**South Carolina General Assembly**

119th Session, 2011-2012

**H. 3230**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Herbkersman

Document Path: l:\council\bills\agm\18265ab11.docx

Introduced in the House on January 11, 2011

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Charitable Investment Recovery Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/14/2010 House Prefiled

12/14/2010 House Referred to Committee on **Labor, Commerce and Industry**

1/11/2011 House Introduced and read first time ([House Journal‑page 92](file:///h:\hj%20archive\2011\01-11-11.docx))

1/11/2011 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 92](file:///h:\hj%20archive\2011\01-11-11.docx))

**VERSIONS OF THIS BILL**

[12/14/2010](file:///p:\pprever\2011-12\3230_20101214.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ENACTING THE “SOUTH CAROLINA CHARITABLE INVESTMENT RECOVERY ACT OF 2011” BY ADDING SECTION 33‑56‑56 SO AS TO EXEMPT CERTAIN LOANS TO CHARITIES FROM RETIREMENT ACCOUNTS FROM REPORTING REQUIREMENTS RELATED TO THE SOLICITATION OF CHARITABLE FUNDS; BY ADDING SECTION 38‑63‑110 SO AS TO PROVIDE A BONA FIDE CHARITY OR NOT‑FOR‑PROFIT CORPORATION MAY HAVE AN INSURABLE INTEREST IN AN INSURED’S LIFE IN CERTAIN CIRCUMSTANCES; TO AMEND SECTION 33‑31‑1407, RELATING TO A KNOWN CLAIM AGAINST A DISSOLVED CORPORATION, SO AS TO PROVIDE A CLAIM FOR A LIFE INSURANCE POLICY OWNED BY A CHARITY UNDER CERTAIN CIRCUMSTANCES MAY NOT BE BARRED; AND TO AMEND SECTION 35‑1‑102, RELATING TO CERTAIN DEFINITIONS ASSOCIATED WITH SOUTH CAROLINA UNIFORM SECURITIES ACT OF 2005, SO AS TO AMEND THE DEFINITION OF AN INVESTMENT CONTRACT.

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

SECTION 1. This act must be known as and may be cited as the “South Carolina Charitable Investment Recovery Act of 2011”.

SECTION 2. Chapter 56, Title 33 of the 1976 Code is amended by adding:

“Section 33‑56‑56. The provisions of this chapter do not apply to a loan under Section 38‑63‑110 from a donor’s retirement account to a charity if a fundraising activity is not conducted by a professional solicitor paid directly by the charity. A commission paid by an insurance company is not considered to be paid by the charity.”

SECTION 3. Article 1, Chapter 63, Title 38 of the 1976 Code is amended by adding:

“Section 38‑63‑110. (A) A bona fide charity or not‑for‑profit corporation that complies with the Solicitation of Charitable Funds Act in Chapter 55, Title 33 may have an insurable interest in the life of an insured under a life insurance policy if:

(1) this charity or corporation owns the policy and is the sole beneficiary of the policy; and

(2) the insured’s retirement account is designated as the collateral assignee of the insurance policy to secure repayment of a loan made from the retirement account.

(B) Neither the owner nor the retirement account providing a loan described in subsection (A)(2), if the loan is to be repaid through the death benefit paid under the policy, may be considered to have received an economic benefit from the existence of the collateral assignment.”

SECTION 4. Section 33‑31‑1407 of the 1976 Code is amended to read:

“Section 33‑31‑1407. (~~a~~A) A dissolved corporation may dispose of the known claims against it by following the procedure described in this section.

(~~b~~B) The dissolved corporation shall notify its known claimants in writing of the dissolution at any time after its effective date. The written notice must:

(1) describe information that must be included in a claim;

(2) provide a mailing address where a claim may be sent;

(3) state the deadline, which may not be fewer than one hundred twenty days from the effective date of the written notice, by which the dissolved corporation must receive the claim; and

(4) state that the claim will be barred if not received by the deadline.

(~~c~~C) A claim against the dissolved corporation is barred if a claimant:

(1) ~~if a claimant~~ who was given written notice under subsection (~~b~~B) does not deliver the claim to the dissolved corporation by the deadline;

(2) ~~if a claimant~~ whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within ninety days from the effective date of the rejection notice and the rejection notice stated that a proceeding to enforce the claim must be commenced within ninety days.

(D) A claim related to a life insurance policy owned by a charity under Section 38‑63‑110 may not be barred under a provision of this section.

(~~d~~E) For purposes of this section, ‘claim’ does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.”

SECTION 5. Section 35‑1‑102(29)(E) of the 1976 Code, as added by Act 110 of 2005, is amended to read:

“(E) ‘Investment contract’ may include, among other contracts, an interest in a limited partnership and a limited liability company and shall include an investment in a viatical settlement or similar agreement. An investment contract does not include an insurance policy issued to a charity to secure repayment of a loan from a donor’s retirement account under Section 38‑63‑110.”

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

‑‑‑‑XX‑‑‑‑