**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 49‑11‑125 SO AS TO ESTABLISH A PROCEDURE FOR AN OWNER OF A DAM TO DETERMINE IF THE DAM FALLS UNDER THE AUTHORITY OF THE “DAMS AND RESERVOIRS SAFETY ACT”; TO AMEND SECTION 49‑11‑120, RELATING TO DEFINITIONS APPLICABLE TO THE DAMS AND RESERVOIRS SAFETY ACT, SO AS TO REDEFINE THE TERM “DAM”; TO AMEND SECTION 49‑11‑160, RELATING TO AN ORDER TO MAINTAIN, ALTER, REPAIR, OR REMOVE A DAM, SO AS TO AUTHORIZE THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO ISSUE AN ORDER WHEN A DAM BECOMES DANGEROUS TO HUMAN LIFE OR THE PROPERTY OF SOMEONE OTHER THAN THE OWNER OF THE DAM; TO AMEND SECTION 49‑11‑200, RELATING TO THE APPROVAL REQUIREMENT FOR CONSTRUCTION OR ALTERATION OF A DAM, SO AS TO PROVIDE EXEMPTIONS TO THE REQUIREMENT WHEN THE DAM DOES NOT POSE A SIGNIFICANT DANGER TO HUMAN LIFE OR THE PROPERTY OF SOMEONE OTHER THAN THE OWNER OF THE DAM.

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

SECTION 1. Article 3, Chapter 11, Title 49 of the 1976 Code is amended by adding:

“Section 49‑11‑125. (A) The owner of a dam may submit the dam’s location, size, purpose, and impoundment capacity to the department for a determination if the dam is subject to the provisions of this article.

(B) A property owner intending to construct a new dam or enlarge an existing dam may submit the proposed location, size, purpose, and impoundment capacity of the dam to the department for a determination if the dam is subject to the provisions of this article.

(C) Nothing in this article prevents the department from making a determination that a dam is not or is no longer exempt from the provisions of this article due to a change in circumstances.”

SECTION 2. Section 49‑11‑120(4) of the 1976 Code is amended to read:

“(4) ‘Dam’ means an artificial barrier with appurtenant works, including, but not limited to, dams, levees, dikes, or floodwalls for the impoundment or diversion of waters or other fluids or the creation of a reservoir where failure may cause danger to human life or the property of others. However, this does not include a dam:

(a) less than twenty‑five feet in height from the natural bed of the stream or watercourse measured at the downstream toe of the dam, or less than twenty‑five feet from the lowest elevation of the outside limit of the dam, if it is not across a stream channel or watercourse, to the maximum water storage elevation and has an impounding capacity at maximum water storage elevation of less than fifty‑acre feet unless a situation exists where the hazard potential as determined by the department is such that dam failure or improper reservoir operation may cause loss of human life;

(b) greater than twenty‑five feet in height from the natural bed of the stream or watercourse measured at the downstream toe of the dam, or greater than twenty‑five feet from the lowest elevation of the outside limit of the dam, if it is not across a stream channel or watercourse, to the maximum water storage elevation and has an impounding capacity at maximum water storage elevation of more than fifty‑acre feet and where the hazard potential as determined by the department is such that dam failure or improper reservoir operation is not expected to cause loss of human life and only may cause minimal property damage;

(c) owned or operated by a department or an agency of the federal government;

~~(c)~~(d) owned or licensed by the Federal Energy Regulatory Commission, the South Carolina Public Service Authority, the Nuclear Regulatory Commission, the United States Corps of Engineers, or other responsible federal licensing agencies considered appropriate by the department;

~~(d)~~(e) upon which the Department of Transportation or county or municipal governments have accepted maintenance responsibility for a road or highway where that road or highway is the only danger to life or property with respect to failure of the dam.”

SECTION 3. Section 49‑11‑160 of the 1976 Code is amended to read:

“Section 49‑11‑160. The department may issue an order directing the owner of a dam or reservoir subject to the provisions of this article to make at his expense the necessary maintenance, alteration, repair, or removal upon a finding that the dam or reservoir:

(~~a~~A) is or has become unsafe and is dangerous to human life or the property of others; and

~~(b~~B)(1) is not maintained in good repair or operating condition; or

~~(c)~~(2) is not maintained or operated in accordance with the terms and conditions of the certificate of completion and operation issued by the department.”

SECTION 4. Section 49‑11‑200 of the 1976 Code is amended to read:

“Section 49‑11‑200. (A) The construction of a new dam or reservoir or enlargement, removal, or the repair of an existing dam or reservoir may not begin until the owner has applied for and obtained from the department written approval of plans and specifications.

(B) ~~Where the location and size of the dam or reservoir renders the requirements of subsection (A) and Section 49‑11‑210 unnecessary, the department may grant approval and waive certain nonessential requirements in instances, including, but not limited to, small dams and reservoirs for agricultural, fish or wildlife, or recreational uses on private lands and of no danger to other life or property downstream.~~

(1) If the location and size of a proposed dam or reservoir will pose no significant danger to human life or the property of someone other than the owner of the dam in instances including, but not limited to, dams and reservoirs for agricultural, fish or wildlife, or recreational uses on private lands, then the requirements of subsection (A), Section 49‑11‑210, and Section 49‑11‑220 do not apply.

(2) If the enlargement, removal, or repair of an existing dam or reservoir will not cause the dam to pose a significant danger to human life or the property of someone other than the owner of the dam, then the requirements of subsection (A), Section 49‑11‑210, and Section 49‑11‑220 do not apply.”

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

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