depositing and continuously maintaining the amount of ten thousand dollars in cash or securities approved by the administrator or a bond in the amount of ten thousand dollars executed by a surety company authorized by the laws of this State to transact business within this State. Continuously maintaining a bond may be considered evidence of financial responsibility for a person or organization that offers or agrees to offer mortgage brokerage services. The bond must be executed to the State of South Carolina and must be for the use of the State and for any consumers who may have a cause of action against the mortgage broker.~~ A mortgage broker shall post and maintain a surety bond in an amount determined by the administrator that is based on the total dollar amount of mortgage loans originated in a calendar year pursuant to the following: (1) dollar volume of mortgage loans from $0 to $49,999,999 surety bond of $25,000, (2) dollar volume of mortgage loans from $50,000,000 to $99,999,999 surety bond of $40,000, (3) dollar volume of mortgage loans greater than $100,000,000 surety bond of $55,000. In no case will the surety bond be less than the amount of twenty five thousand dollars. The surety bond must be executed by a surety company authorized by the laws of this State to transact business within this State. The surety bond must be in a form satisfactory to the administrator, must be executed to the administrator, and must be for the use of the State for the recovery of expenses, fines, and/or fees levied pursuant to this chapter and for consumers who have losses or damages as a result of noncompliance with this chapter by the mortgage broker. The full amount of the surety bond must be in effect at all times. The license of a licensee expires upon the termination of the bond by the surety company, unless, a new bond has been filed with the administrator before the termination of the previous bond. In the event that the license expires based on bond termination, all licensed activity must cease and the person must apply for a license pursuant to Section 40‑58‑50.

Section 40‑58‑50. (A) An application to become licensed as a mortgage broker or ~~an~~ loan originator must be in writing, under oath, and in a form prescribed by the ~~department~~ administrator. The application must contain any information the administrator deems necessary including the name and complete business and residential address or addresses, and social security number or if applicable Employer Identification Number (EIN) of the applicant. If the applicant for a mortgage broker license is a partnership, association, limited liability company, corporation, or other form of business organization, the names and complete business and residential addresses of each member, director, and principal officer and a list of all employees who engage in direct brokerage activity including, but not limited to, loan originators.

(B)(1) The application for a mortgage broker license must include an affirmation of financial solvency noting bonding requirements required by the ~~department~~ administrator and the descriptions of the business activities, credit history, financial responsibility, educational background, and general character and fitness of the applicant and any partner, officer, or director, a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the applicant as required by this chapter, including consent to a national and state criminal history records check and a set of the applicant’s fingerprints in a form acceptable to the administrator. The application must be accompanied by a nonrefundable fee, payable to the department, of five hundred fifty dollars, in addition to the actual cost of obtaining credit reports and national and state criminal history record checks by the Federal Bureau of Investigation (FBI) and the South Carolina Law Enforcement Division (SLED). Using the information supplied by the administrator to SLED, the applicant must undergo a state criminal records check, supported by fingerprints, by SLED, and a national criminal records check, supported by fingerprints, by the FBI. The results of these criminal records checks must be reported to the administrator. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the administrator regarding criminal charges. The administrator shall keep all information pursuant to this section privileged, in accordance with applicable state and federal guidelines.

(2) An applicant for a mortgage broker’s license must have at least ~~two~~ three years’ experience ~~working as an originator under the supervision of a mortgage broker~~ in financial services or financial services related business or other experience or competency requirements the administrator may impose before an initial license is issued.

(a) ~~In lieu~~ Instead of a showing of ~~two~~ three years’ experience, an applicant may show proof of ~~two~~ three years’ employment with a federally insured depository institution, or a VA, FHA, or HUD approved mortgagee ~~during which the applicant was actively engaged in originating residential mortgages.~~

(b) ~~In lieu~~ Instead of one of the required year’s experience, an applicant may show proof of the equivalent of six or more semester hours of satisfactorily completed course work in real estate finance, real estate law, or similar course work counting toward the successful completion of a degree that is baccalaureate level or more advanced with a major or minor in finance, accounting, business administration, real estate finance, economics, or similar baccalaureate or more advanced degree, approved by the administrator or the administrator’s designee, from an accredited college or university.

(c) ~~However, all mortgage loan brokers properly licensed as a mortgage loan broker before October 1, 1998, may act as mortgage brokers after that date without regard to the experience or education requirement of this subsection if they maintain compliance with the continuing professional education requirements of Section 40‑58‑67 and otherwise comply with this chapter~~

(3) If the applicant is a partnership, limited liability company (LLC), or corporation, at least one partner, member‑manager, or principal officer shall have the experience required for the applicant. Each applicant shall identify the person meeting the experience requirement to serve as the applicant’s managing principal. The managing principal shall operate the business under his full charge, control, and supervision. The managing principal also may serve as the branch manager of a licensee branch office. Each main and branch office of a mortgage broker licensed pursuant to this chapter must have a branch manager who meets the experience requirements of subsection (B)(2). The mortgage broker licensee must designate a managing principal in writing and notify the administrator of any changes in managing principal. The managing principal and each branch manager must meet the requirements in subsection (C) of this section.

(C) The application for ~~an~~ a loan originator license must designate the employing mortgage broker and must include descriptions of the business activities, credit history, financial responsibility, educational background, and general character and fitness of the applicant as required by this chapter, including consent to a national and state criminal history records check and a set of the applicant’s fingerprints in a form acceptable to the administrator. The application must be accompanied by a nonrefundable fee, payable to the department, of fifty dollars, in addition to the actual cost of obtaining credit reports and national and state criminal history record checks by the ~~South Carolina Law Enforcement Division~~ FBI and SLED. Using the information supplied by the administrator to SLED, the applicant must undergo a state criminal records check, supported by fingerprints, by SLED, and a national criminal records check, supported by fingerprints, by the FBI. The results of these criminal records checks must be reported to the administrator. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the administrator regarding criminal charges. The administrator shall keep all information pursuant to this section privileged, in accordance with applicable state and federal guidelines. Additionally, the applicant must:

(1) complete satisfactorily a pre‑licensing educational course of at least twenty hours and a written examination approved pursuant to 12 U.S.C. 5101, et seq.;

(2) have never had a loan originator license revoked in any governmental jurisdiction;

(3) have not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court (i) during the ten‑year period preceding the date of application for licensing, or (ii) at any time if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering; and

(4) be at least eighteen years of age and otherwise comply with this chapter.

(D) ~~An applicant for an originator’s license must be at least eighteen years of age and must have at least six months of experience in residential mortgage lending or complete eight hours of continuing education within ninety days of employment. Additionally, all originators properly licensed before April 1, 2005, may act as originators after that date without regard to the experience or education requirement of this subsection if they maintain compliance with the continuing professional education requirements of Section 40‑58‑67 and otherwise comply with this chapter.~~ Any sole proprietor, general partner, member or manager of a limited liability company, or officer of a corporation who meets individually the requirements of subsection (C) of this section, upon payment of the applicable fee, meets the qualifications for licensure as a loan originator subject to the provisions of Section 40‑58‑60 of this chapter.

Section 40‑58‑55. ~~(A)~~ ~~Upon request for a contested case hearing by a person whose application for a license or renewal of a license has been denied, the Administrative Law Court may review the determination by the department that the applicant or his agent has:~~

~~(1)~~ ~~violated a provision of this chapter or an order of the department;~~

~~(2)~~ ~~withheld material information in connection with an application for a license or its renewal, or made a material misstatement in connection with the application;~~

~~(3)~~ ~~been convicted of a felony or of an offense involving breach of trust, moral turpitude, fraud, or dishonest dealing within the past ten years.~~

~~(B)~~ ~~A person who was in business as a mortgage broker or is an agent of a broker before October 1, 1998, and who has been convicted of a felony or an offense involving breach of trust, moral turpitude, fraud, or dishonest dealing within the past ten years may continue in business as a mortgage broker or agent, but if a mortgage broker or an agent of a broker is convicted of an offense enumerated in item (3) of subsection (A) on or after October 1, 1998, that person is subject to the provisions of this chapter.~~ (Reserved)

Section 40‑58‑60. (A) Upon the filing of an application for a license, if the ~~department~~ administrator finds that the financial responsibility, experience, character, and general fitness of the applicant, and of the members if the applicant is a ~~copartnership~~ partnership, association, or limited liability company, and of the officers and directors if the applicant is a corporation, are such as to command the confidence of the community and to warrant belief that the business may be operated honestly, fairly, and efficiently according to the purposes of this chapter and in accordance with all applicable state and federal laws, it shall license the applicant and issue a license. If the ~~department~~ administrator does not so find, it shall refuse to license the applicant and shall notify him of the denial.

(B) Upon the receipt of the license, the licensee is authorized to engage in the business for which the license was issued.

(C) Each license issued to a licensee must state the address ~~or addresses~~ at which the business is to be conducted and must state fully the name of the licensee and the date of the license. A ~~copy of the~~ license must be posted prominently in each place of business of the licensee. The license is not transferable or assignable.

(D) Issuance of a license does not indicate approval or acceptance of any contract, agreement, or other document submitted in support of the application. A licensee may not represent that its services or contracts are approved by the State or a state agency.

(E) If the information contained in any document filed with the administrator is or becomes inaccurate or incomplete in a material respect, the licensee promptly shall file a correcting amendment to the information contained in the document.

(F) All advertisements of mortgage loans must comply with the Truth in Lending Act, 15 U.S.C. 1601 et seq. and the South Carolina Consumer Protection Code, Title 37.

Section 40‑58‑65. (A) A mortgage broker licensed pursuant to this chapter must maintain at his usual place of business books, records, and documents pertaining to the business conducted, to enable the ~~department~~ administrator to determine compliance with this chapter, and shall include a mortgage loan log that contains these specific data elements: (i) credit score of the borrower, (ii) adjustable or fixed type of loan, (iii) term of the loan, (iv) annual percentage rate of the loan, and (v) appraised value of the collateral. Each licensee shall submit its mortgage loan log data and the data identified in 12 C.F.R. Part 203 et seq., in a form determined by the administrator by March thirty‑first of each year. The licensee shall pay a fine of one hundred dollars a day for late or incomplete data submissions. Data collected by the administrator pursuant to this section is confidential and may be released only in composite form. The administrator shall prepare and make available to the public a report based on the above data. The report must be available by June thirtieth of each year. The mortgage loan log must be completed with information known at the time of review by the administrator and must include loans in process, closed loans, turndowns, denials, and withdrawals. A mortgage broker with two or more licensed offices may consolidate the records at any one of the licensed offices so long as the administrator is notified of the location of the records. The records must be available for examination to the administrator or his designee upon request. Books and records must be maintained for at least three years. A licensee’s records may be maintained electronically, if approved by the administrator, so long as they are readily accessible for examination by the administrator.

(B) A mortgage broker doing business in this State shall maintain a sufficient physical presence in this State and his records must be maintained at the licensed location in this State. At a minimum, the broker shall maintain an official place of business open during regular business hours, staffed by one or more licensees who have the authority to contract on behalf of the broker and to accept service on behalf of the broker. If the official place of business is not open for business within the hours of 8:30 AM until 5:00 PM, Monday through Friday, the broker shall notify the ~~department~~ administrator in writing ~~of the business hours maintained by the broker’s official place of business~~.

(C) A licensed mortgage broker with an official place of business within South Carolina also may maintain one or more branch ~~or satellite~~ offices if the:

(1) mortgage broker notifies the ~~department~~ administrator in writing ~~ten~~ seven days before the opening of a branch ~~satellite~~ office of the location of the branch ~~or satellite~~ office, the branch manager for each branch location, and ~~notifies the department~~ that all records from the branch ~~or satellite~~ office are stored in a main or branch location in this State which is staffed by one or more ~~employees~~ licensees during regular business hours;

(2) records of any pending mortgage loan application or records in which a loan closing is still in process are made available at the mortgage broker’s main or branch location as provided in item (1) to the administrator ~~or his designee~~ within ~~two~~ seven business days of a written request delivered by facsimile transmission, mail, or hand‑delivery by the administrator ~~or his designee~~;

(3) broker notifies the ~~department~~ administrator in writing within ~~two~~ seven business days of closing a branch ~~or satellite~~ office~~.~~;

(4) mortgage broker licensee is responsible and accountable for the activities of all licensed locations, branch managers, and loan originators. Compliance reviews must include examination of all facts and circumstances of branch operations to ensure this responsibility and accountability.

(D) The ~~department~~ administrator may examine the books and records of a mortgage broker and other ~~specified~~ documents and records to determine whether there has been substantial compliance with this chapter. Unless there is reason to believe a violation of this chapter has occurred, examinations must be limited to one each year. Records and information obtained by the ~~department~~ administrator during an examination are confidential and the ~~department~~ administrator must certify that it is in compliance with the Right to Financial Privacy Act (RFPA).

(E) The administrator may cooperate and share information with an agency of this State, other states, or the federal government. The administrator may accept or participate in examinations conducted by one of these agencies.

~~(E)~~(F) If the mortgage broker fails to notify the ~~department~~ administrator of the existence or closing of a branch ~~or satellite~~ office, the actual operating hours of the main or branch offices where records are kept, or the whereabouts of its records, the broker is subject to ~~a penalty of not less than fifty dollars and not more than two hundred fifty dollars. If after the assessment of a fine within a one‑year period, the administrator finds that additional violations of this section are both intentional and repeated, the mortgage broker is subject to all of the remedies for violations of this chapter~~ penalties as set forth in Section 40‑58‑80.

(G) A mortgage broker licensee who ceases doing business in this State must notify the administrator at least seven days in advance. The notification must include a withdrawal plan that includes a timetable for disposition of the business, the location of the books, records, and accounts until the end of the retention period, and certification of the proper disposal of those records.

(H) A mortgage broker licensee may develop, maintain, and test disaster recovery plans for all records that are maintained.

Section 40‑58‑67. (A)(1) ~~Effective for license years beginning after September 30, 1998, for licensed mortgage brokers and after March 31, 2005, for licensed originators,~~ Licensees must complete at least eight hours of continuing professional education annually. Continuing education credit may be granted only for the year in which the class is taken and may not be granted for the same course in successive years. ~~If the licensed mortgage broker is a sole proprietorship or partnership, any owners and partners must complete the required eight hours of continuing professional education annually. If the licensed mortgage broker is a limited liability company or corporation, any member or president, chief executive officer, or other officer who has ownership interest of twenty‑five percent or greater and who actively participates in the broker entity must complete the required eight hours of continuing professional education annually.~~ ~~Up to eight hours of continuing professional education may be carried forward from one year to the next year. for the license year beginning October 1, 1998, up to eight hours of continuing professional education taken in the preceding twelve months may be carried forward~~. The continuing professional education completed must be reported to the ~~department~~ administrator annually ~~on a form approved by it showing the date and title of the courses taken, the teacher or sponsor of the course taken, and the hours of continuing professional education claimed for the course~~. ~~If the course is taught in a classroom setting, fifty minutes of classroom contact equal one hour of continuing professional education.~~ Course ~~sponsors~~ providers must maintain records of attendees for two years after the course. ~~As used in this chapter, ‘actively participates’ means engaging in direct brokering activity as defined in Section 40‑58‑20(3) and (4).~~

(2) Documentation of ~~attendance at the courses or correspondence~~ courses completed must be maintained by the mortgage broker for all licensees and shall consist of a certificate of completion issued by the ~~teacher or sponsor~~ provider of the course showing the recommended number of hours of continuing professional education. This documentation is subject to inspection by the ~~department~~ administrator for up to two years after the date of the course. ~~Courses offered by the National Association of Mortgage Brokers, the South Carolina Mortgage Brokers Association, or the department or courses related to real estate law or related law topics, appraisals, mortgage lending, financial management, financial planning, or mortgage processing qualify for continuing professional education. The department shall offer continuing professional education courses to assist mortgage brokers in obtaining the continuing professional education required by this chapter.~~

~~(B)~~ ~~The department shall appoint two mortgage brokers and one representative of the department to a panel for two‑year terms to approve any courses questioned as to their qualifications as continuing professional education. The panel may conduct its meetings via conference call. The department shall develop a questionnaire to ascertain the interest and background of potential members of this panel.~~

~~(C)~~(B) If a licensee fails to complete his continuing professional education ~~in a timely manner~~ prior to renewal, his license shall expire and the licensee shall pay a penalty ~~not in excess~~ of one hundred dollars in order to renew the license.

~~(D)~~ ~~However, the licensee may request an administrative hearing to appeal the expiration of his license for failure to complete continuing professional education requirements. A license may be renewed without penalty within thirty days after the expiration if the licensee completes his professional education requirements.~~

(C) All prelicensing education, continuing education and written examinations must be approved through the Nationwide Mortgage Licensing System and Registry pursuant to 12 U.S.C. 5101 et seq. before credit may be awarded. Applicants and licensees that successfully complete education or testing approved through the Nationwide Mortgage Licensing System and Registry shall fulfill the requirements of this State.

Section 40‑58‑70. ~~A licensee may not~~ In addition to the activities prohibited by other provisions of state or federal law, it is unlawful for a person in the course of a mortgage loan transaction to:

(1) misrepresent the material facts or make false promises likely to influence, persuade, or induce an applicant for a mortgage loan or a mortgagor to take a mortgage loan. This includes presenting the broker in the guise of a lender or pursuing a course of misrepresentation through agents or otherwise;

(2) intentionally misrepresent or conceal a material factor, term, or condition of a transaction to which he is a party, pertinent to an applicant for a mortgage loan or a mortgagor;

(3) engage in a transaction, practice, or course of business which is unconscionable ~~in light of the regular practices of a mortgage broker~~, as provided in Section 37‑5‑108, or which operates a fraud upon a person~~,~~ in connection with the making of or purchase or sale of a mortgage loan;

(4) fail to use due diligence and make reasonable efforts ~~to procure~~ in procuring a mortgage loan on behalf of a borrower;

(5) collect any allowable third party fees excluding appraisals or credit reports before a conditional mortgage loan commitment is obtained by the mortgage broker ~~with the exception of normal processing expenses associated with the making of mortgages as authorized or allowed by FNMA, FHLMC, FHA, VA, or any additional fees authorized or allowed by the department~~;

(6) ~~engage in recasting unless the applicant obtains the advice and counsel of a licensed attorney who is independent to the transaction. A party to a transaction, other than the consumer, may not recommend, retain, or influence the selection of independent counsel. An applicant for recasting shall provide to the broker a document identifying the applicant, provide a brief summary of the proposed transaction, and a written statement from an attorney certifying that the applicant has been advised of the potential consequences of recasting.~~ influence or attempt to influence through coercion, extortion, or bribery the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan. This item does not prohibit a mortgage broker or mortgage lender from asking the appraiser to do one or more of the following:

(a) consider additional appropriate property information;

(b) provide further detail, substantiation, or explanation for the appraiser’s value conclusion; or

(c) correct errors in the appraisal report;

(7) fail to pay reasonable fees within a reasonable time to a licensed third party for services that are:

(a) requested from the third party in writing by the mortgage broker or an employee of the mortgage broker; and

(b) performed by the third party in connection with the origination or closing of a mortgage loan for a customer or mortgage lender;

(8) advertise mortgage loans, including rates, margins, discounts, points, fees, commissions, or other material information, including material limitations on the loans, unless the person is able to make the mortgage loans as advertised available to qualified applicants;

(9) fail to provide disclosures as required by state or federal law or collect any fee prior to providing required disclosures;

(10) fail to comply with this chapter or any other state or federal law including rules and regulations applicable to a business regulated by this chapter;

(11) falsely advertise or misuse names in violation of 18 U.S.C. Section 709 or state law; or

(12) use any trade name or insignia of membership in any organization of which the licensee is not a member or advertise falsely through any material including, but not limited to, any business card, stationary, or signage concerning a designation or certification of special education, credentials, trade organization membership, or business.

Section 40‑58‑75. (A) Within three business days of the receipt of an application for a mortgage loan, the broker must provide a mortgage broker fee agreement that discloses ~~in a statement~~ the total estimated charges to the borrower for the mortgage loan and an itemization of the charges provided if required under ~~RESPA~~, federal or state law. The disclosure is considered delivered when deposited with United States Postal Service for first class delivery.

(B) A person may not earn, charge or collect a mortgage ~~broker’s~~ broker or processing fee unless the person meets the requirements of this chapter, is authorized to conduct mortgage brokerage services by this chapter, or is exempt from the requirements of this chapter.

(C) All fees earned for services rendered as a mortgage broker must be disclosed to the applicant by the mortgage broker as required by ~~RESPA~~, federal or state law .

(D) A mortgage broker fee agreement must be in writing and include the current name, address, and telephone number of the mortgage broker’s branch office, the account number, if any, the date of the agreement, the name of the borrower or proposed borrower, signature of the borrower and mortgage broker, the amount of any fees, and the nature of services provided to the borrower. A copy of the completed agreement must be provided to the borrower by the mortgage broker. The mortgage broker agreement may provide for a signed acknowledgement by the borrower of receipt of a copy of the agreement. If a mortgage broker co‑brokers mortgage loans, the mortgage broker agreement must contain a statement advising the applicant that the loan may be co‑brokered. Within three days of making a final decision to co‑broker a loan, the broker must provide the applicant with written notice of co‑brokering, including the name and street and mailing address of the co‑broker as well as which broker is to be contacted regarding progress of the mortgage brokers’ services provided to the applicant. Each broker in a co‑brokering arrangement must be licensed with the administrator.

(E) Additional disclosure requirements exist and must be complied with pursuant to Chapter 10 and Chapter 23, Title 37.

Section 40‑58‑78. (A) A ~~loan~~ mortgage broker fee agreement with a mortgage broker or loan originator must contain an explicit statement that:

(1) the mortgage broker or loan originator is acting as the agent of the borrower in providing brokerage services to the borrower;

(2) when acting as agent for the borrower, it owes to that borrower a duty of utmost care, honesty, and loyalty in the transaction, including the duty of full disclosure of all material facts. If the mortgage broker or loan originator is authorized to act as an agent for any other person, the ~~brokerage~~ mortgage broker fee agreement must contain a statement of that fact and identification of that person;

(3) a detailed description of the services the mortgage broker or loan originator agrees to perform for the borrower, and a good faith estimate of any fees the mortgage broker or loan originator will receive for those services, whether paid by the borrower, the institutional lender, or both; and

(4) a clear and conspicuous statement of the conditions under which the borrower is obligated to pay for the services rendered under the agreement.

(B) If a mortgage broker or loan originator violates the provisions of subsection (A), the borrower may recover from the mortgage broker or loan originator charged with the violation:

(1) a penalty in an amount determined by the court of not less than one thousand five hundred dollars and not more than seven thousand five hundred dollars for each loan transaction;

(2) fees paid by the borrower to the mortgage broker or loan originator for services rendered by the agreement; and

(3) actual costs, including attorney’s fees, for enforcing the borrower’s rights under the agreement.

(C) ~~No~~ A mortgage broker or loan originator charged with the violation ~~may~~ must not be held liable in an action brought under this section for a violation if the mortgage broker or loan originator charged with the violation shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error.

Section 40‑58‑80. ~~Cease and desist orders; penalties; revocation of license.~~

~~(A)~~ ~~Upon a finding that an action of a licensee may be in violation of this chapter, or of a law or regulation of this State or of the federal government or an agency of either, the department may file a request for a contested case hearing with the Administrative Law Court seeking an order to require the licensee to cease and desist from the action.~~

~~(B)~~ ~~If an administrative law judge issues an order requiring the licensee to cease and desist from the action and the licensee fails to appeal the cease and desist order and continues to engage in the action in violation of the order, the licensee is subject to a penalty of not less than one thousand or more than two thousand five hundred dollars for each action the licensee takes in violation of the order. The penalty provision of this section is in addition to and not instead of other provisions of law applicable to a licensee.~~

~~(C)~~ ~~The administrative law judge, upon a finding that a licensee has engaged intentionally or repeatedly in a course of conduct in violation of this chapter, may revoke the license temporarily or permanently in its discretion after reasonable notice and an opportunity to be heard and may increase the mortgage broker’s required bond up to a maximum of twenty‑five thousand dollars to ensure that the public is protected adequately. The administrative law judge also may impose upon persons violating the provisions of this chapter administrative fines of not more than five hundred dollars for each offense or not more than five thousand dollars for the same set of transactions or occurrences. Each violation constitutes a separate offense. If it is determined that the required bond must be increased, the administrative law judge shall state in writing the reasons for the increase and immediately serve it upon the mortgage broker and the department. The mortgage broker shall provide the new bond within thirty days or the department shall revoke the license of the mortgage broker.~~

~~(D)~~ ~~A person who violates a 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 six months, or both.~~

~~(E)~~ ~~Nothing in this chapter limits a statutory or common law right of a person to bring an action in a court for an act or the right of the State to punish a person for a violation of a law.~~

~~(F)~~ ~~The administrator of the department may suspend the right of an individual to engage in mortgage broker activity after finding that an originator or other employee of a licensed mortgage broker has failed to comply with a provision of this chapter. After an action by the administrator pursuant to this section, the originator or other employee of a licensed mortgage broker may request a contested case hearing before the Administrative Law Court.~~

(A) The administrator, by order, may deny, suspend, revoke, or refuse to issue or renew a license of a licensee or applicant pursuant to this chapter or may restrict or limit the activities relating to mortgage loans of a licensee or a person who owns an interest in or participates in the business of a licensee, if the administrator finds that both:

(1) the order is in the public interest; and

(2) any of the following circumstances apply to the applicant, licensee, or any partner, member, manager, officer, director, loan originator, managing principal, or other person occupying a similar status or performing similar functions or a person directly or indirectly controlling the applicant or licensee. The person:

(a) has filed an application for license that, as of its effective date or as of a date after filing, contained a statement that, in light of the circumstances under which it was made, is false or misleading with respect to a material fact;

(b) has violated or failed to comply with any provision of this chapter or order of the administrator;

(c) has been convicted of, or pled guilty or nolo contendere to, a felony, or, within the past ten years, a misdemeanor involving financial services or financial services related business, or an offense involving breach of trust or fraudulent or dishonest dealing, or money laundering in a domestic, foreign, or military court;

(d) is enjoined permanently or temporarily by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving financial services or financial services related business;

(e) is the subject of an order of the administrator denying, suspending, or revoking that person’s license;

(f) is the subject of an order entered by the authority of a governmental entity with jurisdiction over the financial services or financial services related industry denying or revoking that person’s license;

(g) does not meet the qualifications or the financial responsibility, character, or general fitness requirements, or bond or capital requirements, pursuant to this chapter;

(h) has been the executive officer or controlling shareholder or owned a controlling interest in a financial services or financial services related business that has been subject to an order or injunction described in subitem (d),(e), or (f) of this item;

(i) has failed to pay the proper filing or renewal fee pursuant to this chapter or any fine or fee imposed by any governmental entity. However, the administrator may enter only a denial order pursuant to this subitem, and the administrator shall vacate the order when the deficiency is corrected; or

(j) has falsely certified attendance or completion of hours at an approved education course.

(B) The administrator, by order, summarily may postpone or suspend the license of a licensee pending final determination of a proceeding pursuant to this section. Upon entering the order, the administrator shall notify promptly the applicant or licensee that the order has been entered, the reasons for the order, and the procedure for requesting a hearing before the Administrative Law Court. If a licensee does not request a hearing and the administrator does not request a hearing, the order remains in effect until it is modified or vacated by the administrator.

(C) The administrator, by order, may impose an administrative penalty upon a licensee or any partner, member, officer, director, or other person occupying a similar status or performing similar functions on behalf of a licensee for a violation of this chapter. The administrative penalty may not exceed ten thousand dollars for each violation. The administrator may impose an administrative penalty that may not exceed ten thousand dollars for each violation of this chapter by a person other than a licensee or exempt person.

(D) In addition to other powers pursuant to this chapter, upon finding that an action of a person is in violation of this chapter, the administrator may order the person to cease and desist from the prohibited action. If the person subject to the order fails to request a contested case hearing in accordance with Section 40‑58‑90, or if the person requests the hearing and it is denied or dismissed, and the person continues to engage in the prohibited action in violation of the administrator’s order, the person is subject to an administrative penalty that may not exceed twenty‑five thousand dollars for each violation of the administrator’s order. The penalty provision of this section is in addition to and not instead of another provision of law for failure to comply with an order of the administrator.

(E) Unless otherwise provided, all actions and hearings pursuant to this chapter are governed by Chapter 23, Title 1.

(F) When a licensee is accused of any act, omission, or misconduct that subjects the licensee to disciplinary action, the licensee, with the consent and approval of the administrator, may surrender the license and the rights and privileges pertaining to it and is not eligible to receive, or to submit an application for, licensure for a period of time established by the administrator.

(G) If the administrator has reasonable grounds to believe that a licensee or other person has violated this chapter or that facts exist that would be the basis for an order against a licensee or other person, the administrator, either personally or by a person duly designated by the administrator, at any time may investigate or examine the loans and business of the licensee and examine the books, accounts, records, and files of the licensee or other person relating to the complaint or matter under investigation. The reasonable cost of this investigation or examination must be charged against the licensee. The administrator may require the licensee or other person to submit a consent to a national and state fingerprint‑based criminal history record check and a set of that person’s fingerprints in a form acceptable to the administrator in connection with an examination or investigation. Refusal to submit the requested criminal history record check or a set of fingerprints is grounds for disciplinary action.

(H) The administrator may subpoena documents and witnesses, and compel their production and attendance, to examine under oath all persons whose testimony the administrator considers relative to the person’s business, and require the production of books, papers, or other materials.

(I) The administrator may conduct routine examinations of the books and records of a licensee to determine compliance with this chapter.

(J) The administrator may cooperate and share information with an agency of this State, other states, or the federal government. The administrator may accept or participate in examinations conducted by one of these agencies.

(K) In addition to the authority described in this section, the administrator may require a person to pay to a borrower or other natural person amounts received by the person or its employees in violation of this chapter.

(L) If the administrator finds that the managing principal, branch manager, or loan originator of a licensee had knowledge of, or reasonably should have had knowledge of, or participated in any activity that results in the entry of an order suspending or withdrawing the license of a licensee, the administrator may prohibit the branch manager, managing principal, or loan originator from serving as a branch manager, managing principal, or loan originator for the period of time the administrator considers necessary.

(M) A person who wilfully violates a 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 six months, or both, for each offense. Each violation is considered a separate offense.

(N) Orders issued by the administrator or by the Administrative Law Court pursuant to this chapter must be reported by the administrator to the Nationwide Mortgage Licensing System and Registry.

Section 40‑58‑90. (A) ~~All appeals are to be made pursuant to the Administrative Procedures Act and the rules governing practice before the Administrative Law Court.~~ A person aggrieved by an administrative order issued by the administrator may request a contested case hearing before the Administrative Law Court in accordance with the court’s rules of procedure. If the person fails to request a contested case hearing within the time provided in the court’s rules of procedure, the administrative order becomes final and the administrator may bring an action to enforce its order pursuant to Chapter 23, Title 1. This section does not limit utilization of or the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by law. A preliminary, procedural, or intermediate action or ruling of the Administrative Law Court is reviewable immediately if review of the final decision of the Administrative Law Court would not provide an adequate remedy.

(B) Contested case proceedings are instituted by filing a request for a contested case hearing with the Administrative Law Court according to the rules of procedure of the Administrative Law Court. Copies of the request for a contested case hearing must be served upon the administrator and all parties of record. The final decision of the administrative law judge may be appealed as provided in Chapter 23, Title 1.

Section 40‑58‑100. The ~~department~~ administrator may promulgate regulations necessary to effectuate the purposes of this chapter.

Section 40‑58‑110. (A)(1) In addition to the initial nonrefundable license application fee of five hundred fifty dollars required by Section 40‑58‑50, first time mortgage broker licensees also shall pay a one‑time, nonrefundable processing fee of two hundred dollars. Thereafter, a mortgage broker licensee shall pay an annual nonrefundable renewal fee of five hundred fifty dollars. A mortgage broker licensee shall pay an initial nonrefundable fee of one hundred fifty dollars and, thereafter, a nonrefundable renewal fee of one hundred fifty dollars for each branch ~~or satellite~~ location.

(2) The initial nonrefundable license fee is fifty dollars for ~~an~~ a loan originator license, and fifty dollars, nonrefundable, for a renewal license. In addition, all licensees must pay the cost of obtaining credit reports and national and state criminal history record checks as the ~~department~~ administrator may require. The broker shall notify the ~~department~~ administrator in writing ten days before opening a new~~, official branch or satellite~~ location or changing the address of a licensed location. ~~No initial~~ A fee of twenty‑five dollars is required when the licensee notifies the ~~department~~ administrator of a change in address for ~~an official branch or satellite~~ a licensed location.

(B)(1) The term of each license is one year. Licenses issued ~~under~~ pursuant to this chapter expire on ~~September thirtieth each year for mortgage brokers and March thirty‑first for originators~~ December thirty‑first annually or another date that the administrator may determine and must be renewed in accordance with the provisions of this section.

(2) The renewal period for all licensees is from November first through December thirty‑first annually or on any other dates that the administrator may determine.

(3) Applications received after December thirty‑first, or any other date the administrator may determine, are late and late fees apply.

(C) ~~Failure to renew a license within thirty days of its expiration results in the license being canceled by the department requiring the licensee to complete the initial licensing process, including a criminal records check. A license renewed within thirty days of expiration must be accompanied by a late penalty of two hundred fifty dollars for mortgage brokers and twenty‑five dollars for originators in addition to the nonrefundable renewal fee.~~ If a license of a licensed mortgage broker is not renewed before the dates in subsection (B), five hundred dollars in addition to the renewal fee pursuant to subsection (A) must be assessed as a late fee to any renewal. If a license of a licensed loan originator is not renewed before the dates in subsection (B), one hundred dollars in addition to the renewal fee pursuant to subsection (A) of this section must be assessed as a late fee to any renewal. If a licensee fails to renew his license within thirty days after the date the license expires or otherwise maintain a valid license, the administrator shall require the licensee to comply with the requirements for the initial issuance of a license pursuant to this chapter, in addition to paying any fee that has accrued. All ~~renewable~~ renewal applications must contain information required by the ~~department~~ administrator. All ~~fees~~ funds collected by the department pursuant to this chapter must be used to implement the provisions of this chapter and are nonrefundable.

Section 40‑58‑120. (A) A licensee shall maintain records in conformity with generally accepted accounting principles and practices in a manner that will enable the administrator to determine whether the licensee is complying with this chapter. The recordkeeping system of a licensee is sufficient if he makes the required information reasonably available.

(B) On or before March thirty‑first each year a licensee shall file with the administrator a composite annual report in the form prescribed by the administrator relating to all mortgage loans made or brokered by him. The licensee shall pay a fine of one hundred dollars each day for late or incomplete annual reports.

(C) The report must include, but is not limited to, the volume and amounts of first and second lien mortgage loans originated by licensee and closed in the name of another party and the volume and amounts of first and second lien mortgage loans originated and closed in the name of the licensee.

(D) The annual report also must include the total gross revenue earned in this State under this license.

(E) Information contained in annual reports is confidential and may be published only in composite form.

Section 40‑58‑130. (A) The administrator may participate in a Nationwide Mortgage Licensing System and Registry, may take all actions necessary and appropriate to that end including, but not limited to, the following:

(1) facilitating and participating in the establishment and implementation of the Nationwide Mortgage Licensing System and Registry;

(2) entering into agreements and contracts including cooperative, coordinating and information sharing agreements;

(3) contracting with third parties to process, maintain and store information collected by the Nationwide Mortgage Licensing System and Registry;

(4) authorizing the Nationwide Mortgage Licensing System and Registry to collect fingerprints on the administrator’s behalf in order to receive national and state criminal history background records check from the FBI and SLED and furnishing the fingerprints to SLED to retain for certification purposes and for notification of the administrator regarding subsequent criminal charges which may be reported to SLED, or the FBI or both in accordance with Section 40‑58‑50;

(5) authorizing the Nationwide Mortgage Licensing System and Registry to collect credit reports on the administrator’s behalf for all licensees;

(6) requiring persons that must be licensed by this chapter to utilize the Nationwide Mortgage Licensing System and Registry;

(7) requiring all applicants and licensees to pay all applicable funds provided for in this Chapter through the Nationwide Mortgage Licensing System and Registry;

(8) providing information to and receiving information from the Nationwide Mortgage Licensing System and Registry;

(9) authorizing a third party to collect funds associated with licensure on behalf of the administrator; and

(10) authorizing the Nationwide Mortgage Licensing System and Registry to collect and disburse consumer complaints.

(B) Persons required to be licensed pursuant to this chapter shall pay all applicable fees to utilize the Nationwide Mortgage Licensing System and consent to utilizing the Nationwide Mortgage Licensing System and Registry to obtain fingerprint‑based criminal history background records checks and credit reports.

(C) The administrator shall provide licensees with written notice sent to the address of record on file with the administrator through the United States Postal Service the date the Nationwide Mortgage Licensing System will be available for their use. Licensees have one hundred and twenty days from the date the system is available for use to enter all their licensing information into the Nationwide Mortgage Licensing System. All filings required by the administrator pursuant to this chapter after the date the system is available for use must be made through the Nationwide Mortgage Licensing System.

(D) All licensees licensed through the Nationwide Mortgage Licensing System and Registry must use the unique identifier assigned in all advertising and on all mortgage loan documents.

(E) Notwithstanding another provision of law, the Nationwide Mortgage Licensing System is not intended to and does not replace or affect the administrator’s authority to grant, suspend, revoke, or deny a license required pursuant to this chapter.”

SECTION 6. 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. Any provision of this act deemed by HUD to conflict with its interpretation of the SAFE Act, provided for in Section 1508 of Title V of The Housing and Economic Recovery Act of 2008, Public Law 110‑289, must be interpreted, applied, or amended in such a way so as to comply with HUD’s interpretation of the SAFE Act. The regulating authority shall adopt emergency regulations or take other actions necessary to ensure compliance with the SAFE Act and the regulating authority’s continued jurisdiction over and supervision of the mortgage business in this State.

SECTION 7. Except as otherwise provided herein, this act is effective January 1, 2010, except that the definition of ‘mortgage loan originator’ does not include an individual servicing a mortgage loan as that term is defined in Section 37‑22‑110(21) and Section 40‑58‑20(19) until July 31, 2011. /

Renumber sections to conform.

Amend title to conform.

Rep. MACK explained the amendment.

The amendment was then adopted.

Rep. SANDIFER proposed the following Amendment No. 3 (COUNCIL\AGM\19428MM09), which was adopted:

Amend the bill, as and if amended, Section 37‑22‑110(17)(a), SECTION 2, page 3790‑3, line 31, by deleting / administrative or clerical tasks / and inserting / clerical or support duties /;

Amend the bill further, Section 37‑22‑110(17)(j), SECTION 2, page 3790‑4, line 33, by deleting / administrative or clerical tasks / and inserting / clerical or support duties /, and line 37, by deleting / administrative or clerical tasks / and inserting / clerical or support duties /;

Amend the bill further, Section 40‑58‑20(15)(a), SECTION 5, page 3790‑36, line 10, by deleting / administrative or clerical tasks / and inserting / clerical or support duties /;

Amend the bill further, Section 40‑58‑20(15)(j), SECTION 5, page 3790‑37, line 10, by deleting / administrative or clerical tasks / and inserting / clerical or support duties /, and line 14, by deleting / administrative or clerical tasks / and inserting / clerical or support duties /.

Renumber sections to conform.

Amend title to conform.

Rep. SANDIFER explained the amendment.

The amendment was then adopted.

Rep. SANDIFER proposed the following Amendment No. 4 (COUNCIL\AGM\19430MM09), which was adopted:

Amend the bill as amended by the Labor, Commerce and Industry Committee, as and if amended, Section 40‑58‑80 as found in SECTION 5, by adding an appropriately lettered subsection after line 20 on page 3790‑58 to read:

/ ( ) Nothing in this chapter limits a statutory or common law right of a person to bring an action in a court for an act or the right of the State to punish a person for a violation of a law. /

Renumber sections to conform.

Amend title to conform.

Rep. SANDIFER explained the amendment.

The amendment was then adopted.

Pursuant to Rule 7.7 the yeas and nays were taken resulting as follows:

Yeas 97; Nays 1

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allen | Allison | Anderson |
| Anthony | Battle | Bedingfield |
| Bingham | Bowen | Bowers |
| Brady | Branham | H. B. Brown |
| Clemmons | Clyburn | Cobb-Hunter |
| Cole | Crawford | Daning |
| Delleney | Dillard | Duncan |
| Edge | Erickson | Forrester |
| Frye | Funderburk | Gambrell |
| Gilliard | Govan | Gunn |
| Haley | Hamilton | Hardwick |
| Harrell | Harrison | Hart |
| Harvin | Hayes | Hearn |
| Herbkersman | Hodges | Horne |
| Hosey | Howard | Huggins |
| Jefferson | Jennings | Kelly |
| King | Knight | Limehouse |
| Loftis | Long | Lowe |
| Mack | McEachern | McLeod |
| Merrill | Miller | Millwood |
| Moss | Nanney | J. H. Neal |
| J. M. Neal | Neilson | Ott |
| Owens | Parker | Parks |
| Pinson | E. H. Pitts | M. A. Pitts |
| Rice | Rutherford | Sandifer |
| Scott | Sellers | Simrill |
| Skelton | D. C. Smith | G. R. Smith |
| J. E. Smith | J. R. Smith | Sottile |
| Stavrinakis | Stringer | Thompson |
| Toole | Umphlett | Weeks |
| White | Whitmire | Williams |
| Willis | Wylie | A. D. Young |
| T. R. Young |  |  |

**Total--97**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Kennedy |  |  |

**Total--1**

So, the Bill, as amended, was read the second time and ordered to third reading.

STATEMENT FOR THE JOURNAL

As a mortgage lender, I refrained from voting on H. 3790, in order to avoid any perceived conflict of interest.

Rep. Nathan Ballentine

**H. 3790--ORDERED TO BE READ THIRD TIME TOMORROW**

On motion of Rep. SANDIFER, with unanimous consent, it was ordered that H. 3790 be read the third time tomorrow.

**RECURRENCE TO THE MORNING HOUR**

Rep. OWENS moved that the House recur to the Morning Hour, which was agreed to.

**HOUSE RESOLUTION**

On motion of Rep. CLEMMONS, with unanimous consent, the following was taken up for immediate consideration:

H. 4009 -- Reps. Clemmons, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A HOUSE RESOLUTION TO CONGRATULATE CHARLIE BRINDEL, EXECUTIVE VICE PRESIDENT OF COASTAL CAROLINAS ASSOCIATION OF REALTORS, UPON THE OCCASION OF HIS RETIREMENT, TO WISH HIM A HAPPY EIGHTIETH BIRTHDAY, TO COMMEND HIM FOR HIS MANY YEARS OF COMMITTED VOLUNTEER SERVICE, AND TO DECLARE MAY 8, 2009, CHARLIE BRINDEL DAY IN SOUTH CAROLINA.

Whereas, for thirty‑two years, the Coastal Carolinas Association of REALTORS has enjoyed the benefit of the dedication, experience, and friendship of Charlie Brindel, an executive vice president of the company since 1977; and

Whereas, when he joined the Coastal Carolinas Association of REALTORS, Mr. Brindel brought with him thirty‑two years of valuable experience with the United States Army, from which he retired as a colonel at the age of forty‑eight; and

Whereas, presently one of the oldest serving association executives in the National Association of REALTORS, he is planning a well‑deserved retirement from the Coastal Carolinas Association of REALTORS, to commence May 8, 2009; and

Whereas, during his years with the Coastal Carolinas Association of REALTORS, he has not restricted his activities to the office but has enlarged them to include active volunteer work in the community with such organizations as Citizens Against Spouse Abuse, the Humane Society, American Cancer Society, and Habitat For Humanity; and

Whereas, his unselfish commitment leads him to perform diverse tasks for these and other organizations, undertakings that include service as a licensed auctioneer, in which capacity he raises thousands of dollars free of charge for twelve charities each year; and

Whereas, in particular, Habitat for Humanity is near and dear to Mr. Brindel’s heart. Growing up in a tent beside a railroad track, he learned early in life what a home could mean to someone. Almost single‑handedly, he built a house for the organization in 1997, and he has continued his active involvement since that time; and

Whereas, his many and varied charitable activities have earned him numerous awards, including recognition by the Horry Georgetown Homebuilders Association for his exceptional fundraising work benefiting the Humane Society; and

Whereas, in addition to marking his retirement from the Coastal Carolinas Association of REALTORS on May 8, Mr. Brindel will celebrate his eightieth birthday. The House of Representatives most heartily wishes him the happiest of birthdays and most satisfying of retirement ceremonies on this doubly blessed day; and

Whereas, having made his mark and set the bar of achievement extraordinarily high in his profession, Charlie Brindel will be remembered with affection and gratitude by colleagues and legislative friends for years to come. Now, therefore,

Be it resolved by the House of Representatives:

That the members of the South Carolina House of Representatives, by this resolution, congratulate Charlie Brindel, executive vice president of Coastal Carolinas Association of REALTORS, upon the occasion of his retirement, wish him a happy eightieth birthday, commend him for his many years of committed volunteer service, and declare May 8, 2009, Charlie Brindel Day in South Carolina.

Be it further resolved that a copy of this resolution be provided to Charlie Brindel.

The Resolution was adopted.

**CONCURRENT RESOLUTION**

The following was introduced:

H. 4010 -- Reps. Bowers, R. L. Brown, Hodges and McLeod: A CONCURRENT RESOLUTION TO COMMEND MAYOR CHARLIE SWEAT OF WALTERBORO FOR HIS LIFETIME OF DEDICATED PUBLIC SERVICE, TO CONGRATULATE HIM UPON HIS RETIREMENT AS MAYOR OF WALTERBORO, AND TO WISH HIM MUCH SUCCESS AND FULFILLMENT IN ALL HIS FUTURE ENDEAVORS.

The Concurrent Resolution was agreed to and ordered sent to the Senate.

**CONCURRENT RESOLUTION**

The Senate sent to the House the following:

S. 769 -- Senators Hayes and Land: A CONCURRENT RESOLUTION TO HONOR SUSIE SURKAMER FOR HER MANY ACHIEVEMENTS AND CONTRIBUTIONS TO THE ARTS, AND TO CONGRATULATE HER ON THE OCCASION OF HER RETIREMENT.

The Concurrent Resolution was agreed to and ordered returned to the Senate with concurrence.

**CONCURRENT RESOLUTION**

The Senate sent to the House the following:

S. 776 -- Senators Matthews, Pinckney and Grooms: A CONCURRENT RESOLUTION TO COMMEND MAYOR CHARLIE SWEAT OF WALTERBORO FOR HIS LIFETIME OF DEDICATED PUBLIC SERVICE, TO CONGRATULATE HIM UPON HIS RETIREMENT AS MAYOR OF WALTERBORO, AND TO WISH HIM MUCH SUCCESS AND FULFILLMENT IN ALL HIS FUTURE ENDEAVORS.

The Concurrent Resolution was agreed to and ordered returned to the Senate with concurrence.

**INTRODUCTION OF BILLS**

The following Bills and Joint Resolution were introduced, read the first time, and referred to appropriate committees:

H. 4011 -- Reps. Umphlett and Long: A BILL TO AMEND ARTICLE 45, CHAPTER 3, TITLE 56, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE "NON-GAME WILDLIFE AND NATURAL AREAS FUND" SPECIAL LICENSE PLATE, SO AS TO REVISE THE NAME OF THE LICENSE PLATE AND THE FUND IN WHICH PROCEEDS FROM THE SALE OF THIS LICENSE PLATE MUST BE PLACED AND TO PROVIDE THE GUIDELINES WHICH MUST BE FOLLOWED BEFORE AND AFTER THIS LICENSE PLATE IS PRODUCED.

Referred to Committee on Education and Public Works

S. 188 -- Senators McConnell and Ford: A BILL TO AMEND SECTION 44-34-60 AND SECTION 44-34-100, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO AGE RESTRICTIONS ON TATTOOING, SO AS TO PROVIDE THAT PERSONS EIGHTEEN OR OLDER ARE ELIGIBLE TO RECEIVE A TATTOO.

Referred to Committee on Medical, Military, Public and Municipal Affairs

S. 455 -- Senators Thomas, Ford, Rose and Knotts: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 60 TO TITLE 38 SO AS TO ENACT THE "SOUTH CAROLINA HEALTHNET PROGRAM"; TO PROVIDE FOR THE CREATION OF A FIVE-YEAR PILOT PROGRAM TO PROMOTE THE AVAILABILITY OF HEALTH INSURANCE COVERAGE TO EMPLOYEES OF SMALL EMPLOYER GROUPS AND HEALTH GROUP COOPERATIVES REGARDLESS OF HEALTH STATUS OR CLAIMS EXPERIENCE, ESTABLISH RULES REGARDING RENEWAL OF COVERAGE, LIMITATIONS ON THE USE OF PREEXISTING CONDITIONS EXCLUSIONS, ASSURE FAIR ACCESS TO HEALTH PLANS AND IMPROVE OVERALL FAIRNESS AND EFFICIENCY OF THE SMALL GROUP HEALTH INSURANCE MARKET; TO PROVIDE FOR DEFINITIONS; TO PROVIDE FOR THE COMPOSITION AND AUTHORITY OF THE BOARD OF DIRECTORS; TO PROVIDE FAIR MARKETING STANDARDS; TO PROVIDE FOR THE ESTABLISHMENT OF CRITERIA FOR PLAN ADMINISTRATION IN THE PLAN OF OPERATION; TO PROVIDE FOR RATES; TO PROVIDE FOR PROVIDER PARTICIPATION; TO PROVIDE FOR THE APPLICABILITY AND SCOPE OF THE CHAPTER; TO PROVIDE THAT SMALL GROUP HEALTH INSURERS SHALL OFFER AND MARKET PLANS DEVELOPED BY THE SOUTH CAROLINA HEALTHNET PROGRAM; TO PROVIDE FOR HEALTH BENEFIT PLAN STANDARDS; TO PROVIDE FOR ELIGIBILITY STANDARDS AND PROVIDE EXCEPTIONS; TO PROVIDE FOR TERMINATION AND NONRENEWAL OF COVERAGE; TO PROVIDE FOR CLAIMS DATA TO BE REPORTED TO THE PROGRAM; TO REQUIRE THE BOARD TO SUBMIT A REPORT REGARDING THE IMPLEMENTATION OF THE PROGRAM; AND TO AUTHORIZE THE DIRECTOR OF THE STATE DEPARTMENT OF INSURANCE TO PROMULGATE REGULATIONS TO IMPLEMENT THE PROVISIONS OF CHAPTER 60, TITLE 38 ADDED BY THIS ACT.

Referred to Committee on Labor, Commerce and Industry

S. 673 -- Senators Thomas and Ford: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "SOUTH CAROLINA MORTGAGE LENDING ACT", BY ADDING CHAPTER 22 TO TITLE 37 SO AS TO REQUIRE THE LICENSING OF A MORTGAGE LENDER, LOAN ORIGINATOR, OR SOMEONE ACTING AS A MORTGAGE LENDER; PROVIDE DEFINITIONS; ESTABLISH QUALIFICATIONS FOR LICENSURE AND GROUNDS FOR REVOCATION, SUSPENSION, RENEWAL, AND TERMINATION; DESCRIBE PROHIBITED ACTIVITIES; PROVIDE FOR RECORD-KEEPING, TRUST AND ESCROW ACCOUNTS, AND ANNUAL REPORTS; PROVIDE FOR ENFORCEMENT THROUGH ADMINISTRATIVE ACTION BY THE COMMISSIONER OF THE CONSUMER FINANCE DIVISION OF THE BOARD OF FINANCIAL INSTITUTIONS AND THROUGH CRIMINAL PENALTIES, AND TO PROVIDE FOR PARTICIPATION IN A NATIONAL MORTGAGE REGISTRY; TO AMEND SECTION 34-1-20, AS AMENDED, RELATING TO APPOINTMENT OF MEMBERS OF THE STATE BOARD OF FINANCIAL INSTITUTIONS, SO AS TO PROVIDE FOR A REPRESENTATIVE OF THE MORTGAGE BANKERS ASSOCIATION; TO AMEND SECTION 34-1-110, AS AMENDED, RELATING TO AUTHORITY OF CERTAIN FINANCIAL INSTITUTIONS TO ENGAGE IN BUSINESS, SO AS TO PROVIDE FOR MORTGAGE LENDERS AND LOAN ORIGINATORS; TO AMEND SECTIONS 37-1-301, 37-3-105, 37-3-501, AND 37-23-20, ALL RELATING TO DEFINITIONS IN CONNECTION WITH MORTGAGE LENDING AND BROKERING AND HIGH-COST AND CONSUMER HOME LOANS, SO AS TO CONFORM DEFINITIONS, AND TO ADD A DEFINITION FOR "ADJUSTABLE RATE MORTGAGE"; TO AMEND SECTIONS 37-23-40, 37-23-45, AND 37-23-75, ALL RELATING TO PROTECTIONS FOR THE BORROWER IN A HIGH-COST OR CONSUMER HOME LOAN TRANSACTION, SO AS TO REQUIRE CERTAIN DISCLOSURES IN CONNECTION WITH AN ADJUSTABLE RATE MORTGAGE; TO AMEND SECTION 29-4-20, RELATING TO THE DEFINITION OF "REVERSE MORTGAGE", SO AS TO CONFORM THE DEFINITION; AND TO AMEND CHAPTER 58, TITLE 40, RELATING TO THE REGISTRATION OF MORTGAGE LOAN BROKERS, SO AS TO CHANGE THE REGISTRATION REQUIREMENTS TO LICENSING REQUIREMENTS, TO CONFORM DEFINITIONS TO THOSE SET FORTH IN THE SOUTH CAROLINA MORTGAGE LENDING ACT, REQUIRE CERTAIN PROFESSIONAL COURSES, AN ADDITIONAL YEAR OF EXPERIENCE, AND A FINGERPRINT CHECK FOR MORTGAGE BROKERS AND LOAN ORIGINATORS, REQUIRE CERTAIN RECORDS BE KEPT AND MADE ACCESSIBLE, ADD CERTAIN PROHIBITIONS IN CONNECTION WITH A REAL ESTATE APPRAISAL, REQUIRE AND PRESCRIBE MORTGAGE BROKER AGREEMENTS, AUTHORIZE ENFORCEMENT BY THE DEPARTMENT OF CONSUMER AFFAIRS AND PRESCRIBE ADMINISTRATIVE PENALTIES INCLUDING FINES AND INJUNCTIONS AND A CRIMINAL PENALTY, REQUIRE CERTAIN REPORTS AND FILINGS, AND PROVIDE FOR PARTICIPATION IN A NATIONWIDE MORTGAGE REGISTRY.

Referred to Committee on Labor, Commerce and Industry

S. 696 -- Senator Matthews: A BILL TO AMEND SECTION 59-18-930 OF THE 1976 CODE, RELATING TO THE REQUIRED ADVERTISEMENT OF THE RESULTS OF A SCHOOL'S REPORT CARD IN A LOCAL NEWSPAPER, TO ALLOW REQUIRED ADVERTISEMENT TO BE WAIVED IF AN AUDITED NEWSPAPER OF GENERAL CIRCULATION IN A SCHOOL DISTRICT'S GEOGRAPHIC AREA HAS PREVIOUSLY PUBLISHED THE ENTIRE SCHOOL REPORT CARD RESULTS AS A NEWS ITEM.

On motion of Rep. OWENS, with unanimous consent, the Bill was ordered placed on the Calendar without reference.

S. 700 -- Senator Leatherman: A JOINT RESOLUTION TO AUTHORIZE THE UNIVERSITY OF SOUTH CAROLINA TO DEVELOP AND CONSTRUCT A NEW FACILITY FOR THE MOORE SCHOOL OF BUSINESS IN THE INNOVISTA DISTRICT ON THE COLUMBIA CAMPUS.

On motion of Rep. GUNN, with unanimous consent, the Joint Resolution was ordered placed on the Calendar without reference.

S. 758 -- Senator Land: A BILL TO AMEND ACT 355 OF 2004, RELATING TO THE ONE PERCENT SALES AND USE TAX WITHIN CLARENDON COUNTY, TO ALLOW PROCEEDS FROM THE TAX TO BE USED TO ENSURE THE DELIVERY OF ACADEMIC AND ART INSTRUCTION DURING THE 2009-2010 SCHOOL YEAR.

On motion of Rep. HARVIN, with unanimous consent, the Bill was ordered placed on the Calendar without reference.

S. 759 -- Senator Hayes: A BILL TO AUTHORIZE THE BOARD OF TRUSTEES OF FORT MILL SCHOOL DISTRICT NO. 4 OF YORK COUNTY TO ISSUE GENERAL OBLIGATION BONDS OF THE DISTRICT FOR THE PURPOSE OF PAYING COSTS OF OPERATION AND MAINTENANCE OF CERTAIN ELEMENTARY SCHOOLS, TO REQUIRE THESE BONDS TO MATURE IN NO MORE THAN FIVE YEARS, TO REQUIRE THAT THE BONDS BE AUTHORIZED BY RESOLUTION OF THE BOARD OF TRUSTEES AFTER AN AUTHORIZATION BY A FAVORABLE VOTE OF THE QUALIFIED ELECTORS OF THE DISTRICT, TO PROVIDE THAT THE BONDS MAY BE SOLD BY PUBLIC OR PRIVATE SALE, AND TO PROVIDE OTHER MATTERS RELATED TO THE AUTHORIZATION AND SALE OF THE BONDS.

Referred to York Delegation

**RATIFICATION OF ACTS**

At 2:30 p.m. the House attended in the Senate Chamber, where the following Acts and Joint Resolutions were duly ratified:

(R. 22, S. 26) -- Senators Jackson and Rose: A JOINT RESOLUTION TO ESTABLISH THE STROKE SYSTEMS OF CARE STUDY COMMITTEE TO DEVELOP A PLAN FOR A STATEWIDE STROKE SYSTEM OF CARE, WHICH MUST INCLUDE, AMONG OTHER THINGS, AN URGENT RESPONSE SYSTEM, PUBLIC AWARENESS PROGRAMS FOR STROKE EDUCATION, PREVENTION, AND REHABILITATION, METHODS FOR EVALUATING THE IMPACT OF STROKES IN THIS STATE, RECOGNITION AND IMPLEMENTATION OF A STANDARDIZED STROKE TRIAGE ASSESSMENT TOOL, A STRATEGY TO REDUCE STROKE DISPARITIES AMONG MINORITIES AND UNDERSERVED POPULATIONS, POLICY CHANGES THAT MAY BE NEEDED, COORDINATION OF TREATMENT, AND DESIGNATION OF ACUTE STROKE HOSPITALS; AND TO PROVIDE THAT THE STUDY COMMITTEE IS ABOLISHED UPON SUBMISSION OF ITS REPORT TO THE GENERAL ASSEMBLY NO LATER THAN DECEMBER 1, 2010.

(R. 23, S. 97) -- Senators Leventis, Land and Malloy: AN ACT TO AMEND SECTION 59‑53‑1410, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CREATION OF THE CENTRAL CAROLINA TECHNICAL COLLEGE COMMISSION, SO AS TO PROVIDE THAT THE COMMISSION MUST CONSIST OF ELEVEN TOTAL MEMBERS, WITH AN ADDITIONAL MEMBER APPOINTED FROM CLARENDON COUNTY AND AN ADDITIONAL MEMBER APPOINTED FROM KERSHAW COUNTY.

(R. 24, S. 407) -- Senators Hayes, Cleary and Campsen: AN ACT TO AMEND ARTICLE 1, CHAPTER 43, TITLE 44, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DONATION OF HUMAN BODIES, PARTS OF THE HUMAN BODY AND HUMAN TISSUE, SO AS TO CONFORM CROSS REFERENCES TO THE REVISED UNIFORM ANATOMICAL GIFT ACT, TO DELETE THE PROVISION STATING THAT A DONOR DESIGNATION ON A DRIVER’S LICENSE DOES NOT CONSTITUTE EXECUTION OF GIFT UNDER THE UNIFORM ANATOMICAL GIFT ACT; TO AMEND ARTICLE 5, CHAPTER 43, TITLE 44, RELATING TO THE UNIFORM ANATOMICAL GIFT ACT, SO AS TO CHANGE THE ACT NAME TO THE REVISED UNIFORM ANATOMICAL GIFT ACT, AND, AMONG OTHER THINGS, TO REVISE DEFINITIONS, DONOR ELIGIBILITY, DONATION AMENDMENT AND REVOCATION PROCEDURES, THE PRIORITY ORDER TO GIVE CONSENT, SUBSTITUTE DONOR PROCEDURES, DONEE QUALIFICATIONS, AND ALTERNATIVE DONEE PROCEDURES; TO ESTABLISH PROCEDURES FOR REFUSAL TO MAKE AN ANATOMICAL GIFT; TO PROVIDE THAT A PERSON WHO IS IN POSSESSION OF A DOCUMENT OF AN ANATOMICAL GIFT, OR REFUSAL OF A GIFT, SHALL SEND THE DOCUMENT TO THE HOSPITAL IF THE INDIVIDUAL EXECUTING OR REFUSING THE GIFT IS BELIEVED TO BE DECEASED OR NEAR DEATH; TO PROVIDE THAT A PROCUREMENT AGENCY RECEIVING A REFERRAL OF AN INDIVIDUAL AT OR NEAR DEATH SHALL SEARCH THE SOUTH CAROLINA ORGAN AND TISSUE DONOR REGISTRY TO ASCERTAIN IF AN ANATOMICAL GIFT WAS MADE; TO PROVIDE THAT A PHYSICIAN WHO ATTENDED A PERSON AT DEATH OR WHO DETERMINES THE TIME OF DEATH MAY NOT PARTICIPATE IN REMOVAL OR TRANSPLANTATION PROCEDURES; TO ESTABLISH CRIMINAL PENALTIES FOR SELLING OR PURCHASING ORGANS AND FOR OBTAINING FINANCIAL GAIN BY FALSIFYING OR DEFACING A DONATION DOCUMENT; TO ESTABLISH CRITERIA FOR THE VALIDITY OF AN ORGAN DONATION; TO ESTABLISH PROCEDURES TO RESOLVE ISSUES WHEN CERTAIN CONFLICTS EXIST BETWEEN A DECLARATION OF AN ORGAN DONATION AND THE MEDICAL SUITABILITY OF THE ORGAN DONATION; TO REQUIRE CORONERS TO COOPERATE WITH PROCUREMENT ORGANIZATIONS TO MAXIMIZE THE OPPORTUNITY TO RECOVER ANATOMICAL GIFTS AND TO PROVIDE THAT A BODY PART MAY NOT BE REMOVED DURING A POST‑MORTEM EXAMINATION FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION UNLESS THE PART IS THE SUBJECT OF AN ANATOMICAL GIFT; AND TO AMEND ARTICLE 11, CHAPTER 43, TITLE 44, RELATING TO HOSPITAL POLICY AND PROTOCOL FOR ORGAN AND TISSUE DONATION, SO AS TO REVISE DEFINITIONS AND PROCEDURES FOR CONTACTING PERSONS AUTHORIZED TO CONSENT TO ORGAN DONATION.

(R. 25, S. 420) -- Senators Knotts, Land, Coleman, Setzler, McConnell, Leatherman, Courson, Thomas and Rose: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56‑5‑4975 SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR CERTAIN PERSONS TO OPERATE A VEHICLE THAT IS UPFITTED AS AN AMBULANCE OR NO LONGER PERMITTED AND LICENSED AS AN AMBULANCE UNLESS CERTAIN EXTERIOR ITEMS THAT DISTINGUISH IT AS AN AMBULANCE ARE REMOVED, TO PROVIDE PENALTIES FOR VARIOUS VIOLATIONS OF THIS PROVISION.

(R. 26, S. 540) -- Senator Alexander: A JOINT RESOLUTION TO PROVIDE THAT THE SCHOOL DAY MISSED BY THE STUDENTS OF THE SCHOOL DISTRICT OF OCONEE COUNTY ON MARCH 2, 2009, DUE TO SNOW, IS EXEMPT FROM THE MAKE‑UP REQUIREMENT THAT FULL SCHOOL DAYS MISSED DUE TO SNOW, EXTREME WEATHER, OR OTHER DISRUPTIONS BE MADE UP.

(R. 27, S. 620) -- Transportation Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE COMMISSIONERS OF PILOTAGE, RELATING TO ENFORCEMENT OF PILOT STATUTES AND MARITIME HOMELAND SECURITY, DESIGNATED AS REGULATION DOCUMENT NUMBER 4053, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

(R. 28, S. 698) -- Agriculture and Natural Resources Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE CLEMSON UNIVERSITY, STATE CROP PEST COMMISSION, RELATING TO LIGHT BROWN APPLE MOTH QUARANTINE, DESIGNATED AS REGULATION DOCUMENT NUMBER 4052, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

(R. 29, S. 703) -- Senators S. Martin, Bright, Reese and Peeler: AN ACT TO AMEND ACT 612 OF 1984, AS AMENDED, RELATING TO THE METHOD OF CONDUCTING ELECTIONS FOR MEMBERS OF THE SCHOOL DISTRICT BOARDS OF TRUSTEES IN SPARTANBURG COUNTY, TO REDUCE THE NUMBER OF QUALIFIED ELECTORS THAT MUST SIGN A PETITION FOR A PERSON TO PLACE HIS NAME AS AN AT‑LARGE CANDIDATE ON THE BALLOT AND TO PROVIDE FOR THE MANNER IN WHICH A SCHOOL DISTRICT BOARD OF TRUSTEE CANDIDATE FROM A SINGLE‑MEMBER DISTRICT IN ONE OF SPARTANBURG COUNTY’S SCHOOL DISTRICTS MAY PLACE HIS NAME ON THE BALLOT.

(R. 30, H. 3121) -- Reps. J.E. Smith, E.H. Pitts, T.R. Young, Hutto, M.A. Pitts, Allison and Parker: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50‑15‑75 SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON OR A GROUP OF INDIVIDUALS TRAVELING IN ONE VEHICLE TO REMOVE, OR ATTEMPT TO REMOVE, FROM THIS STATE MORE THAN A SPECIFIED NUMBER OF CERTAIN NAMED SPECIES OF TURTLES, TO PROVIDE EXCEPTIONS, AND TO PROVIDE PENALTIES FOR VIOLATIONS.

(R. 31, H. 3203) -- Reps. Brady, Harrison, J.E. Smith, Battle and Simrill: AN ACT TO AMEND ARTICLE 4, CHAPTER 56, TITLE 44 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DRYCLEANING FACILITY RESTORATION TRUST FUND, SO AS TO, AMONG OTHER THINGS, FURTHER SPECIFY THAT WHOLESALE DRYCLEANING FACILITIES ARE SUBJECT TO THE PROVISIONS OF THIS ARTICLE AND ARE ELIGIBLE TO SEEK RESTORATION ASSISTANCE UNDER THIS ARTICLE; TO AUTHORIZE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO USE FUNDS, OTHER THAN FUNDS FROM THE DRYCLEANING FACILITY RESTORATION TRUST FUND, IF AN EMERGENCY EXISTS AND FUNDS ARE NOT AVAILABLE FROM THE TRUST FUND AND TO FURTHER PROVIDE THAT THESE FUNDS MUST BE REPAID FROM THE TRUST FUND; TO PROVIDE EXEMPTIONS FROM THE ENVIRONMENTAL SURCHARGE IMPOSED ON THE GROSS PROCEEDS OF SALES OF RETAIL DRYCLEANING FACILITIES, INCLUDING AN EXEMPTION FOR WHOLESALE SALES OF DRYCLEANING SERVICES; TO FURTHER PROVIDE FOR ELIGIBILITY REQUIREMENTS AND PROCEDURES FOR REQUESTING AND ISSUING RESTORATION ASSISTANCE, INCLUDING PROVIDING CRITERIA FOR DEDUCTIBLES AND CONDUCTING SECONDARY ASSESSMENTS; TO PROVIDE INITIAL AND ANNUAL REGISTRATION FEES FOR DRYCLEANING FACILITIES ESTABLISHED AFTER OCTOBER 1, 1995, AND TO AUTHORIZE THE PROPERTY OWNER TO REGISTER A FACILITY IF THE OWNER OR OPERATOR OF THE FACILITY DOES NOT; TO PROVIDE FOR THE ISSUANCE OF CERTIFICATES OF REGISTRATION, TO REQUIRE PRESENTATION OF CERTIFICATES IN ORDER TO PURCHASE DRYCLEANING SOLVENT, TO PROHIBIT A SUPPLY FACILITY, OR OTHER DRYCLEANING FACILITY, FROM SELLING DRYCLEANING SOLVENT TO A DRYCLEANING FACILITY IF THE FACILITY DOES NOT POSSESS A CERTIFICATE, AND TO PROVIDE CIVIL PENALTIES FOR VIOLATIONS; TO SPECIFY REQUIREMENTS FOR A DRYCLEANING FACILITY EXEMPTION CERTIFICATE; TO AUTHORIZE A DRYCLEANING FACILITY PREVIOUSLY REGISTERED UNDER THIS ARTICLE TO OPT OUT IF THE FACILITY HAS BEEN IN OPERATION BEFORE JANUARY 1, 1940, AND ONLY HAS USED NONHALOGENATED CLEANERS; AND TO REVISE THE MEMBERSHIP OF THE DRYCLEANING ADVISORY COUNCIL.

(R. 32, H. 3299) -- Reps. Sandifer, Harrell, Cato, Thompson, Bedingfield, Bingham, Brady, Gambrell, Harrison, Jennings, Mack, Mitchell, Cooper, Crawford, Alexander, Allison, Anthony, Bales, Bannister, Barfield, Bowers, G.A. Brown, Clemmons, Cobb‑Hunter, Duncan, Gullick, Haley, Hayes, Herbkersman, Howard, Huggins, Limehouse, Littlejohn, Lowe, Miller, Ott, Owens, Pinson, M.A. Pitts, J.R. Smith, J.E. Smith, Spires, Toole, Umphlett, White, Whitmire, Anderson, A.D. Young, T.R. Young, Forrester, H.B. Brown, Weeks, Horne, Parker, Skelton, Wylie and Frye: AN ACT TO AMEND SECTION 58‑9‑576, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ELECTION BY AND DUTIES OF THE LOCAL EXCHANGE CARRIER AND ALTERNATIVE FORMS OF REGULATION, SO AS TO ENACT THE “CUSTOMER CHOICE AND TECHNOLOGY INVESTMENT ACT OF 2009”, AND TO PROVIDE FOR THE CONTINUED REGULATION BY THE PUBLIC SERVICE COMMISSION OF CERTAIN LOCAL EXCHANGE CARRIERS WHEN PROVIDING CERTAIN TELECOM SERVICES, AND TO ALLOW OTHER LOCAL EXCHANGE CARRIERS TO OPT OUT OF REGULATION WHEN PROVIDING CERTAIN SERVICES.

(R. 33, H. 3378) -- Rep. Cooper: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 8‑11‑192 SO AS TO PROVIDE FOR THE TERMS AND CONDITIONS OF MANDATORY STATE AGENCY FURLOUGH PROGRAMS, TO REQUIRE CERTAIN CONSULTATION AND GUIDANCE SERVICES BY THE OFFICE OF HUMAN RESOURCES OF THE STATE BUDGET AND CONTROL BOARD, AND TO DELETE THE PROVISIONS OF PARAGRAPH 89.120, PART IB, OF ACT 310 OF 2008, RELATING TO STATE AGENCY FURLOUGHS.

(R. 34, H. 3380) -- Rep. Funderburk: AN ACT TO AMEND SECTION 7‑7‑340, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN KERSHAW COUNTY, SO AS TO REDESIGNATE A MAP NUMBER ON WHICH LINES OF THESE PRECINCTS ARE DELINEATED AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

(R. 35, H. 3428) -- Reps. Harrell, Cooper and Ott: AN ACT TO AMEND SECTION 2‑7‑80, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PRINTING AND DISTRIBUTION OF ACTS, SO AS TO PROVIDE FOR THE MAILING OF ACTS NOT PLACED ON THE DESKS OF MEMBERS OF THE GENERAL ASSEMBLY WHEN THE MEMBER REQUESTS THE SERVICES, REQUIRE THE CLERKS OF THE GENERAL ASSEMBLY TO MAKE ALL ACTS AVAILABLE TO THE PUBLIC AFTER APPROVAL BY THE GOVERNOR, AND GENERALLY RESTRUCTURE THE DISTRIBUTION OF ACTS; TO AMEND SECTION 2‑13‑190, RELATING TO PRINTING IN SIGNATURES AND DISTRIBUTION OF PAGE PROOFS OR ADVANCE SHEETS, SO AS TO DELETE THE REQUIREMENT THAT THE CODE COMMISSIONER SEND A COPY OF EACH ADVANCE SHEET TO A DELINEATED LIST OF PERSONS, PROVIDE FOR PRINTING BY THE OFFICE OF LEGISLATIVE PRINTING, INFORMATION AND TECHNOLOGY SYSTEMS (LPITS) OF NOT MORE THAN TWENTY‑FIVE COPIES OF THE ADVANCE SHEETS AS THE CODE COMMISSIONER ORDERS, AND TO DIRECT LPITS TO PUBLISH THE ADVANCE SHEETS ONLINE AS DIRECTED BY THE CODE COMMISSIONER; TO AMEND SECTION 8‑15‑40, RELATING TO THE DELIVERY OF THE CODE AND SUPPLEMENTS TO SUCCESSORS IN OFFICE, SO AS TO ALLOW THE CODE COMMISSIONER TO DETERMINE THE VALUE OF THE SET; TO AMEND SECTION 11‑25‑640, AS AMENDED, RELATING TO PERSONS ENTITLED TO RECEIVE ACTS AND JOINT RESOLUTIONS, SO AS TO NARROW THE LIST OF THOSE PERSONS RECEIVING THE ACTS AND JOINT RESOLUTIONS; AND TO AMEND SECTION 11‑25‑650, RELATING TO DISTRIBUTION OF COPIES AND PUBLICATIONS TO THE UNIVERSITY OF SOUTH CAROLINA LAW LIBRARY, SO AS TO DECREASE THE NUMBER OF COPIES PROVIDED OF THE ACTS AND JOINT RESOLUTIONS, THE CODE, AND THE REPORTS OF THE SUPREME COURT.

(R. 36, H. 3452) -- Reps. Bannister, Bales, Crawford, Limehouse, G.M. Smith, J.E. Smith and Frye: AN ACT TO AMEND SUBARTICLE 11, ARTICLE 3, CHAPTER 6, TITLE 61, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REGULATION OF MANUFACTURERS OF ALCOHOLIC LIQUORS, SO AS TO AUTHORIZE THE ESTABLISHMENT OF MICRO‑DISTILLERIES OF ALCOHOLIC LIQUORS, TO SET FORTH REGULATIONS AND LIMITATIONS OF THE MICRO‑DISTILLERIES, TO PROVIDE FOR BIENNIAL LICENSES AND FEES FOR MANUFACTURERS AND MICRO‑DISTILLERIES OF ALCOHOLIC LIQUORS, TO PROVIDE PROCEDURES FOR TASTINGS AT MANUFACTURERS AND MICRO‑DISTILLERIES OF ALCOHOLIC LIQUORS, TO PROVIDE FOR LIMITED RETAIL SALE AT MICRO‑DISTILLERIES OF THEIR PRODUCTS, AND TO PROVIDE PENALTIES FOR VIOLATIONS; AND TO AMEND SECTION 12‑33‑210, AS AMENDED, RELATING TO TAXES ON LICENSES GRANTED PURSUANT TO THE ALCOHOLIC BEVERAGE CONTROL ACT, SO AS TO INCREASE THE MANUFACTURER LICENSE FEE AND ADD A LICENSE FEE FOR A MICRO‑DISTILLERY.

(R. 37, H. 3589) -- Reps. White, Bowen, Thompson, Cooper and Gambrell: AN ACT TO AMEND ACT 269 OF 1989, AS AMENDED, RELATING TO ANDERSON COUNTY SCHOOL DISTRICT BUDGETS AND TAX MILLAGES, SO AS TO PROVIDE THAT THE BUDGET THAT A SCHOOL DISTRICT IN ANDERSON COUNTY MUST PROVIDE TO THE ANDERSON COUNTY BOARD OF EDUCATION MUST REFLECT ON A LINE ITEM BASIS THE MANNER IN WHICH ALL FUNDS IN THE BUDGET MUST BE EXPENDED DURING THE FISCAL YEAR, AND TO REQUIRE THE COUNTY BOARD TO OBTAIN FROM EACH SCHOOL DISTRICT AND POST ON THE COUNTY BOARD WEBSITE THE COMPENSATION OF ALL DISTRICT ADMINISTRATIVE EMPLOYEES RECEIVING COMPENSATION OF MORE THAN FIFTY THOUSAND DOLLARS ANNUALLY.

(R. 38, H. 3627) -- Reps. Miller and Anderson: AN ACT TO AMEND SECTION 59‑67‑535, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE USE OF BOATS OPERATED BY THE STATE DEPARTMENT OF EDUCATION FOR THE TRANSPORTATION OF SCHOOL CHILDREN FROM ISLANDS TO MAINLAND SCHOOLS BY CERTAIN OTHER PERSONS, SO AS TO FURTHER PROVIDE FOR THE OPERATION OF THESE BOATS BY THE DEPARTMENT ON SANDY ISLAND, FOR USE OF THESE BOATS BY SPECIFIED PERSONS, AND THE PROCEDURES APPLICABLE FOR USE.

(R. 39, H. 3635) -- Rep. Hodges: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50‑9‑560 SO AS TO SPECIFY APPLICABLE FEES FOR RECREATIONAL SALTWATER FISHING LICENSES; BY ADDING SECTION 50‑9‑715 SO AS TO SPECIFY RECREATIONAL SALTWATER FISHING LICENSE EXEMPTIONS; BY ADDING SECTION 50‑9‑925 SO AS TO SPECIFY HOW THE REVENUE FROM THE SALE OF STAMPS, LICENSES, PRINTS, AND RELATED ARTICLES MUST BE DISTRIBUTED; TO AMEND SECTION 50‑5‑15, RELATING TO THE DEFINITIONS APPLICABLE TO THE SOUTH CAROLINA MARINE RESOURCES ACT, SO AS TO DEFINE THE TERMS “DROP NET” AND “FOLD UP TRAP”; TO AMEND SECTION 50‑5‑955, RELATING TO THE DESIGNATION AND MAINTENANCE OF PUBLIC SHELLFISH GROUNDS, SO AS TO SUBSTITUTE REFERENCE TO THE RECREATIONAL SALTWATER FISHING LICENSE FOR THE MARINE RECREATIONAL FISHING STAMP; TO AMEND SECTION 50‑5‑1915, RELATING TO CHARTER FISHING VESSEL LOGS, SO AS TO REQUIRE MONTHLY SUBMISSIONS TO THE SOUTH CAROLINA DEPARTMENT OF NATURAL RESOURCES; TO AMEND SECTION 50‑9‑20, RELATING TO THE DURATION OF HUNTING AND FISHING LICENSES, SO AS TO REMOVE REFERENCES TO RESIDENT AND NONRESIDENT LICENSES; TO AMEND SECTION 50‑9‑40, RELATING TO LICENSES FOR FRESHWATER FISHING, SO AS TO SPECIFY RECREATIONAL FRESHWATER FISHING; TO AMEND SECTION 50‑9‑540, AS AMENDED, RELATING TO FRESHWATER AND SALTWATER FISHING LICENSES, SO AS TO MAKE TECHNICAL CORRECTIONS; AND TO REPEAL SECTIONS 50‑5‑1905, 50‑5‑1910, 50‑5‑1920, 50‑5‑1925, AND 50‑5‑1945 ALL RELATING TO RECREATIONAL SALTWATER FISHERIES LICENSES AND STAMPS.

(R. 40, H. 3721) -- Rep. Kirsh: AN ACT TO AMEND SECTION 12‑6‑40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE APPLICATION OF THE INTERNAL REVENUE CODE TO STATE TAX LAWS, SO AS TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE TO THE YEAR 2008; TO AMEND SECTION 12‑6‑50, AS AMENDED, RELATING TO INTERNAL REVENUE CODE SECTIONS NOT ADOPTED BY STATE LAW, SO AS TO MAKE ADDITIONS; AND TO PROVIDE THAT A TAXPAYER WHO FOLLOWS SECTION 3094 OF THE FEDERAL HOUSING ECONOMIC RECOVERY ACT OF 2008, FOR SOUTH CAROLINA PURPOSES MUST NOT BE PENALIZED.

(R. 41, H. 3776) -- Reps. A.D. Young, Harrell, Horne and Knight: AN ACT TO AUTHORIZE DORCHESTER COUNTY TO PAY PER DIEM, TRAVEL, OR OTHER EXPENSES TO A MEMBER OF A COUNTY BOARD OR COMMISSION WHEN THE MEMBER TRAVELS AND INCURS EXPENSES RELATING TO HIS DUTIES WHILE SERVING ON THE BOARD.

(R. 42, H. 3818) -- Reps. Funderburk, Gunn and Lucas: AN ACT TO PROVIDE THAT ON THE EFFECTIVE DATE OF THIS ACT, THE NAME OF THE KERSHAW COUNTY MEDICAL CENTER IS HEREBY CHANGED TO KERSHAWHEALTH.

(R. 43, H. 3856) -- Reps. Umphlett, Battle, Hardwick, Clemmons and Knight: AN ACT TO AMEND SECTION 51‑17‑85, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LIMITATIONS ON DISPOSITION OF HERITAGE TRUST PROPERTY, SO AS TO EXCLUDE PUBLIC INFRASTRUCTURE PROJECTS FROM THE LIMITATION.

Rep. MILLWOOD moved that the House do now adjourn, which was agreed to.

**RETURNED WITH CONCURRENCE**

The Senate returned to the House with concurrence the following:

H. 3974 -- Reps. Funderburk, Gunn, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Gambrell, Gilliard, Govan, Gullick, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO RECOGNIZE AND COMMEND THE ALPHA & OMEGA VOLLEYBALL CLUB'S 12 BLACK FOR A SUCCESSFUL SEASON AND TO CONGRATULATE THE PLAYERS AND THEIR COACH FOR GARNERING THE JUNIOR GIRLS' 2009 PALMETTO VOLLEYBALL REGION CHAMPIONSHIP.

H. 3995 -- Reps. White, Agnew, Bowen, Gambrell, Thompson, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Toole, Umphlett, Vick, Viers, Weeks, Whipper, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO EXPRESS THE DEEPEST SYMPATHY OF THE MEMBERS OF THE GENERAL ASSEMBLY TO THE FAMILY AND MANY FRIENDS OF M. J. "DOLLY" COOPER OF PIEDMONT, A DECORATED WORLD WAR II VETERAN, SUCCESSFUL BUSINESSMAN, AND A FORMER MEMBER OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES, UPON HIS DEATH, AT THE AGE OF EIGHTY-EIGHT.

**ADJOURNMENT**

At 4:10 p.m. the House, in accordance with the motion of Rep. WILLIAMS, adjourned in memory of Lila Mae Jerry Davis of Darlington, to meet at 10:00 a.m. tomorrow.

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