A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 3 TO CHAPTER 1, TITLE 46 BY ENACTING THE “FARMERS PROTECTION ACT” TO PREVENT DISCRIMINATION IN FINANCING AGAINST FARMERS.

Whereas, in the past two decades, farmers worldwide have fed an ever‑growing global population by increasing their crop yields by more than 50%, while simultaneously helping reduce agriculture’s share of global emissions; and

Whereas, the number of U.S. farms continues to decline, and small‑scale farm operators, which comprise 89% of U.S. farmers, now typically rely on off‑farm employment for most of their income; and

Whereas, activists have made clear that agriculture emissions targets for food and beverage companies “must cover scope 3 emissions,” which are emissions from suppliers, or in other words, farmers. Food and beverage companies that set these targets must then force farmers to measure, report, and reduce their emissions, which may put small struggling farmers out of business for good; and

Whereas, ESG activists have announced that the food and beverage industry must reduce its land‑based emissions by 85%, while admitting that farmers will have to increase food yields by 56% from 2010 levels to feed nearly 10 billion people in 2050; and

Whereas, ESG activists acknowledge that food security may be a “tradeoff” for emissions mitigation. Decreases in food production and corresponding increases in food prices invariably have the biggest impact on the poorest people; and

Whereas, ESG activists have declared that the United States must cut its beef consumption in half and that “global per capita meat consumption must be reduced to around 1.5 burgers per person per week by 2050 to align with a 1.5°C scenario.” This could lead to the loss of 19 million livestock jobs worldwide, including many in the United States, which is the top producer of beef and the largest exporter of agricultural products globally; and

Whereas, 3 billion people are alive today because of nitrogen fertilizer, yet ESG activists want to reduce its use. Their proposed “green fertilizer” will be more expensive, leading to millions of people going hungry or dying worldwide. Already, the United Nations Environment Programme’s (UNEP) demands for reduced use of nitrogen fertilizer helped push Sri Lanka to stop using chemical fertilizer, leading to a devastating crop yield decrease, skyrocketing food prices, and an economic and humanitarian disaster. UNEP has informed banks that it will review their emissions reduction targets for agriculture; and

Whereas, America’s six biggest banks joined the Net‑Zero Banking Alliance in 2021, which means they all must set UN‑approved agricultural targets for their portfolios by 2024 at the latest. Net‑Zero Banking Alliance members control more than forty percent of global banking assets; and

Whereas, ESG activists demand “zero emissions on farm machinery,” but ignore that electric heavy farm machinery would be far larger than diesel counterparts, would require extensive charging infrastructure on farms to meet harvesting demands, may struggle in cold weather, and simply “isn’t feasible”; and

Whereas, farmers in South Carolina depend on the availability of financing, and consumers depend on farmers for food. Reducing financing, restricting fertilizer usage, or forcing farmers to purchase electric farm machinery may put farmers out of business and raise food prices for consumers; and

Whereas, state governments should take steps to ensure that finance companies do not unfairly discriminate against agriculture producers. Now, therefore,

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

SECTION 1. Chapter 1, Title 46 of the S.C. Code is amended by adding:

Article 3

Farmers Protection Act

 Section 46‑1‑310. For purposes of this article:

 (1) “Agriculture producer” means a person or company engaged in the growing of crops or livestock production for retail consumption.

 (2) “Commissioner” means the Commissioner of the Department of Agriculture.

 (3) “Company” means a for‑profit organization, association, corporation, partnership, joint venture, sole proprietorship, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority‑owned subsidiary, parent company, or affiliate of those entities or business associations.

 (4) “Denies or restricts” means refusing to provide services, terminating existing services, or otherwise restricting or burdening the scope or nature of services offered or provided.

 (5) “Discriminate in the provision of financial services” means to directly or indirectly deny or restrict services and thereby decline to provide full and equal enjoyment in the provision of financial services.

 (6) “ESG commitment” means any purpose for a financial institution’s customers, or a financial institution’s decision to join any initiative or organization that has a purpose for its signatories’ or members’ customers to be aligned with any environmental, social, or political goals. Evidence of an ESG commitment includes, but is not limited to, any of the following:

 (a) advertising, statements, explanations, reports, statements of principles; and

 (b) participation in, affiliation with, or status as a signatory to, any coalition, initiative, joint statement of principles, or agreement the purpose of which is to use business activity to further environmental, social, or political goals.

 (7) “Financial institution” means a company that has total assets over one hundred billion dollars and offers financial services. A financial institution includes any affiliate or subsidiary company, even if that affiliate or subsidiary company is also a financial institution.

 (8) “Financial service” means any product or service that is of a financial nature and is offered by a financial institution.

 Section 46‑1‑320. (A) A financial institution may not discriminate in the provision of financial services to an agriculture producer based, in whole or in part, upon the agriculture producer’s greenhouse gas emissions, use of fossil‑fuel derived fertilizer, or use of fossil‑fuel powered machinery.

 (B) If a financial institution has made any ESG commitment related to agriculture, there is a rebuttable presumption that the institution’s denial or restriction of a financial service to an agriculture producer violates subsection (A).

 (C) A financial institution may overcome the rebuttable presumption in subsection (B) by demonstrating, through clear and convincing evidence, that its denial or restriction of a financial service was based solely on documented financial considerations, and not on any ESG commitment.

 Section 46‑1‑330. (A) Section 43‑1‑320 may be enforced by the South Carolina Attorney General. Any violation of Section 46‑1‑320 constitutes an unfair trade practice in violation of Chapter 5, Title 39, and the Attorney General may investigate and seek remedies as provided in that law.

 (B) Section 43‑1‑320 also may be enforced by the commissioner.

 (1) If the commissioner has reasonable cause to believe that a company has engaged in or is engaging in a violation of this article, the commissioner may:

 (a) require the company to file on forms the commissioner prescribes a statement or report in writing, under oath, as to all the facts and circumstances concerning the violation, as well as other data and information the commissioner deems necessary;

 (b) examine under oath any person in connection with the violation; and

 (c) examine any record, book, document, account, or paper the commissioner deems necessary.

 (2) The commissioner may conduct hearings, make recommendations, issue orders, and adopt such rules and regulations, pursuant to the Administrative Procedures Act, as the commissioner determines are reasonable and necessary to accomplish the evident purpose and intent of this act.

 (3) The commissioner may conduct statistical studies or surveys in order to collect data related to the existence and impact of ESG purposes that are related to agriculture, and may prepare and disseminate the information thus gathered, or any other information related to the existence and impact of those ESG purposes, in a manner of his choosing.

 (4) The commissioner may bring a civil action for:

 (a) preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order as is necessary to enforce the requirements of this article; and

 (b) civil penalties of up to ten thousand dollars per violation.

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

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

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