

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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of the
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STEPHEN T. DRAFFIN, DIRECTOR
ANNE F. CUSHMAN, EDITOR
DEIRDRE BREVARD-SMITH, ASSOCIATE EDITOR

P.O. BOX 11489
COLUMBIA, SC 29211
TELEPHONE (803) 212-4500

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This issue contains notices, proposed regulations, emergency regulations, final form regulations, and other documents filed in the Office of the Legislative Council, pursuant to Article 1, Chapter 23, Title 1, Code of Laws of South Carolina, 1976.

SOUTH CAROLINA STATE REGISTER

An official state publication, the *South Carolina State Register* is a temporary update to South Carolina's official compilation of agency regulations--the *South Carolina Code of Regulations*. Changes in regulations, whether by adoption, amendment, repeal or emergency action must be published in the *State Register* pursuant to the provisions of the Administrative Procedures Act. The *State Register* also publishes the Governor's Executive Orders, notices or public hearings and meetings, and other documents issued by state agencies considered to be in the public interest. All documents published in the *State Register* are drafted by state agencies and are published as submitted. Publication of any material in the *State Register* is the official notice of such information.

STYLE AND FORMAT

Documents are arranged within each issue of the *State Register* according to the type of document filed:

Notices are documents considered by the agency to have general public interest.

Notices of Drafting Regulations give interested persons the opportunity to comment during the initial drafting period before regulations are submitted as proposed.

Proposed Regulations are those regulations pending permanent adoption by an agency.

Pending Regulations Submitted to the General Assembly are regulations adopted by the agency pending approval by the General Assembly.

Final Regulations have been permanently adopted by the agency and approved by the General Assembly.

Emergency Regulations have been adopted on an emergency basis by the agency.

Executive Orders are actions issued and taken by the Governor.

2007 PUBLICATION SCHEDULE

Documents will be accepted for filing on any normal business day from 8:30 A.M. until 5:00 P.M. All documents must be submitted in the format prescribed in the *Standards Manual for Drafting and Filing Regulations*.

To be included for publication in the next issue of the *State Register*, documents will be accepted no later than 5:00 P.M. on any closing date. The modification or withdrawal of documents filed for publication must be made **by 5:00 P.M.** on the closing date for that issue.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Submission Deadline	1/12	2/9	3/9	4/13	5/11	6/8	7/13	8/10	9/14	10/12	11/9	12/14
Publishing Date	1/26	2/23	3/23	4/27	5/25	6/22	7/27	8/24	9/28	10/26	11/23	12/28

REPRODUCING OFFICIAL DOCUMENTS

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PUBLIC INSPECTION OF DOCUMENTS

Documents filed with the Office of the State Register are available for public inspection during normal office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday. The Office of the State Register is in the Legislative Council, Fourth Floor, Rembert C. Dennis Building, 1000 Assembly Street, in Columbia. Telephone inquiries concerning material in the *State Register* or the *South Carolina Code of Regulations* may be made by calling (803) 212-4500.

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

To adopt, amend or repeal a regulation, an agency must publish in the *State Register* a Notice of Drafting; a Notice of the Proposed Regulation that contains an estimate of the proposed action's economic impact; and, a notice that gives the public an opportunity to comment on the proposal. If requested by twenty-five persons, a public hearing must be held at least thirty days after the date of publication of the notice in the *State Register*.

After the date of hearing, the regulation must be submitted to the General Assembly for approval. The General Assembly has one hundred twenty days to consider the regulation. If no legislation is introduced to disapprove or enacted to approve before the expiration of the one-hundred-twenty-day review period, the regulation is approved on the one hundred twentieth day and is effective upon publication in the *State Register*.

EMERGENCY REGULATIONS

An emergency regulation may be promulgated by an agency if the agency finds imminent peril to public health, safety or welfare. Emergency regulations are effective upon filing for a ninety-day period. If the original filing began and expired during the legislative interim, the regulation can be renewed once.

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

Regulations promulgated to comply with federal law are exempt from General Assembly review. Following the notice of proposed regulation and hearing, regulations are submitted to the *State Register* and are effective upon publication.

EFFECTIVE DATE OF REGULATIONS

Final Regulations take effect on the date of publication in the *State Register* unless otherwise noted within the text of the regulation.

Emergency Regulations take effect upon filing with the Legislative Council and remain effective for ninety days. If the original ninety-day period begins and expires during legislative interim, the regulation may be refiled for one additional ninety-day period.

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 South Carolina General Assembly Home Page: www.scstatehouse.net

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3119		Educational Requirements	1/13/08	LLR: Real Estate Appraisers Board
3116		Malpractice Insurance Claims	1/20/08	Department of Insurance
3117		Workers' Compensation Assigned Risk Rates	1/20/08	Department of Insurance
3109		Property Tax	1/29/08	Department of Revenue
3110		Restocking Fees	1/29/08	Department of Revenue
3122		Wildlife Management Area Regulations	4/13/08	Department of Natural Resources
3127		Chapter Revision	4/15/08	LLR: Veterinary Examiners
3125		Driver Schools and Truck Driver Training Schools	5/07/08	Department of Public Safety
3112		Environmental Protection Fees	5/07/08	Department of Health and Envir Control
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3111		Coastal Division Regulations	5/07/08	Department of Health and Envir Control
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3123		Gasoline, Lubricating Oils and Other Petroleum Products	5/07/08	Department of Agriculture
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3118		Mobile Dental Facilities and Portable Dental Operations		LLR: Board of Dentistry
3113		Solid Waste Management		Department of Health and Envir Control

2 NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

PUBLIC NOTICE

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication November 23, 2007, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Charleston County

Upgrade of existing 1.0T Magnetic Resonance Imaging (MRI) unit to a 1.5T MRI and purchase of a CAD Stream-C Dual Monitor Workstation for processing breast MRI data
Charleston Imaging Center
Mt Pleasant, South Carolina
Project Cost: \$2,067,070

Affecting Lexington County

Change of Licensure of the existing forty-four (44) licensed institutional nursing home beds which do not provide a community service to forty-four (44) nursing home beds which will not participate in the Medicaid (Title XIX) Program
Presbyterian Home of South Carolina – Columbia
Lexington, South Carolina
Project Cost: \$0

Affecting Richland County

Renovation for the addition of a Siemens ECAT ACCEL PET Scanner System
South Carolina Heart Center, PA
Columbia, South Carolina
Project Cost: \$832,566

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning November 23, 2007. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 545-4200.

Affecting Greenville County

Acquisition of a 1.5T Magnetic Resonance Imaging (MRI) unit to be installed in a permanent modular building at the rear of the existing facility located at 1050 Grove Road
Piedmont Orthopaedic Associates, PA
Greenville, South Carolina
Project Cost: \$2,573,913

Affecting Kershaw County

Addition of forty-four (44) skilled nursing home beds resulting in a total of one hundred ninety-two (192) skilled nursing home beds of which forty-four (44) will not participate in the Medicaid (Title XIX) Program.
Springdale Health Care Center

Camden, South Carolina
Project Cost: \$ 5,324,435

Affecting Oconee County

Replacement of the existing single slice Computed Tomography (CT) scanner with a sixteen (16) slice CT scanner

Oconee Memorial Hospital
Seneca, South Carolina
Project Cost: \$1,303,634

Affecting Richland County

Construction of a new patient bed tower and modernization of the existing facility resulting in all private patient rooms with the total licensed bed capacity remaining at two hundred fifty-eight (258) general acute care beds.

Providence Hospital
Columbia, South Carolina
Project Cost: \$57,094,614

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

PUBLIC NOTICE

Pursuant to SC Code §49-21-40 and R.121-12.7, the South Carolina Department of Health and Environmental Control gives notice that the City of Columbia has filed a Class I Interbasin Transfer Application to transfer water from the Broad River and Saluda River basins to the Congaree, Broad, Saluda and Catawba-Wateree River basins. The Interbasin Transfer Application is for renewal of an existing Interbasin Transfer Registration of 100 million gallons per day from the Saluda River basin and 100 million gallons per day from the Broad River Basin that expired August 31, 2007. Raw water is withdrawn from Lake Murray in the Saluda River basin and treated at the Lake Murray Water Treatment Plant and distributed to the Richland and Lexington County as well as the City of Columbia service area that lies in the Saluda, Congaree, Broad and Catawba-Wateree River basins. Wastewater from the City of Columbia service area is treated at several wastewater treatment plants including the City of Columbia Metro WWTP, East Richland WWTP, Westinghouse WWTP, McEntire AFB WWTP, Amphenol Corporation WWTP, Alpine Utilities WWTP, Woodlands Hills WWTP, Friarsgate WWTP, Shaw Industries WWTP, Bush River WWTP, Town of Chapin WWTP, Broad River WWTP, Raintree Acres WWTP, Spears Creek WWTP as well as septic tanks and discharged to the Saluda, Congaree, Broad and Catawba-Wateree River basins. The requested duration of the permit is for twenty (20) years to withdraw a daily maximum of 125 million gallons of water a day from Lake Murray and 125 million gallons of water a day from the Broad River.

Any person may request a copy of the application by submitting a statement to the address below specifying how he or she will be affected. Any person may submit comments on the application; to be considered, comments must be received by the Department by the close of business on January 23, 2008. Any person wishing to receive notification of the permit decision should submit a request for such notification (which may be included with your comments) to the address below.

Comments should be directed to: Christina H. Lewis, SCDHEC, 2600 Bull Street, Columbia SC 29201.

4 NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

ERRATA

**Corrects Public Hearing Date Re:
State Register Document No. 3162 Published October 26, 2007
Proposed Amendment of Regulation 61-86.1,
Standards of Performance for Asbestos Projects**

On October 11, 2007, the South Carolina Board of Health and Environmental Control granted approval to public notice proposed amendments to Regulation 61-86.1, *Standards of Performance for Asbestos Projects*. These proposed amendments were published on October 26, 2007, in Vol. 31, Issue 10 of the *South Carolina State Register* as Document No. 3162. In this document under "Notice of Public Hearing and Opportunity for Public Comment", an incorrect public hearing date of October 11, 2007, was specified. The purpose of this errata is to republish the "Notice of Public Hearing and Opportunity for Public Comment" addressing the proposed amendments to Regulation 61-86.1, *Standards of Performance for Asbestos Projects*, in order to specify the correct date for the public hearing before the South Carolina Board of Health and Environmental Control as follows:

Interested members of the public and regulated community are invited to comment on the proposed amendments to Regulation 61-86.1, *Standards of Performance for Asbestos Projects*, at a public hearing to be conducted by the Board of the South Carolina Department of Health and Environmental Control at its regularly-scheduled meeting on January 10, 2008. The public hearing is to be held in room 3420 (Board Room) of the Commissioner's Suite, third floor, Aycock Building of the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department twenty-four hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

DEPARTMENT OF LABOR, LICENSING AND REGULATION OFFICE OF STATE FIRE MARSHAL

NOTICE

Notice is hereby given that, in accordance with Section 1-34-30 of the 1976 Code of Laws of South Carolina, as amended, the Department of Labor, Licensing and Regulation, Office of State Fire Marshal hereby adopts the latest edition of the following nationally recognized code.

1. National Fire Protection Association 102, Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures, 2006 Edition
2. The original promulgating authority for this code is: National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269
3. This code is referenced by: South Carolina Rules and Regulations 71-8306.1(A) and South Carolina Rules and Regulations 71-8306.2(A)

The Office of State Fire Marshal specifically requested comments concerning sections of this edition, which may be unsuitable for enforcement in South Carolina and received none. Therefore, the Office of State Fire Marshal hereby promulgates this latest edition without amendment.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF MEDICAL EXAMINERS**

NOTICE

In accordance with Section 1-23-40 of the 1976 Code of Laws of South Carolina, as amended, notice is hereby given that the State Board of Medical Examiners of South Carolina has adopted the following statement as guidance for physicians practicing under the South Carolina Medical Practice Act. For purposes of discipline and licensure in matters before the Board, failure to practice in compliance with this statement may lead to discipline as a violation of the Medical Practice Act (Section 40-47-5, et seq.) and Respiratory Care Practice Act (Section 40-47-500, et seq.).

**THE SOUTH CAROLINA BOARD OF MEDICAL EXAMINERS
POLICY ON GUIDELINES FOR PHYSICIAN PRACTICE OF SLEEP MEDICINE**

The following parameters are the result of a cooperative effort by an ad-hoc physicians subcommittee that was asked to develop a policy for guidance to the Board pertaining to physicians practicing sleep medicine. The subcommittee was asked to give special attention to:

1. Qualifications of medical directors for sleep facilities
2. Roles and responsibilities for medical directors of sleep facilities
3. Medical delegation of sleep-related procedures
4. Continuing medical education

These parameters were accepted by consensus of the subcommittee in the interest of assuring patient safety in the practice of sleep medicine.

Qualifications for Medical Director of Sleep Facilities

Qualified medical directors of sleep laboratories or sleep disorder centers must have a valid medical license in South Carolina. Medical Directors of Sleep Facilities must be recognized as a Diplomat of the American Board of Sleep Medicine or demonstrate certification of eligibility for the sleep disorders specialty examination administered by the Medical Specialty Boards including:

- The American Board of Internal Medicine
- The American Board of Psychiatry and Neurology
- The American Board of Otolaryngology
- The American Board of Pediatrics
- Other sleep medicine specialty examination providers approved by the Board.

Roles and Responsibilities for Medical Directors of Sleep Facilities

Roles and responsibilities for medical director of sleep facilities include:

- Oversight of sleep study scoring and interpretation.
- Development and implementation of quality assurance programs.
- Presence in all laboratories for which he/she is the Medical Director on a regular basis.
- Development and implementation of a mechanism to evaluate the competency and quality of interpretations provided by physicians employed by the laboratory or who read sleep studies performed in the lab. This mechanism will include an appropriate review and co-signature on studies interpreted by physicians not Board Certified in Sleep Disorders Medicine.
- Maintenance of facility accreditation by the American Academy of Sleep Medicine, its successor organization or any other credentialing organization approved by the Board.

Medical Delegation of Sleep Related Procedures

Medical Directors for sleep laboratories are responsible for assuring compliance with all medical practice requirements as outlined in the Medical Practice Act and any relevant Board policy. Specific references include a review of the definition of Medical Delegation and Board Policy on Exemptions for the Provision of Artificial Pressure Adjuncts to the Respiratory System:

6 NOTICES

Medical Practice Act Section 40-47-20. Definitions:

(13) A delegated medical act means additional acts delegated by a physician or dentist to a physician assistant, respiratory care practitioner, anesthesiologist's assistant or other practitioner authorized by laws under approved written scope of practice guidelines or approved written protocols as provided by law in accordance with the applicable scope of professional practice. Delegated medical acts must be performed under the supervision of a physician or dentist who must be readily or immediately available for consultation in accordance with the applicable scope of practice.

Guidelines for Exemption for the Provision of Artificial Pressure Adjuncts to the Respiratory System:

Section 40-47-530(A)(3) of the 1976 Code, as amended, states "As it relates to respiratory care, individuals exempt pursuant to this section must present proof of formal training for these functions which includes an evaluation of competence through a mechanism that is determined by the board and the committee to be both valid and reliable. The clinical assessment of artificial pressure adjuncts to the respiratory system may not be performed by any other person without proof of formal training and exemption by the board."

Continuing Medical Education

Professional and technical staff must participate and document a minimum of 10 hours per year averaged over two years of CME/CEC sleep related educational activities.

Summary

This policy applies to all physicians practicing sleep medicine. Although persons who conduct themselves in accordance with this policy should avoid disciplinary action by the Board of Medical Examiners; such persons may still face civil liability under some circumstances and should, therefore, consult private counsel where doubt exists as to what actions are appropriate.

References

AASM Standards for Accreditation of Laboratories of Sleep Related Breathing Disorders
AASM Standards for Accreditation of Sleep Disorders Centers
Centers for Medicare and Medicaid (CMS) Medicare Coverage Database – LCD L21830AASM Private
SC Medical Practice Act, as amended 2006
SC Respiratory Care Practice Act
SC Rules and Regulations
Department of Labor, Licensing and Regulation Guidelines for Exemption for the Provision of Artificial Pressure Adjuncts to the Respiratory System
AASM Directory of Private Medical Insurers Compiled July 17, 2006

DEPARTMENT OF AGRICULTURE
CHAPTER 5
Statutory Authority: 1976 Code Section 46-21-20

Notice of Drafting:

The South Carolina Department of Agriculture is considering the amendment of regulations which govern, to the extent authorized by the S.C. Code, Title 46, Chapter 21, related to the standards and tolerance level of noxious weeds and varieties, as well as the procedures and requirements for carrying out the Seed Law, including the registration and enforcement of permits and licenses issued for the commercial sale of seed in South Carolina.

Interested parties should submit written comments to Anne E. Crocker, South Carolina Department of Agriculture, P.O. Box 11280, Columbia, SC 29211-1280. To be considered, comments should be received no later than December 31, 2007, the close of the drafting comment period.

Synopsis:

The proposed regulations will be amended to properly reflect the listing and tolerance of noxious weeds, as well as other seed standards used by the Department related to the uniform quality of seed products sold in South Carolina and purchased by South Carolina consumers.

These proposed regulations will require legislative action.

DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF DENTISTRY
CHAPTER 39
Statutory Authority: 1976 Code Sections 40-1-40, 40-15-40, and 40-15-172

Notice of Drafting:

The Board of Dentistry is proposing to add new Regulation 39-18 to implement Section 40-15-172 of the 1976 Code of Laws of South Carolina, as amended (2006 Act 378) regarding requirements of mobile dental facilities and portable dental operations. Written comments may be submitted to Ken Buxton, Board Administrator, at 110 Centerview Drive, 3rd Floor, Columbia, South Carolina, 29211-1329.

Synopsis:

The purpose of the new Regulation is to implement Section 40-15-172 of the 1976 Code of Laws of South Carolina, as amended (2006 Act 378) regarding requirements of mobile dental facilities and portable dental operations by defining terms, establishing fees, and providing for the issuance and renewal of registration.

8 DRAFTING

DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF PHYSICAL THERAPY EXAMINERS
CHAPTER 101

Statutory Authority: 1976 Code Section 40-45-10 et seq.

Notice of Drafting:

The Board of Physical Therapy Examiners is considering updating its regulations to reflect advances in professional education, continuing education, evaluation of foreign credentials and practice across jurisdictional lines. Written comments can be submitted to Veronica Reynolds, Board Administrator, at 110 Centerview Drive, 3rd Floor, Columbia, South Carolina, 29211-1329.

Synopsis:

The purpose of the regulation is to update as well as reflect advances in professional education, continuing education, evaluation of foreign credentials and practice across jurisdictional lines. The Board also is considering drafting regulations to clarify other aspects of existing regulations.

PUBLIC SERVICE COMMISSION
CHAPTER 103

Statutory Authority: 1976 Code Section 58-3-140 (Supp. 2006)

Notice of Drafting:

The Public Service Commission of South Carolina proposes to draft regulations governing the annual certification and reporting requirements of designated Eligible Telecommunications Carriers (ETCs). Interested persons may submit comments to the Public Service Commission, Docketing Department, 101 Executive Center Drive, Columbia, South Carolina 29210. Please reference Docket Number 2006-37-C. To be considered, comments must be received no later than 4:45 p.m. on December 31, 2007.

Synopsis:

Federal regulations require that the Commission file an annual certification with the Universal Service Administrative Company and the Federal Communications Commission stating that all federal high-cost support provided to ETCs within South Carolina are used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The Commission intends to draft regulations that outline the filing and annual reporting requirements for designated ETCs.

Legislative review of this proposal will be required.

PUBLIC SERVICE COMMISSION
CHAPTER 103

Statutory Authority: 1976 Code Section 58-3-140 (Supp. 2006)

Notice of Drafting:

The Public Service Commission of South Carolina proposes to draft regulations regarding bonding or other security for prepaid local exchange telephone service providers. Interested persons may submit comments to the Public Service Commission, Docketing Department, 101 Executive Center Drive, Columbia, South Carolina 29210. Please reference Docket Number 2007-400-C. To be considered, comments must be received no later than 4:45 p.m. on December 31, 2007.

Synopsis:

The Commission is interested in determining whether regulations governing telephone companies that provide prepaid local exchange service should be promulgated. More specifically, the Commission wants to determine whether regulations should require bonding or other security from prepaid local exchange telephone service carriers to protect consumers of prepaid local exchange telephone service, and if so, how such requirements should be implemented.

Legislative review of this proposal will be required.

WORKERS' COMPENSATION COMMISSION

CHAPTER 67

Statutory Authority: 1976 Code Section 42-3-30

Notice of Drafting:

The South Carolina Workers' Compensation Commission proposes to amend and add regulations to Chapter 67 to reflect changes in Title 42 necessitated by the approval of Act 111 on June 25, 2007, affecting accidents occurring after July 1, 2007. Interested persons should submit their views in writing to Janet Godfrey Griggs, General Counsel, South Carolina Workers' Compensation Commission, Post Office Box 1715, Columbia, South Carolina 29202-1715. To be considered, comments must be received no later than 5:00 p.m. on December 31, 2007, the close of the drafting comment period.

Synopsis:

The Commission is making revisions to address, but not necessarily limited to, the following subjects:

Regulation 67-203B will be amended to reflect the addition of several new forms for accidents on or after July 1, 2007.

Regulations 67-207C and 67-207D will be added to reflect additional requirements for Forms 50 and 52 for accidents on or after July 1, 2007.

Regulations 67-603E and 67-607F will be added to reflect additional requirements for the Form 51 for accidents on or after July 1, 2007.

Regulation 67-615E will be added to reflect procedural changes regarding transcripts.

Regulation 67-705I will be added to reflect procedural changes regarding transcripts.

Regulation 67-711C will be added to reflect procedural changes regarding transcripts.

Regulation 67-801F will be added to reflect changes in the Form 16 for accidents on or after July 1, 2007.

A new Regulation 67-802B is inserted following Regulation 67-802A. The current Regulation 67-802B will be renumbered as 67-802C.

Regulation 67-802B, 67-802B(1) 67-802B(1)(a), 67-802B(1)(b), 67-802B(1)(c), 67-802B(2), 67-802B(2)(a), 67-802B(2)(b), 67-802B(2)(c), 67-802(2)(d), and 67-802(2)(e) will be added to reflect changes in forms and procedure for settlement on a Form 16 for accidents on or after July 1, 2007.

10 DRAFTING

Regulations 67-803B, 67-803B(3), 67-803B(3)(a), 67-803B(3)(b), 67-803B(3)(c), 67-803B(3)(d), and 67-803B(3)(e) are added to reflect changes in procedure for settlement by agreement and final release for accidents on or after July 1, 2007.

Current Regulation 67-803B becomes Regulation 67-803C.

Regulation 67-804D will be added to reflect procedural changes for requesting informal conferences for accidents on or after July 1, 2007.

Regulations 67-804D, 67-804E, 67-804F, 67-804G, 67-804H, 67-804I, and 67-804J will be renumbered accordingly.

Regulation 67-805A and 67-805B will be amended to reflect a change in procedure for third party settlements.

Regulation 67-1204F, 67-1204F(1), and 67-1204F(2) will be added to reflect procedural changes for approving attorneys fees for accidents on or after July 1, 2007.

Regulation 67-1204G, 67-1204G(1), 67-1204G(2), 67-1204G(2)(a), 67-1204G(2)(b), and 67-1204G(2)(c) will be added to reflect procedural changes for approving attorneys fees for accident on or after July 1, 2007.

Regulation 67-1204F will be renumbered Regulation 67-1204H.

Regulation 67-1307 will be added to establish the role of rehabilitation professionals and other similarly situated professionals in workers' compensation cases.

Regulation 67-1405 will be added regarding new sanctions for failure to comply with Commission orders.

Other pertinent changes will be made which may fall under the scope of the proposed revisions.

Legislative review of these proposals will be required.

Document No. 3174
BUDGET AND CONTROL BOARD
 CHAPTER 19

Statutory Authority: 1976 Code Section 11-35-10 et seq.

19-445. South Carolina Procurement Regulations

Preamble:

The Consolidated Procurement Code authorizes the Budget and Control Board to promulgate regulations governing the procurement, management, control, and disposal of any and all supplies, services, information technology, and construction to be procured by the State and any other regulations relating to implementation of Title 11, Chapter 35. (Sections 11-35-60 & -540(1)) The proposed regulation regards Regulation 19-445 and procurement in general.

Notice of Drafting for the proposed amendments was published in the State Register on October 26, 2007.

Section by Section Discussion

Section 2042. Pre-Bid Conferences.

A review of public notices for state procurements revealed that when pre-bid conferences are conducted, over 70% are identified as mandatory. When a potential bidder (or offeror) fails to attend a mandatory pre-bid conference, the practice has been to reject their bid if one is submitted. Since 1970, the United State's Comptroller General has ruled that the failure to attend a mandatory pre-bid conference is not grounds for rejecting a bid. In doing so, the CG presented a strong case that mandatory pre-bid conferences are anti-competitive. Pre-bid conferences cannot and do not add to or take away from the requirements of a solicitation and do not in any way bind a bidder. This can only be done by a written modification to the solicitation. Indeed, Section 2042 currently states that nothing said at a pre-bid conference, regardless of whether it is mandatory, changes the invitation for bids unless a change is made in writing. Thus, mandatory pre-bid conferences tend to limit competition without any corresponding benefit. In recognition of this, Section 2042 was modified by breaking the existing paragraph into two subparagraphs A and B. The first two sentences of the original paragraph were placed in subparagraph A and an additional sentence was added to require that notice of any pre-bid conference be placed in the notice of solicitation. The remaining sentences of the original paragraph were placed in subparagraph B and a provision added that states that a potential bidder's failure to attend an advertised pre-bid conference does not excuse its responsibility to properly estimate the difficulty and cost of successfully performing the work or for successfully performing the work at no additional cost to the state. A new subparagraph C was added that requires any agency desiring to use a pre-bid conference to make a determination that the conference is justified by the unique nature of the project and that it will not unduly restrict competition.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the S.C. Code, as amended, such hearing will be held on January 11, 2008 at 10:00 AM in the Governor's Conference Room, Wade Hampton Building, State House Grounds, Columbia, South Carolina. Persons desiring to make oral comment at the hearing are asked to provide written copies of their presentation for the record. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Written comments, requests for the text of the proposed amendments or any other information, and any requests for a public hearing, should be submitted to Materials Management Office, Attn: Keith McCook, 1201 Main Street, Suite 600, Columbia, SC 29201, on or before 5:00 PM on December 27, 2006. Copies of the

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text of the proposed amendments for public notice and comment are available at <http://www.gs.sc.gov/webfiles/gc/Resources/draftregs2008b.pdf>.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The State Budget and Control Board estimates that no additional costs will be incurred by the State and its political subdivisions in complying with the proposed revisions to Regulation 19-445.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: South Carolina Procurement Regulations

Purpose: These regulations are proposed to clarify and improve the procedures used in procurement.

Legal Authority: Title 11, Chapter 35 of the South Carolina Code of Laws

Plan for Implementation: The proposed amendments would be incorporated within R.19-445 upon publication in the State Register as a final regulation. The proposed amendments will be implemented in the same manner in which the existing regulation is implemented. As part of its routine training program, the State Budget and Control Board will offer training classes to inform government officials regarding the impact of the proposed regulations.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

As reflected in Section 11-35-20, the Consolidated Procurement Code was enacted to consolidate, clarify, and modernize the law governing procurement in this State and to permit the continued development of explicit and thoroughly considered procurement policies and practices. These regulations are designed to achieve those purposes and policies, consistent with best practices developed through experience. Accordingly, the State Budget and Control Board determined that the proposed amendments to the state's procurement regulations are needed and reasonable.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions, nor will the proposed amendments result in any increased cost to the business community. The proposed amendments will benefit covered governmental entities by enhancing the integrity of the process, improving efficiency, and allowing sound procurement practices that enable government to acquire better value for the taxpayer's dollars.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the State or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulations have no effect on the environment or on public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

There will be no detrimental effect on the environment or public health if the regulations are not implemented.

Statement of Rationale:

The Consolidated Procurement Code expressly contemplates the continued development of explicit and thoroughly considered procurement policies and practices. The proposed changes are needed to accommodate these developments and to further consolidate, clarify, and modernize the law governing procurement in this State. S.C. Code Section 11-35-20(d).

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 3175
BUDGET AND CONTROL BOARD
CHAPTER 19

Statutory Authority: 1976 Code Section 11-35-10 et seq.

19-445. South Carolina Procurement Regulations

Preamble:

The Consolidated Procurement Code authorizes the Budget and Control Board to promulgate regulations governing the procurement, management, control, and disposal of any and all supplies, services, information technology, and construction to be procured by the State and any other regulations relating to implementation of Title 11, Chapter 35. (Sections 11-35-60 & -540(1)) The proposed regulation will address various matters regarding Regulation 19-445 and procurement in general. Construction will be the focus.

Notice of Drafting for the proposed amendments was published in the State Register on October 26, 2007.

Section by Section Discussion

Section 2010. Disclosure of Procurement Information.

As modified, subparagraph D no longer applies to non-state personnel.

Senate Bill 282 (S. 282), currently pending before the General Assembly, requires that agencies soliciting construction services using the competitive sealed proposal process do so under the supervision of the Office of the State Engineer. To facilitate this requirement, a new subparagraph H was added to this section to allow the furnishing of source selection information to the Office of the State Engineer and to require such furnishing upon request of the Office of the State Engineer.

Section 2095. Competitive Sealed Proposals.

S. 282 will supersede the original text of subparagraph F. Therefore, the language of this subparagraph was deleted and, consistent with the modifications to Section 2145(B)(3) and as allowed by S. 282, new language was added stating it is not practicable or advantageous to the State to procure guaranteed energy, water, or wastewater saving contracts by competitive sealed bidding.

Section 2132. Prequalification for a Single Solicitation.

Technical change only. No substantive change intended.

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Section 2145. Construction, Architect Engineer, Construction Management, and Land Surveying Services.

A new subsection A was added to provide definitions of terms (Designer, Builder, Design-Builder, DBO Producer, DBFO Producer, Guaranteed Maximum Price, Independent Peer Reviewer, and Operator) related to construction procurements using alternative construction delivery methods and used in other subsections of this Section.

Existing subsection A, now subsection B, was modified to set forth standards for determining the appropriate project delivery method. The language and title for original sub-subparagraph 3 was deleted and new language was inserted designating design-bid-build (using competitive sealed bidding) as an appropriate project delivery method for any infrastructure facility except guaranteed energy, water, or wastewater savings contracts (Section 48-52-670).

Existing subparagraph B governing the advertising of construction procurements in South Carolina Business Opportunities was deleted in its entirety and its requirements moved to new subparagraph I.

Without change, subparagraph C requires bid, performance, and payment bond sureties to have a financial strength rating of five times the contract price. For contracts where, in addition to design and construction services, the contractor will be responsible for operation and maintenance of a infrastructure facility, S. 282 allows the bid, performance, and payment bond to exclude the operation and maintenance phases of the contract. To conform with S. 282, subparagraph C, as modified, limits bid, performance, and payment bond sureties financial strength rating requirements to five times that portion of the contract price that does not include operations and maintenance. Subparagraph C was also modified to provide that the form of the performance and payment bond shall be the form specified in the Manual for Planning and Execution of State Permanent Improvements – Part II.

Subparagraph D governing Architect Engineer, Construction Management and Land Surveying Services Procurement remains unchanged.

Without change, Subparagraph E prescribes various forms and their editions that must be used on design-bid-build projects. Some of these forms and editions are outdated and no longer used. Moreover, the regulations do not address contract forms for alternative project delivery methods addressed by S. 282. As modified, subparagraph E updates the references to standard industry form contract documents used on design-bid-build projects and provides that the Manual for Planning and Execution of State Permanent Improvements – Part II shall specify the edition of these forms to be used. Modifications to this subparagraph also permit adoption of other contract forms not specified in the regulation or otherwise required by law by publication in the Manual for Planning and Execution of State Permanent Improvements – Part II. This will allow for the future adoption of contract forms for alternative project delivery methods to design-bid-build without amending the regulations.

Except for one minor technical modification in the title, subparagraph F, providing for the preparation and furnishing of the Manual for Planning and Execution of State Permanent Improvements, remains unchanged.

S. 282 replaces the section governing prequalification in construction (11-35-1825) with a new section (11-35-3023). Subparagraph G was modified to change the existing reference to Section 11-35-1825. The modifications also include the addition of a new sentence making the provisions of Section 2123 governing prequalification for a single solicitation applicable to construction.

Subparagraph H governing Indefinite Delivery Contracts remains unchanged.

The provisions of existing subparagraph B applying to competitive sealed bidding the provisions of Section 2040 governing the advertising of construction procurements in South Carolina Business Opportunities (SCBO) were deleted and moved to this new paragraph I. Subparagraph I adds a new provision

that excludes construction procurements from the requirement in Section 2090(B) that the date for posting the notice of intent to award be included in the solicitation published in SCBO. This in conformance with Section 11-35-3020 which requires the date for the posting of notice of intent to award to be announced at the bid opening.

To effectively use the alternative project delivery methods allowed by S. 282, an agency may need to contract for a report or study that the agency may subsequently use in the creation of its design requirements to be used to solicit proposals. Preparation of such a report or study may, if not appropriately managed, give a contractor a competitive edge. New subparagraph J addresses this situation by requiring the procurement officer to consider whether a contractor who provides a report or study will have a competitive edge in a subsequent procurement and to take appropriate steps to eliminate or mitigate the advantage.

S. 282, in appropriate circumstances, permits agencies to use design-build, design-build-operate-maintain, or design-build-finance-operate-maintain methods of project delivery for infrastructure facilities. S. 282 requires design-build, design-build-operate maintain, and design-build-finance-operate-maintain services to be procured using competitive sealed proposals in accordance with Section 11-35-1530. New subparagraph K establishes important best practices for procuring such services by competitive sealed proposals by setting standards for the contents of a request for proposals, including design requirements and evaluation factors.

By allowing procurement of design services (acquired in conjunction with construction) by means other than Sections 11-35-3220 and 3230, S. 282 presents situations where errors and omissions insurance for design services should be required in contracts other than traditional design service contracts. New subparagraph L requires the governmental body to consider the risk involved in a particular procurement and to include in the solicitation a requirement for errors and omissions insurance in an amount the procurement office deems appropriate. For design-build projects in excess of \$25 million, the head of the governmental body or his designee must approve the errors and omissions insurance coverage.

S. 282 allows operations-maintenance, design-build-operate-maintain, and design-build-finance-operate-maintain contracts. New subparagraph M provides for operations period performance security by allowing agencies to require offerors to demonstrate in their offers that they are prepared and able to obtain performance bonds or letters of credit covering the operations period performance requirements. This subparagraph provides standards that the surety providing an operations period performance bond must meet. This subparagraph further provides for written guarantees by affiliated organizations and parent corporations of contractors providing design-build-operate-maintain, and design-build-finance-operate-maintain services securing the performance of operations and maintenance services.

S. 282 allows agencies, when most advantageous to the State, to use the Construction Management At-Risk (CMR) project delivery method. This method allows an agency to hire a construction manager who will assist the owner and the owner's architect to develop the design and construction documents to assure constructability and to suggest value engineering. In this role, the construction manager performs the same duties as a construction manager agent. However, at some level of design and construction document development, the construction manager at-risk starts to take on responsibility for construction of the project by procuring construction services, providing the owner a guaranteed maximum price for the cost of construction, and providing performance and payment bonds for construction. New subparagraph N provides standards for soliciting CMR services and evaluating proposals. This subparagraph sets forth requirements for the construction manager's compensation, for when the construction manager at-risk is to provide bonds, and a limitation on how late in the project the parties may proceed before they must negotiate a guaranteed maximum price (GMP) for construction. This latter requirement allows the parties to negotiate a GMP earlier but recognizes that there is no benefit to the state to delay negotiation of the GMP beyond completion of the construction documents. Subparagraph M also gives the agency the right to audit the construction manager up to three years after final payment. Finally, subparagraph M places limits on a construction manager's ability to self perform construction work by not allowing him to self-perform work on which subcontractor bids are

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sought and stating that the CMR contract should normally require solicitation of subcontractor bids on major components of the construction work.

Section 2150. Surplus Property Management.

The proposed changes would modify the Surplus Property Regulations to conform to the current Board organizational structure and terminology and address the current methods of disposal. It updates the out-dated references to the current practices, i.e. internet sales, etc., and substitutes Surplus Property Management Office (SPMO) in place of references to the Materials Management Office and ITMO to conform to present organizational structure. In summary:

Section A: Corrected references to SPMO and clarified the language;

Section B: Matched time requirements with Section A and deleted outdated costs language;

Section C: Moved the definitions together and modified language for clarity. Deleted references to MMO and ITMO. Clarified the disposition cycles to comply with present practice and require SPMO to define reasons for modifications in cycles;

Section D: Added electronic sales and deleted references to ITMO and MMO;

Section E: no changes;

Section F: Clarified definition of "tagging";

Section G: Deleted references to ITMO and MMO;

Section H: Clarified the definition of junk; and

Section I: Clarified agency requirements.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the S.C. Code, as amended, such hearing will be held on January 11, 2008 at 10:00 AM in the Governor's Conference Room, Wade Hampton Building, State House Grounds, Columbia, South Carolina. Persons desiring to make oral comment at the hearing are asked to provide written copies of their presentation for the record. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Written comments, requests for the text of the proposed amendments or any other information, and any requests for a public hearing, should be submitted to Materials Management Office, Attn: Keith McCook, 1201 Main Street, Suite 600, Columbia, SC 29201, on or before 5:00 PM on December 27, 2007. Copies of the text of the proposed amendments for public notice and comment are available at <http://www.gs.sc.gov/webfiles/gc/Resources/draftregs2008a.pdf>.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The State Budget and Control Board estimates that no additional costs will be incurred by the State and its political subdivisions in complying with the proposed revisions to Regulation 19-445.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: South Carolina Procurement Regulations

Purpose: These regulations are proposed to clarify and improve the procedures used in procurement.

Legal Authority: Title 11, Chapter 35 of the South Carolina Code of Laws

Plan for Implementation: The proposed amendments would be incorporated within R.19-445 upon publication in the State Register as a final regulation. The proposed amendments will be implemented in the same manner in which the existing regulation is implemented. As part of its routine training program, the State

Budget and Control Board will offer training classes to inform government officials regarding the impact of the proposed regulations.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

As reflected in Section 11-35-20, the Consolidated Procurement Code was enacted to consolidate, clarify, and modernize the law governing procurement in this State and to permit the continued development of explicit and thoroughly considered procurement policies and practices. These regulations are designed to achieve those purposes and policies, consistent with best practices developed through experience. In addition, these regulations are designed to dovetail with changes to the Consolidated Procurement Code that will result from enactment of pending Senate Bill 282 (S. 282). Accordingly, the State Budget and Control Board determined that the proposed amendments to the state's procurement regulations are needed and reasonable.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions, nor will the proposed amendments result in any increased cost to the business community. The proposed amendments will benefit covered governmental entities by enhancing the integrity of the process, improving efficiency, and allowing sound procurement practices that enable government to acquire better value for the taxpayer's dollars.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the State or its political subdivisions

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulations have no effect on the environment or on public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

There will be no detrimental effect on the environment or public health if the regulations are not implemented.

Statement of Rationale:

As originally enacted in 1981, the Consolidated Procurement Code was largely adapted from the American Bar Associations Model Procurement Code for State and Local Governments and the accompanying model regulations. In 2000, the ABA adopted a revised model, the 2000 Model Procurement Code. In 2002, the ABA adopted updates to the accompanying model regulations. Many of the changes to these model documents regard construction. Senate Bill 282, currently pending before the General Assembly, would amend the Consolidated Procurement Code by adopting many of these changes. In addition, the Consolidated Procurement Code expressly contemplates the continued development of explicit and thoroughly considered procurement policies and practices. The proposed changes are needed to accommodate these developments and to further consolidate, clarify, and modernize the law governing procurement in this State. S.C. Code Section 11-35-20(d).

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

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Document No. 3178
STATE BUDGET AND CONTROL BOARD
OFFICE OF RESEARCH AND STATISTICS
CHAPTER 19
Statutory Authority: 1976 Code Section 44-6-170

19-1030. Medical Record Abstract Information
19-1040B(1). Penalties for Failure to Meet Requirements

Preamble:

The Office of Research and Statistics, South Carolina Budget and Control Board proposes to amend Article 10, Data Reporting Requirements Pertaining to Submission of Ambulatory Encounter Data, Sections 19-1030A, 19-1030E, and 19-1040B(1). The amendment shall require South Carolina hospitals to submit patient records (including newborns) directly to the Office of Research and Statistics on a monthly basis.

Section-by-Section Discussion:

19.1030A:

Amend regulation to require one record for each outpatient ambulatory encounter during the calendar month; amend regulation to require that hospitals submit ninety percent of their monthly ambulatory patient encounter records within forty-five days after the close of the month; amend regulation to require that hospitals submit one hundred percent of their ambulatory patient encounter records within forty-five days after the close of the following month.

19.1030E:

Amend regulation to require that each hospital submit monthly, in writing, within forty-five days of the close of the month, a report of the number of ambulatory patient encounters during the month.

19.1040B(1):

Amend regulation to require full compliance within two subsequent month submissions after the first occurrence of failure to meet requirements.

Notice of Public Hearing And Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 SC Code, as amended, such hearing will be conducted at 1919 Blanding Street, Columbia, SC 29201 on Monday, January 7, 2008 at 2:00 pm. Written comments may be directed to Tracy Joyce, Office of Research and Statistics, State Budget and Control Board, 1919 Blanding Street, Columbia, South Carolina, 29201 no later than 5 p.m. Monday, December 27, 2007.

Preliminary Fiscal Impact Statement:

The State Budget and Control Board estimate that no additional costs will be incurred by the State of South Carolina or its political subdivisions.

Statement of Need and Reasonableness:

The regulations will protect the health and safety of the public by ensuring the procurement of essential health care data mandated by Section 1.G of 44-6-170, Code of Laws of South Carolina, 1976, relating to the collection and release of health care data.

DESCRIPTION OF REGULATION:

Purpose: Accuracy, completeness and timeliness of claims submissions are important to ensure that submitted data reflect the care provided to patients. The proposed changes to the timeline for reporting will improve the accuracy of data and shorten the time it takes the Office of Research and Statistics to finalize data. The more current the data is, the more useful it is to South Carolina's healthcare facilities and researchers.

Legal Authority: 1976 Code Section 44-6-170

Plan for Implementation: In September, 2007 the Office of Research and Statistics requested that the affected healthcare facilities begin voluntary submission of discharge data as soon as possible. This request established the feasibility and willingness of South Carolina's hospitals to submit their data monthly. The ORS maintains written procedures through which all hospitals submit their computerized data. In addition, the ORS maintains documentation concerning data submission and omission and enforces these regulations through certified notification of deficiencies and fines where necessary. Both documents will be modified to reflect the change in reporting timelines.

DETERMINATION OF NEED AND REASONABLENESS BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

This regulation needs to be revised in order to require the monthly submission of hospital data as opposed to the current quarterly submission. The timeliness of the data submission will result in a more timely analysis back to the facilities.

DETERMINATION OF COST AND BENEFITS:

No additional costs will be incurred by the State in the implementation of these.

UNCERTAINTIES OF ESTIMATES:

None

EFFECT ON THE PUBLIC HEALTH:

The regulations will protect the health and safety of the public by ensuring the efficient and effective collection and release of health care-related data. Data analyses made possible through this regulation will assist the state in making informed decisions concerning cost effective and efficient health care in a timely manner. In addition, it will assist providers in rendering quality and efficient health care.

DETRIMENTAL EFFECT ON THE PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

Without this data, state leaders, policy makers, providers, and insurers cannot make important decisions about the health care delivery system in South Carolina in a most timely manner.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

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Document No. 3179
STATE BUDGET AND CONTROL BOARD
OFFICE OF RESEARCH AND STATISTICS
CHAPTER 19

Statutory Authority: 1976 Code Section 44-6-170, 44-6-175, and 44-6-200, as amended

19-810. Medical Record Abstract Information
19-820B(1). Penalties for Failure to Meet Requirements

Preamble:

The Office of Research and Statistics, South Carolina Budget and Control Board proposes to amend Article 8, Data Reporting Requirements Pertaining to South Carolina Hospitals, Sections 19-810D, 19-810H, and 19-820B(1). The amendment shall require South Carolina hospitals to submit patient records (including newborns) directly to the Office of Research and Statistics on a monthly basis.

Section-by-Section Discussion:

19.810D:

Amend regulation to require one record for each inpatient discharged during the calendar month; amend regulation to require that hospitals submit ninety percent of their monthly discharge records within forty-five days after the close of the month; amend regulation to require that hospitals submit one hundred percent of their discharge records within forty-five days after the close of the following month.

19.810H:

Amend regulation to require that each hospital submit monthly, in writing, within forty-five days of the close of the month, a report of the number of inpatients discharged during the month.

19.820B(1):

Amend regulation to require full compliance within two subsequent month submissions after the first occurrence of failure to meet requirements.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 SC Code, as amended, such hearing will be conducted at 1919 Blanding Street, Columbia, SC 29201 on Monday, January 7, 2008 at 2:00 pm. Written comments may be directed to Tracy Joyce, Office of Research and Statistics, State Budget and Control Board, 1919 Blanding Street, Columbia, South Carolina, 29201 no later than 5 p.m. Monday, December 27, 2007.

Preliminary Fiscal Impact Statement:

The State Budget and Control Board estimate that no additional costs will be incurred by the State of South Carolina or its political subdivisions.

Statement of Need and Reasonableness:

The regulations will protect the health and safety of the public by ensuring the procurement of essential health care data mandated by Section 1.G of 44-6-170, Code of Laws of South Carolina, 1976, relating to the collection and release of health care data.

DESCRIPTION OF REGULATION:

Purpose: Accuracy, completeness and timeliness of claims submissions are important to ensure that submitted data reflect the care provided to patients. The proposed changes to the timeline for reporting will improve the accuracy of data and shorten the time it takes the Office of Research and Statistics to finalize data. The more current the data is, the more useful it is to South Carolina's healthcare facilities and researchers.

Legal Authority: 1976 Code Section 44-6-170

Plan for Implementation: In September, 2007 the Office of Research and Statistics requested that the affected healthcare facilities begin voluntary submission of discharge data as soon as possible. This request established the feasibility and willingness of South Carolina's hospitals to submit their data monthly. The ORS maintains written procedures through which all hospitals submit their computerized data. In addition, the ORS maintains documentation concerning data submission and omission and enforces these regulations through certified notification of deficiencies and fines where necessary. Both documents will be modified to reflect the change in reporting timelines.

DETERMINATION OF NEED AND REASONABLENESS BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

This regulation needs to be revised in order to require the monthly submission of hospital data as opposed to the current quarterly submission. The timeliness of the data submission will result in a more timely analysis back to the facilities.

DETERMINATION OF COST AND BENEFITS:

No additional costs will be incurred by the State in the implementation of the amended regulations. Costs are expected to be minimal, if any, to the regulated community.

UNCERTAINTIES OF ESTIMATES:

None

EFFECT ON THE PUBLIC HEALTH:

The regulations will protect the health and safety of the public by ensuring the efficient and effective collection and release of health care-related data. Data analyses made possible through this regulation will assist the state in making informed decisions concerning cost effective and efficient health care in a timely manner. In addition, it will assist providers in rendering quality and efficient health care.

DETRIMENTAL EFFECT ON THE PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

Without this data, state leaders, policy makers, providers, and insurers cannot make important decisions about the health care delivery system in South Carolina in a most timely manner.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

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Document No. 3173
COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority: 1976 Code Section 59-149-10

62-900.85-140. South Carolina HOPE Scholarship

Preamble:

The Commission on Higher Education proposes to amend and replace in its entirety R.62-900 of the SC HOPE Scholarship Program. Revisions to the existing regulation for the SC HOPE Scholarship Program are being considered to clarify the policies and procedures for administering the program. The proposed amendment will make the Scholarship regulation consistent with recently approved legislation, Act 115 approved during the 2007 legislative session: SC HOPE scholarships are authorized in an amount of up to two thousand five hundred dollars, plus a three hundred dollar book allowance to cover the cost of attendance, as defined by the Commission on Higher Education by regulation, during the first year of attendance only, to an eligible student attending a four-year public or independent institution as defined in subsection who does not also qualify for a LIFE Scholarship or a Palmetto Fellows Scholarship. The proposed amendment will make the Scholarship regulation consistent with recently approved legislation, Act #103 approved during the 2007 legislative session: SC HOPE recipients who are convicted or pled guilty or nolo contendere of their second or subsequent alcohol related offense would lose their SC HOPE Scholarship if convicted or pled guilty or nolo contendere before the year begins, and lose their LIFE Scholarship for the following year if they have already received SC HOPE funds for the academic year in which they were convicted.

The proposed regulation will require legislative review.

A Notice of Drafting for the proposed regulation was published in the South Carolina State Register on October 26, 2007.

Section-by-Section Discussion

- Section 1: Provides the purpose of the SC HOPE Scholarship Program.
- Section 62-900.86: Provides funding specifications for SC HOPE Scholarship.
- Section 62-900.90: Sets forth the definition of terms used in the regulation.
- Section 62-900.95: Provides the eligibility requirements that students are required to meet to be awarded a SC HOPE Scholarship.
- Section 62-900.100: Sets forth the number of terms that students may receive a SC HOPE Scholarship.
- Section 62-900.105: Sets forth the requirements that transfer students must meet to receive a SC HOPE Scholarship.
- Section 62-900.110: Provides the renewal requirements that must be met each academic year for students who qualify under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 each academic year for the SC HOPE Scholarship.
- Section 62-900.111: Sets forth the renewal requirements that must be met each academic year by students who meet the definition of active military duty and who mobilized or deployed during

war time to receive a SC HOPE Scholarship.

- Section 62-900.115: Sets forth the procedures that institutions must follow to refund SC HOPE Scholarship monies back to the State in the event of an error in award or a student withdraws from the institution.
- Section 62-900.120: Sets forth the appeals procedures that must be used by students who fail to meet the LIFE Scholarship renewal requirements at the end of each academic year to receive a SC HOPE Scholarship.
- Section 62-900.125: Sets forth the policies and procedures that institutions must follow when determining students' eligibility for a SC HOPE Scholarship.
- Section 62-900.130: Sets forth the policies and procedures that institutions must follow when disbursing SC HOPE Scholarship funds to eligible students each academic year.
- Section 62-900.135: Sets forth the regulatory authority and procedure for program audits by the South Carolina Commission on Higher Education of institutional policies, practices and procedures as related to the SC HOPE Scholarship.
- Section 62-900.140: Provides for the suspension and termination of institutional participation as related to the SC HOPE Scholarship.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the South Carolina Commission on Higher Education on January 10, 2008, to be held in the Main Conference Room at 1333 Main Street, Suite 200, Columbia, SC. The meeting will commence at 10:00 a.m. at which time the Commission will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Commission's agenda to be published by the Commission ten days in advance of the meeting.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Dr. Karen Woodfaulk, Director of Student Services, South Carolina Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, SC 29201. Comments must be received no later than 5:00 p.m. on January 9, 2008. Comments received shall be considered by the staff in formulating the final proposed regulation for the public hearing on January 10, 2008, as noticed above. Comments received by the deadline shall be submitted to the Commission in summary of public comments for consideration at the public hearing.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the state or its political subdivisions.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Section 62-900.85-140 SC HOPE Scholarship Regulation

Purpose: R.62-900.85 through 62-900.140 of Chapter 62 is being amended and replaced in its entirety. The proposed regulation provides the maximum amount of funding a SC HOPE recipient can receive. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students' eligibility and when disbursing SC HOPE Scholarship funds to eligible students.

Legal Authority: The legal authority for R.62-900.85-140 is 1976 Code Section 59-149-10.

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Plan for Implementation: The proposed regulation will take effect upon approval by the South Carolina General Assembly and publication in the *State Register*. The proposed regulation will be implemented by providing the regulated community with copies of the regulation.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed regulation is needed to provide information to South Carolina residents concerning the requirements to receive a SC HOPE Scholarship and to provide guidance to state institutions when awarding SC HOPE Scholarship funds to eligible students.

DETERMINATION OF COSTS AND BENEFITS: Promulgation of this regulation will not result in additional costs to the state or its political subdivisions. It is believed that the proposed regulation will benefit our state by providing students with requirements for receiving funds through the SC HOPE Scholarship Program and institutions by providing guidance in determining student eligibility and in disbursing scholarship funds.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: Not applicable.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: Not applicable.

Statement of Rationale:

This proposed regulation will clarify the policies and procedures for administering the SC HOPE Scholarship Program at the public and independent colleges and universities in the state. The proposed regulation includes the eligibility criteria that students must meet in order to be awarded a SC HOPE Scholarship. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students' eligibility and when disbursing SC HOPE Scholarship funds to eligible students. This regulation is being promulgated to implement this legislative mandate by including the appropriate language in the awarding procedures.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 3177
COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority: 1976 Code Section 59-149-10

62-1200.1-120 Legislative Incentives for Future Excellence (LIFE) Scholarship & Legislative Incentives for Future Excellence (LIFE) Scholarship Enhancement

Preamble:

The South Carolina Commission on Higher Education proposes the following regulation to replace in its entirety R.62-900.1 through 62-900.70, LIFE Scholarship Program, to Chapter 62 regulation. The proposed regulation will provides the eligibility criteria that students must meet in order to be awarded a LIFE Scholarship and a LIFE Scholarship Enhancement. In addition, the proposed regulation also provides the

procedures that institutions must follow when determining students' eligibility and when disbursing LIFE Scholarship and LIFE Scholarship Enhancement funds to eligible students.

The proposed regulation will require legislative review.

A Notice of Drafting for the proposed regulation was published in the South Carolina State Register on October 26, 2007.

Section-by-Section Discussion

Section 62-1200.1: Provides the purpose of the LIFE Scholarship Program and the purpose of the LIFE Scholarship Enhancement.

Section 62-1200.5: Sets forth the definition of terms used in the regulation.

Section 62-1200.10: Provides the eligibility requirements that students are required to meet to be awarded a LIFE Scholarship and LIFE Scholarship Enhancement.

Section 62-1200.15: Provides the continued eligibility requirements that students must meet by the end of each academic year to receive a LIFE Scholarship and a LIFE Scholarship Enhancement the following academic year.

Section 62-1200.20: Sets forth the number of terms that students may receive a LIFE Scholarship and LIFE Scholarship Enhancement. The section stipulates the number of terms of eligibility by degree (i.e., Diploma, Associate's Degree, Bachelor's Degree) and institution (i.e., two-year or four-year).

Section 62-1200.25: Provides the requirements that students must meet to either regain eligibility for a LIFE Scholarship and LIFE Scholarship Enhancement after failing to meet the continued eligibility requirements at the end of a given academic year. In addition, for those students who are unable to meet the initial eligibility requirements at the time of high school graduation, this section also provides the requirements that such students must meet in order to earn eligibility for a LIFE Scholarship and a LIFE Scholarship Enhancement in college.

Section 62-1200.30: Sets forth the requirements that transfer students must meet to receive a LIFE Scholarship and a LIFE Scholarship Enhancement.

Section 62-1200.35: Provides the renewal requirements that must be met each academic year for students who qualify under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 each academic year for the LIFE Scholarship and LIFE Scholarship Enhancement.

Section 62-1200.40: Sets forth the renewal requirements that must be met at the end of each academic year for students who participate in internships, cooperative work programs, travel study programs, and exchange programs for the LIFE Scholarship and LIFE Scholarship Enhancement.

Section 62-1200.45: Sets forth the renewal requirements that must be met each academic year by students who meet the definition of active military duty (as defined in Section 62-1200.5 of this regulation) and who mobilized or deployed during war time to receive a LIFE Scholarship and a LIFE Scholarship

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Enhancement.

- Section 62-1200.50: Sets forth the procedures that institutions must follow to refund LIFE Scholarship and LIFE Scholarship Enhancement monies back to the State in the event of an error in award or a student withdraws from the institution.
- Section 62-1200.55: Sets forth the appeals procedures that must be used by students who fail to meet the renewal requirements at the end of each academic year to receive a LIFE Scholarship and a LIFE Scholarship Enhancement.
- Section 62-1200.60: Sets forth the policies and procedures that institutions must follow when determining students' eligibility for a LIFE Scholarship and LIFE Scholarship Enhancement each academic year.
- Section 62-1200.65: Sets forth the policies and procedures that institutions must follow when disbursing LIFE Scholarship and LIFE Scholarship Enhancement funds to eligible students each academic year.
- Section 62-1200.70: Sets forth the regulatory authority and procedure for program audits by the South Carolina Commission on Higher Education of institutional policies, practices and procedures as related to the LIFE Scholarship and the LIFE Scholarship Enhancement.
- Section 62-1200.75: Provides for the suspension and termination of institutional participation as related to the LIFE Scholarship and the LIFE Scholarship Enhancement.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the South Carolina Commission on Higher Education on January 10, 2008, to be held in the Main Conference Room at 1333 Main Street, Suite 200, Columbia, SC. The meeting will commence at 10:00 a.m. at which time the Commission will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Commission's agenda to be published by the Commission ten days in advance of the meeting.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Dr. Karen Woodfaulk, Director of Student Services, South Carolina Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, SC 29201. Comments must be received no later than 5:00 p.m. on January 9, 2008. Comments received shall be considered by the staff in formulating the final proposed regulation for the public hearing on January 10, 2008, as noticed above. Comments received by the deadline shall be submitted to the Commission in summary of public comments for consideration at the public hearing.

Preliminary Fiscal Impact Statement:

There will be no increased Administration costs to the state or its political subdivisions.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Section 62-1200.1-120 Legislative Incentives for Future Excellence (LIFE) Scholarship Enhancement

Purpose: R.62-900.1 through 62-900.70 of Chapter 62 is being amended and replaced in its entirety. The proposed regulation provides the eligibility criteria that students must meet in order to be awarded LIFE

Scholarship Enhancement funds. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students' eligibility and when disbursing LIFE Scholarship Enhancement funds to eligible students.

Legal Authority: The legal authority for R.62-1200.1-120 is 1976 Code Section 59-149-10.

Plan for Implementation: The proposed regulation will take effect upon approval by the South Carolina General Assembly and publication in the *State Register*. The proposed regulation will be implemented by providing the regulated community with copies of the regulation.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed regulation is needed to provide information to South Carolina residents concerning the requirements to receive a LIFE Scholarship and LIFE Scholarship Enhancement and to provide guidance to state institutions when awarding LIFE Scholarship and LIFE Scholarship Enhancement funds to eligible students.

DETERMINATION OF COSTS AND BENEFITS: Promulgation of this regulation will not result in additional costs to the state or its political subdivisions. It is believed that the proposed regulation will benefit our state by providing students with requirements for receiving funds through the LIFE Scholarship Program and institutions by providing guidance in determining student eligibility and in disbursing scholarship funds.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: Not applicable.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: Not applicable.

Statement of Rationale:

This proposed regulation will clarify the policies and procedures for administering the LIFE Scholarship Program at the public and independent colleges and universities in the state. The proposed regulation includes the eligibility criteria that students must meet in order to be awarded a LIFE Scholarship and a LIFE Scholarship Enhancement. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students' eligibility and when disbursing LIFE Scholarship Enhancement funds to eligible students. This regulation is being promulgated to implement this legislative mandate by including the appropriate language in the awarding procedures.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

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Document No. 3185
COMMISSION ON HIGHER EDUCATION
CHAPTER 62

Statutory Authority: 1976 Code Section 59-142-20

69-450. South Carolina Need-based Grants Program

Preamble:

The Commission on Higher Education proposes to amend and replace in its entirety R.62-450 of the South Carolina Need-based Grants Program. The proposed amendments will clarify the policies and procedures for administering the Need-based Grants Program at the State's public colleges and universities. The proposed amendments include language will include summer semester as part of the academic year which will allow colleges and universities to disburse Need-based Grant funds to students for the summer semester.

The proposed regulation will require legislative review.

A Notice of Drafting for the proposed regulation was published in the *South Carolina State Register* on October 26, 2007.

Section-by-Section Discussion

- 62-460.A “Academic year” is defined as the fall, spring and summer semesters during which a part-time student would be expected to earn a minimum of six credit hours for each semester the student is enrolled for a minimum of 12 credit hours or a full-time student would be expected to earn a minimum of 12 credit hours for each semester (fall and spring) to earn a maximum of 24 credit hours.
- 62-465.B Students enrolled part-time or full-time may not receive a Need-based Grant for more than a maximum of eight full-time equivalent semesters. Students may only receive Need-based Grant funding for up to two semesters of the academic year.
- 62-470.B The participating institution will make award amounts to be defined in accordance with the Need-based Grants Program regulation and criteria, but not to exceed \$1,250 per eligible part-time student and \$2,500 per eligible full-time student per academic year, based on the institution's allocated funds for Need-based Grants and other financial aid awarded to individual applicants. However, the Commission, due to inflation increases or other relevant factors, may periodically adjust the maximum award for the Need-based Grants Program. A maximum of fifty percent of the grant shall be disbursed for two terms of the academic year, assuming continued eligibility.
- 62-475.A Need-based Grants shall be awarded for up to two terms each academic year. The institution shall adjust the amount of the grant award during the academic year in the event of a change in the student's eligibility.
- 62-475.B Need-based Grants may be awarded annually for no more than a total of eight full-time equivalent semesters of part-time or full-time study and only for up to two terms of each academic year. Award decisions will be made annually and are not automatically guaranteed. Students who have already been awarded their first baccalaureate degree are not eligible to receive a Need-based Grant.

- 62-475.E.1 For graduation purposes, earn at least 24 credit hours each regular academic year if awarded a Need-based Grant as a full-time student or earn at least twelve credit hours if awarded a Need-based Grant as a part-time student. If a student is awarded a Need-based Grant for one semester of the academic year as a part-time student and the other semester as a full-time student, the student must earn at least eighteen credit hours each regular academic year. If a full-time student is awarded a Need-based Grant for only one semester of the academic year, the student must earn at least twelve credit hours by the end of the term. A part-time student who is awarded a Need-based Grant for only one term must earn at least six credit hours by the end of the term. Credits earned during any additional semesters (i.e., interim, winterim, maymester, or other non-regular semester) cannot be used to replace or reduce the minimum credit hour requirement for the regular academic year; and
- 62-485.A Students enrolled in an internship, cooperative work program, travel study program, or National or International Student Exchange Program approved by the student's home institution, and enrolled in fewer than six credit hours, shall not be eligible to receive a Need-based Grant during the period in which the student is enrolled in such programs or courses. Students enrolled in such programs may receive a Need-based Grant for up to two terms of the academic year if determined to be eligible.
- 62-490.A The participating institution will identify award amounts, which cannot exceed \$1,250 per eligible part-time student and \$2,500 per eligible full-time student per academic year. A maximum of fifty percent of the grant shall be disbursed for up to up to two terms of the academic year. The maximum amount, which may be received by a recipient for eight full-time equivalent semesters, shall be \$10,000 for students seeking their first baccalaureate degree or a program of study that is structured so as not to require a baccalaureate degree and leads to a graduate degree, \$5,000 for students seeking their first associate's degree, and \$2,500 for students seeking their first one-year certificate or diploma. Students who have obtained an associate's degree initially are eligible to apply for a Need-based Grant upon enrollment in their first baccalaureate degree or a program of study that is structured so as not to require a baccalaureate degree. Students who have obtained a recognized educational credential in a one-year program initially are eligible for application for a Need-based Grant upon enrollment in their first associate's degree, first baccalaureate degree, or a program of study that is structured so as not to require a baccalaureate degree and leads to a graduate degree.
- 62-500.C Delete
- 62-500.C.1 Delete
- 62-500.C.2 Delete

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the South Carolina Commission on Higher Education on January 10, 2008 to be held in the Large Conference Room at 1333 Main Street, Suite 200, Columbia, SC. The meeting will commence at 10a.m. at which time the Commission will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Commission's agenda to be published by the Commission ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements in five minutes or less, and as a courtesy, are asked to provide written copies of their presentation for record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Dr. Karen Woodfaulk, Director of Student Services, South Carolina Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, SC 29201. Comments must be received no later than 5:00 p.m. on January 9, 2008. Comments received shall be considered by the staff in formulating the final proposed

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regulation for the public hearing on January 10, 2008, as noticed above. Comments received by the deadline shall be submitted to the Commission in summary of public comments for consideration at the public hearing.

Preliminary Fiscal Impact Statement:

There will be no increased Administration costs to the state or its political subdivisions.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 62-450 South Carolina Need-based Grants Program

Purpose: R.62-450 is being amended and replaced in its entirety. The proposed amendments will clarify policies and procedures for administering the South Carolina Need-based Grants Program. The proposed regulation defines how summer semester will be included as an academic year for the purposes of allocation of funds. This inclusion will allow disbursement of Need-based Grant funds to be made in the summer.

Legal Authority: The legal authority for R.62-450 is Section 59-142-20, S.C. Code of Laws.

Plan for Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the *State Register*. The proposed amendments will be implemented by providing the regulated community with copies of the regulation.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed regulation will promote consistency among the regulations for scholarships and grants administered by the Commission on Higher Education and include summer semester as part of the academic year for the purposes of administering Need-based Grant funds to students.

DETERMINATION OF COSTS AND BENEFITS: The financial aid community will benefit by consistency among the regulations for scholarships and grants administered by the Commission on Higher Education and students will benefit by being able to receive Need-based Grant funds for summer semester.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: Not applicable.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: Not applicable.

Statement of Rationale:

Revisions to the S.C. Need-based Grant regulation were necessary to be consistent with legislation approved during the 2007 legislative session.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 3170
COMMISSION ON HIGHER EDUCATION
 CHAPTER 62
 Statutory Authority: 1976 Code Section 59-58-10 through -140

62-7. Licensing Criteria.

Preamble:

The Commission on Higher Education is the licensing authority for nonpublic (private) institutions operating or soliciting in the State. The Commission may require that the institution provide a surety bond to be used for the benefit of students who suffer financial losses of tuition and fees prepaid to an institution as a result of the closing of the institution. The statute also authorizes the Commission to establish a student recovery fund; the Commission has not promulgated regulations to establish a student recovery fund. On May 17, 2007, a change in the Nonpublic Postsecondary Institution License Act became effective that allows the Commission to use funds available from a surety bond or money in a student recovery fund to pay refunds to students for unearned tuition and fees, to pay for or subsidize the cost of providing facilities and instruction, or to pay expenses to store and maintain student records. The proposed change to Commission on Higher Education Regulation 62-7.A. will replicate the language now included in the statute to expand the ways the Commission may use available funds to assist students who were enrolled in an institution that closed. The September 28, 2007, edition of the *State Register* published the Notice of Drafting.

Section-by-Section Discussion

62-7A is amended to allow the Commission to use surety bond funds to pay refunds of unearned tuition and fees, to pay for or subsidize the cost of providing facilities and instruction to complete programs, or pay expenses to store and maintain student records.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to the Commission on Higher Education, Nonpublic Postsecondary Institution Licensing, 1333 Main Street, Suite 200, Columbia, SC 29201. To be considered, comments must be received no later than 4:30 p.m. on December 31, 2007. Interested members of the public and the regulated community are invited to make oral or written comments on the proposed amendment to the regulation at a public hearing to be conducted by the Commission on Higher Education on January 3, 2008, at 10:30 a.m., in the meeting in the Commission's Conference Room, 1333 Main Street, Suite 200, Columbia, SC 29201.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: To better serve students who were enrolled at institutions that close, the change to Paragraph A will allow the Commission to use surety bond funds to pay refunds of unearned tuition and fees, to pay for or subsidize the cost of providing facilities and instruction to complete programs, or pay expenses to store and maintain student records.

Legal Authority: S.C. Code of Laws, Section 59-58-10 through -140

Plan for Implementation: The proposed amendment will take effect upon approval by the General Assembly and publication in the *State Register*.

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DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The current language limits the use of funds from a surety bond or student recovery fund to refunds to students. The experience of the Commission is that in instances where institutions close, students may be best served by completing their programs at another institution. Also, the Commission is custodian of student records from schools that have closed. There is currently no source of financial support for storage, maintenance, servicing, and digitizing of the records.

DETERMINATION OF COSTS AND BENEFITS:

There are no projected costs associated with the proposed change.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

None.

Statement of Rationale:

The purpose of the revision is to align regulation with the statute and thereby provide additional consumer protection for consumers of private, postsecondary education.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 3171
COMMISSION ON HIGHER EDUCATION
CHAPTER 62

Statutory Authority: 1976 Code Section 59-104-25

62-1000. South Carolina Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement

Preamble:

The Commission on Higher Education proposes to amend regulations concerning the South Carolina Palmetto Fellows Scholarship Program by repealing Subarticle A. in Article III of Chapter 62, which includes R.62-300 through 62-375, and adding Article IX, "Palmetto Fellows Scholarship Program", which contains new regulations 62-1100 through 62-1190. The proposed new article contains the text of R.62-300 through 62-375 with certain new text added to clarify the policies and procedures for administering the Palmetto Fellows

Scholarship and Palmetto Fellows Scholarship Enhancement Programs at the State's colleges and universities. The proposed new article includes language for administering the base Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement.

The proposed regulation will require legislative review.

A Notice of Drafting for the proposed regulation was published in the *South Carolina State Register* on 10/23/2007.

Section-by-Section Discussion

- 62-1100 Purpose of the Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement
- 62-1105 Funding for Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement
- 62-1110 Sets forth the definitions of terms used in the regulation
- 62-1115 Sets forth the requirements for students to be Eligible for Palmetto Fellows Scholarship and Scholarship Enhancement
- 62-1120 Process for students to apply for the Palmetto Fellows Scholarship
- 62-1125 Selection Process for Palmetto Fellows Scholarship
- 62-1130 Regaining Eligibility for a Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement
- 62-1135 Policies and Procedures for Awarding Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement
- 62-1140 Duration and Renewal of Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement
- 62-1145 Transfer of Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement
- 62-1150 Students with Disabilities
- 62-1155 Enrollment in Internships, Cooperative Work Programs, Travel Study Programs, or National or International Exchange Programs
- 62-1160 Military Mobilization
- 62-1165 Appeals Procedures for Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement
- 62-1170 Institutional Disbursement of Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement Funds
- 62-1175 Refunds and Repayments of Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement
- 62-1180 Program Administration and Audits

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62-1185 Suspension or Termination of Institutional Participation

Subarticle A., Article III of Chapter 62 containing Regulations 62-300 through 62-375, is repealed.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the South Carolina Commission on Higher Education on January 10, 2008 to be held in the Large Conference Room at 1333 Main Street, Suite 200, Columbia, SC. The meeting will commence at 10a.m. at which time the Commission will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Commission's agenda to be published by the Commission ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements in five minutes or less, and as a courtesy, are asked to provide written copies of their presentation for record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Dr. Karen Woodfaulk, Director of Student Services, South Carolina Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, SC 29201. Comments must be received no later than 5:00 p.m. on January 9, 2008. Comments received shall be considered by the staff in formulating the final proposed regulation for the public hearing on January 10, 2008, as noticed above. Comments received by the deadline shall be submitted to the Commission in summary of public comments for consideration at the public hearing.

Preliminary Fiscal Impact Statement:

There are no increased cost associated with the administration of this program.

Statement of Need and Reasonableness: The Palmetto Fellows Scholarship Enhancement regulation is required by Section 59-104-25 of Act 115 of 2007 in implementing the legislation.

DESCRIPTION OF REGULATION: 62-1100 South Carolina Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement

Purpose: R.62-300 is being amended and replaced in its entirety. The proposed amendments will clarify policies and procedures for administering the South Carolina Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement Program. The proposed regulation defines how the Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement will be administered at the colleges and universities in the state of South Carolina.

Legal Authority: The legal authority for R.62-300 is Section 59-104-25, S.C. Code of Laws.

Plan for Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the *State Register*. The proposed amendments will be implemented by providing the regulated community with copies of the regulation.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed regulation will set forth the policies and procedures for awarding the Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement.

DETERMINATION OF COSTS AND BENEFITS: Not applicable.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: Not applicable.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: Not applicable.

Statement of Rationale:

The Palmetto Fellows Scholarship Enhancement regulation is required by Section 59-104-25 Act 115 of 2007 in implementing the legislation.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 3172
COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority: 1976 Code Section 59-149-10

62-600. DETERMINATION OF RATES OF TUITION AND FEES

Preamble:

The Commission on Higher Education proposes to amend and replace in its entirety R.62-600 of the SC Residency Program. Revisions to the existing regulation for the SC Residency Regulation are being considered to clarify the policies and procedures for administering the program. In the proposed amendment, the definition of a dependent is clarified and the use of voter registration cards to prove SC residency will be prohibited. In addition, institutional residency officers will be allowed to develop an appeal process for students to challenge institutional residency decisions. There are also additional clarifications being proposed, such as adding definitions and minor grammatical changes to promote consistency among the State institutions and their residency classification processes.

The proposed regulation will require legislative review.

A Notice of Drafting for the proposed regulation was published in the South Carolina State Register on October 26, 2007.

Section-by-Section Discussion

- Section 62-600: Provides the purpose of the South Carolina Residency Program.
- Section 62-601: Sets forth Statutory Authority for the South Carolina Residency Program.
- Section 62-602: Sets forth the definition of terms used in the regulation.
- Section 62-603: Provides the eligibility requirements for citizens and permanent residents.
- Section 62-604: Provides the eligibility requirements for non resident aliens, non citizens and non permanent residents.

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- Section 62-605: Sets forth the requirements to demonstrate intent to become a South Carolina resident for tuition and fee purposes.
- Section 62-606: Provides the necessary requirements for individuals looking to maintain South Carolina Residency for tuition and fee purposes.
- Section 62-607: Sets forth the requirements for individuals whose domicile in this state are terminated to maintain their South Carolina Residency for tuition and fee purposes.
- Section 62-608: Addresses effect of marriage on South Carolina Residency status for tuition and fee purposes.
- Section 62-609: Sets forth the exceptions to the twelve month physical presence requirement for establishing South Carolina Residency for tuition and fee purposes.
- Section 62-610: Sets forth the procedures that individuals must follow when applying for instate residency classification.
- Section 62-611: Sets forth the procedures that institutions must follow when a student is incorrectly classified for tuition and fee purposes.
- Section 62-612: Establishes an institutional appeal process for residency classification.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the South Carolina Commission on Higher Education on January 10, 2008, to be held in the Main Conference Room at 1333 Main Street, Suite 200, Columbia, SC. The meeting will commence at 10:00 a.m. at which time the Commission will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Commission's agenda to be published by the Commission ten days in advance of the meeting.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Dr. Karen Woodfaulk, Director of Student Services, South Carolina Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, SC 29201. Comments must be received no later than 5:00 p.m. on January 9, 2008. Comments received shall be considered by the staff in formulating the final proposed regulation for the public hearing on January 10, 2008, as noticed above. Comments received by the deadline shall be submitted to the Commission in summary of public comments for consideration at the public hearing.

Preliminary Fiscal Impact Statement:

There will be no increased administrative costs to the state or its political subdivisions.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Section 62-600. DETERMINATION OF RATES OF TUITION AND FEES

Purpose: R.62-600 of Chapter 62 is being amended and replaced in its entirety. Revisions to the existing regulation for the SC Residency Regulation are being considered to clarify the policies and procedures for administering the program. In the proposed amendment, the definition of a dependent is clarified and the use of voter registration cards to prove SC residency will be prohibited. In addition, institutional residency officers will be allowed to develop an appeal process for students to challenge institutional residency

decisions. There are also additional clarifications being proposed, such as adding definitions and minor grammatical changes to promote consistency among the State institutions and their residency classification processes.

Legal Authority: The legal authority for R.62-900.85-140 is 1976 Code Section 59-149-10.

Plan for Implementation: The proposed regulation will take effect upon approval by the South Carolina General Assembly and publication in the *State Register*. The proposed regulation will be implemented by providing the regulated community with copies of the regulation.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed regulation is needed to provide information to South Carolina residents concerning the requirements to receive in state tuition and fee classification and to provide guidance to state institutions when classifying students as in state students for tuition and fee purposes.

DETERMINATION OF COSTS AND BENEFITS: Promulgation of this regulation will not result in additional costs to the state or its political subdivisions. It is believed that the proposed regulation will benefit our state by providing students with requirements for receiving in state classification and institutions by providing guidance in determining student residency classification.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: Not applicable.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: Not applicable.

Statement of Rationale:

The Commission on Higher Education proposes to amend and replace in its entirety R.62-600 of the SC Residency Program. Revisions to the existing regulation for the SC Residency Regulation are being considered to clarify the policies and procedures for administering the program. In the proposed amendment, the definition of a dependent is clarified and the use of voter registration cards to prove SC residency will be prohibited. In addition, institutional residency officers will be allowed to develop an appeal process for students to challenge institutional residency decisions. There are also additional clarifications being proposed, such as adding definitions and minor grammatical changes to promote consistency among the State institutions and their residency classification processes.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

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Document No. 3180
DEPARTMENT OF INSURANCE
CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110 and 38-9-80

69-52. Actuarial Opinion and Memorandum Regulation

Preamble:

The South Carolina Department of Insurance proposes to amend Regulation 69-52, Actuarial Opinion and Memorandum Regulation, to require that all life insurance companies and fraternal benefit societies licensed in this State file an actuarial opinion based on an asset adequacy analysis. Currently, certain insurance companies and fraternal benefit societies licensed in this State are exempt from filing an actuarial opinion based on an asset adequacy analysis. The Director will have the ability to exempt a single-state domestic insurer from the asset adequacy requirement if it is deemed unnecessary due to the nature of the insurer's business. The proposed amendments also: 1) allow greater flexibility for states to accept actuarial opinions based on foreign states' laws and specify alternate opinions to be used for his purpose; 2) replace the requirement to use specific interest rate scenarios for purposes of performing the asset adequacy analysis with a requirement to provide a regulatory asset adequacy issues summary as specified in the regulation; and 3) add additional documentation requirements to the actuarial memorandum. The amendments are based upon the most recent version of the NAIC model regulation which will become an accreditation standard for actuarial opinions issued on or after January 1, 2009. A Notice of Drafting for the proposed regulation was published in the *South Carolina State Register* on October 26, 2007. The proposed regulation requires Legislative Review.

Section-by-Section Discussion

R. 69-52, Section 1. Sets forth the purpose of the regulation. Revised to reflect the amendments incorporated in subsequent sections.

R. 69-52, Section 2. Replaces current heading of Section 2 "Effective Date" and replaces it with "Authority." Amended language provides the authority under which the regulation is issued.

R. 69-52, Section 3. Establishes the scope of the regulation. Applies to all life insurers and fraternal benefit societies doing business in the State and all such insurers authorized to reinsure life insurance, annuities or accident and health insurance in the State. Requirements apply to all annual statements filed with the Director of the Department of Insurance after the effective date of the regulation. A statement of opinion of the adequacy of the reserves and related actuarial items based on an asset adequacy analysis and a supporting memorandum is required each year. Added language provides that the Director shall have the authority to specify methods of actuarial analysis and actuarial assumptions when, in the Director's judgment, these specifications are necessary for an acceptable opinion to be rendered relative to the adequacy of reserves and related items. Deletes references to exempted companies.

R. 69-52, Section 4. Establishes definitions material to the regulation.

R. 69-52, Section 5. Establishes general requirements with regard to the submission of the statement of actuarial opinion, the qualified actuary, the appointed actuary, standards for asset adequacy analysis and the liabilities to be covered in the statement of actuarial opinion. Deletes references to exempted companies.

R. 69-52, Section 6. The current Section 6 establishes the basis for the statement of actuarial opinion and memorandum or exemption from that section with a resulting requirement for a statement of actuarial opinion. This section is no longer necessary, since its only purpose is to establish the criteria for those companies that are exempt from the asset adequacy analysis requirements. Therefore Section 6 is deleted in entirety and replaced with current Section 8. The "new" Section 6 provides for a statement

of actuarial opinion based on an asset adequacy analysis.

R. 69-52, 6A. Provides a general description of the statement of actuarial opinion. It provides for a paragraph identifying the appointed actuary and his qualifications. It provides a scope paragraph identifying subjects; scope of actuary's work, including tabulation setting forth reserves and related actuarial items which have analyzed for asset adequacy, and method of analysis; and identifying reserves and actuarial items covered by the opinion which have not been analyzed for asset adequacy. It provides for a reliance paragraph where the appointed actuary has deferred to other experts. It provides for an opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities. It provides for additional paragraphs to be added in the event of qualification, need to disclose method of aggregation, reliance upon assets supporting the Asset Valuation Reserve and Interest Maintenance Reserve, disclosure of inconsistency in method of analysis or basis of allocation, release of additional reserves, or the actuary's intent to describe assumptions forming the basis of the actuarial opinion.

R. 69-52, 6B. This subsection provides for recommended language for the statement of actuarial opinion in typical circumstances. It describes the opening paragraph, including the appointed actuary's relationship to the company. It provides an illustration of the scope paragraph including a tabulation of the reserves and related actuarial items showing the method of asset adequacy analysis. It provides illustrations of the reliance paragraph if other experts have been relied upon to provide portions of the analysis. Also of significance is the authority given to the Director in Subsection B(6) of the proposed amendments relative to the requirement for a statement of asset adequacy: "At the discretion of the Director, this language may be omitted for an opinion filed on behalf of a company doing business only in this state and in no other state."

R. 69-52, 6C. This subsection provides that certain actions do not constitute a change in actuarial assumption.

R. 69-52, 6D. Subsection D provides for guidance for an appointed actuary unable to form an opinion or whose opinion is adverse as qualified.

R. 69-52, 6E. This subsection provides illustration for statements of others relied upon for accuracy of underlying information.

R. 69-52, Section 7. The current Section 7 provides for a statement of actuarial opinion not including an asset adequacy analysis. The proposed amendments result in all companies being subject to the asset adequacy analysis requirements, this section was eliminated. Therefore Section 7 will now provide a description of actuarial memorandum including an asset adequacy analysis and regulatory asset adequacy issues summary.

R. 69-52, 7A. Provides general guidance with regard to the actuarial memorandum required by the Standard Valuation Law. Paragraph (1) requires that the appointed actuary provide a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves. It states that the memorandum shall not be a record of the insurance department or subject to automatic filing with the Director. Paragraph (2) permits the appointed actuary to rely on and include as part of his memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of 5B. The subsection permits the Director to designate a qualified actuary to review the opinion and prepare a supporting memorandum for review, if the Director requests a memorandum and none exists or if the Director finds that the analysis described in a memorandum does not meet the standards of the ASB. Requires that the expense of an independent review be paid by the company but that the review be directed and controlled by the Director. Paragraph (4) provides that the reviewing actuary shall have the same status as an examiner in obtaining data from the company and the work papers and documentation shall be retained by the Director subject to the confidentiality of the Standard Valuation Law. Provides that the reviewing actuary should not be an employee of a consulting firm involved with the preparation of an opinion or memorandum in the current year or preceding three years. Paragraph (5) was added to describe the asset adequacy issues summary.

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R. 69-52, 7B. Provides details required in the memorandum section documenting asset adequacy analysis. Requires demonstration that the analysis has been done in accordance with 5D and additional standards contained in this regulation.

R. 69-52, 7C. Adds details to regulatory asset adequacy issues summary.

R. 69-52, 7D. Requires that the memorandum contain a statement that actuarial methods, considerations and analyses used in the preparation of the memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board.

R. 69-52, Section 8. This Section is deleted and incorporated into “new” Section 6.

R. 69-52, Section 9. This Section, which provided the effective date of the regulation, is deleted.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such hearing will be conducted on Wednesday, January 23, 2008 at 10:00 am at the Administrative Law Court Division, 1205 Pendleton Street Suite 224, Columbia, South Carolina 29201. Written comments and hearing requests may be directed to Leslie Jones, Deputy Director, Actuarial Services, 145 King Street, Suite 207, Charleston, South Carolina 29401 no later than 5:00 pm Wednesday January 2, 2008.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the state or its political subdivisions.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Actuarial Opinion and Memorandum Regulation

Purpose: The proposed amendments to Regulation 69-52 will: require all life insurance companies and fraternal benefit societies licensed in this State to have an actuarial opinion that is based on an asset adequacy analysis; allow greater flexibility to states when accepting actuarial opinions based on foreign states' laws; add additional information to be included in the actuarial memorandum; and will require that a Regulatory Asset Adequacy Issues Summary be prepared that summarizes the major assumptions and economic scenarios embedded in the actuarial memorandum.

Legal Authority: S.C. Code Ann. Sections 38-3-110 and 38-9-80.

Plan for Implementation: The amendments to the regulation will take effect for annual statements for the year 2008. Legislative review is required.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The amendments to the regulation enhance the solvency requirements for life insurance companies by requiring all actuarial opinions to be based upon an asset adequacy analysis. The Director may exempt an insurance company that is only doing business in South Carolina from the asset adequacy analysis if deemed appropriate in light of the risks of the company. In addition, the amendments permit flexibility to the Director to accept the valuation of a foreign insurer when the valuation meets the requirements applicable to a company domiciled in this state in the aggregate. These amendments help streamline the regulation of foreign insurers and eliminate burdensome filing requirements for these foreign companies. Finally, the amendments require

additional disclosure with respect to the asset adequacy requirements. The amendments to the regulation will be required for South Carolina to maintain its accreditation with the NAIC effective January 1, 2009.

DETERMINATION OF COSTS AND BENEFITS:

There will be no additional costs to the state or its political subdivisions. The amendments will benefit the State by enhancing the solvency requirements applicable to life insurers.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation does not have any effect on the environment or public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

If the amendments to the regulation are not implemented and South Carolina consequently loses its accreditation with the NAIC, then South Carolina domiciled life insurers could be subject to examination by all other states in which they are licensed to do business.

Statement of Rationale:

All life insurers are required to file an actuarial opinion with their annual financial statement. Currently Regulation 69-52, Actuarial and Opinion Memorandum, establishes a two-tier system for these opinions. Companies whose admitted assets exceeded \$500 million are required to conduct sufficient tests such that they could certify that their assets make adequate provision for their liabilities, i.e., their actuaries must perform an asset adequacy analysis. Under certain conditions, companies whose admitted assets fall below \$500 million are exempt from this requirement, and needed only to certify that their reserves were computed in accordance with formulas specified in the law. The proposed amendments remove these exemptions thereby requiring all companies to demonstrate the adequacy of reserves. The rationale for making all companies to demonstrate the adequacy for reserves is: (1) Uniform Actuarial Opinions are important, both in terms of protection and the integrity of the statutory accounting system; (2) there is no precedence in GAAP, Risk Based Capital requirements etc. for different standards based on size; (3) formula reserves alone may not be sufficient; and foreign states are more likely to accept a domiciliary state's actuarial opinion memorandum if the reserves are tested for adequacy. The proposed amendments also allow greater flexibility for states to accept a state of domicile opinion from another state and specify the alternate options to be used for this purpose. This flexibility is intended to provide relief for the companies from keeping abreast of reserve requirements in the adopting states and to preserve the principle of a state's right to adopt the laws it feels are best suited to its circumstances. Third, since the adoption of Regulation 69-52 new products have emerged and new insights have been gained regarding the key aspects which ought to be documented in the memorandum. The amendments to the Regulation include updated requirements for documentation of the various assumptions, economic scenarios, and product features incorporated into the asset adequacy analysis. Finally, the amendments include a requirement that a "Regulatory Asset Adequacy Issues Summary" be prepared which summarizes the major assumptions and economic scenarios embedded in the actuarial memorandum. This amendment is intended to increase the efficiency with which the actuarial opinion and memorandum are reviewed.

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Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 3182
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
CHAPTER 8
Statutory Authority: 1976 Code Sections 6-9-40 and 40-1-70

Preamble:

The South Carolina Building Codes Council proposes to amend regulations for the Barrier Free Design Act by repealing Regulations 8-300 through 8-501 (Articles 3 through 5). The proposed regulatory amendments conform to those statutory amendments.

Section by Section Discussion

Repeal Regulations 8-300 through 8-501 (Articles 3 through 5) in their entirety.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such hearing will be conducted at the Administrative Law Court at 9:00 a.m. on Friday, January 11, 2008. Written comments may be directed to Gary F. Wiggins, Administrator, Building Codes Council, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., December 28, 2007.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: The Department is repealing unnecessary regulations.

Legal Authority: 1976 Code, Sections 6-9-40 and 40-1-70.

Plan for Implementation: These regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the regulations and post the regulations on the agency's Web site.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The regulations will establish enhanced communication between licensees and the public.

DETERMINATION OF COSTS AND BENEFITS:

There will be no cost increases to the State or its political subdivisions.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning these regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effects on the environment or public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

Implementation of these regulations will allow improvement in communication to the public.

Statement of Rationale:

The amendments to the regulations are necessary to remove conflicts between the 2003 and 2006 editions of the building codes, and to remove unnecessary language from the regulations.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 3181
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
CHAPTER 8
Statutory Authority: 1976 Code Sections 40-1-40, 10-5-220, et seq., and 40-1-70

Preamble:

The South Carolina Building Codes Council intends to amend regulations for the Barrier Free Design Act by repealing Regulations 19-400 through 19-400.3 and replacing with Regulations 8-700 through 8-703 so they are accessible through the Department of Labor, Licensing and Regulation rather than through the Budget and Control Board. The proposed regulatory amendments conform to those statutory amendments as well as provide general updated language.

Section by Section Discussion

8-700. South Carolina Barrier Free Building Design Standard.
Formerly 19-400.

8-701. Authority.
Formerly 19-400.1. Update the reference to indicate the new name and acronym for the publishing organization for the A117.1 document.

8-702. Application.
Formerly 19-400.2. Add the reference to Section 6-9-50 to clarify the statement.

8-703. Administration.
Formerly 19-400.3.
(A) Remove the word "Interpretation" and the hyphen. The word is redundant and unnecessary.

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(B) Remove the word "Enforcement" and the hyphen. The word is redundant and unnecessary.

(C) Remove the word "Conflicts" and the hyphen. The word is redundant and unnecessary.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such hearing will be conducted at the Administrative Law Court at 11 a.m. on Friday, January 11, 2008. Written comments may be directed to Gary F. Wiggins, Administrator, Building Codes Council, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., December 28, 2007.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: The Council is updating the regulations by accessing them through the Department.

Legal Authority: 1976 Code, Sections 40-1-40, 10-5-220, et seq., and 40-1-70.

Plan for Implementation: These regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the regulations and post the regulations on the agency's Web site.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The regulations will establish enhanced communication between licensees and the public.

DETERMINATION OF COSTS AND BENEFITS:

The standardized format of the regulations will assist other regulatory entities with locating requirements within the regulations. There will be no cost increases to the State or its political subdivisions.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning these regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effects on the environment or public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

Implementation of these regulations will allow improvement in communication to the public.

Statement of Rationale:

The amendments are necessary to move the regulations to their appropriate location under the Department of Labor, Licensing and Regulation (from the Budget and Control Board). The amendments are also needed to remove unnecessary language and update the document references.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 3183
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
 CHAPTER 8
 Statutory Authority: 1976 Code Sections 23-43-40 and 40-1-70

Preamble:

The South Carolina Building Codes Council intends to amend regulations for the Modular Building Construction Act by repealing Regulations 19-460 through 19-460.27 and replacing with Regulations 8-600 through 8-628 so that they are accessible through the Department of Labor, Licensing and Regulation rather than through the Budget and Control Board. The proposed regulatory amendments conform to those statutory amendments as well as provide general updated language.

Section by Section Discussion

8-600. The South Carolina Modular Buildings Act.
 Formerly 19-460.

8-601. Purpose.
 Formerly 19-460.1.

(2) Change the words “installed” to “erected” and “installation” to “erection” to better describe what is actually occurring on the building site.

8-602. Definitions.
 Formerly 19-460.2.

(3) Delete the definition for “Board” and renumber remaining definitions. The Modular Buildings Board of Appeals was abolished and its responsibilities delegated to the Council. The definition is obsolete.

(4) Change the word “installation” to “erection” to better describe what is actually occurring on the building site.

(6) Change obsolete statutory reference (6-9-60) to current reference (6-9-63).

(11) Delete the word “A.” Not necessary.

(15) Delete the word “A.” Not necessary.

(20) Change the word “installed” to “erected” to better describe what is actually occurring on the building site.

8-603. Department Duties and Responsibilities.
 Formerly 19-460.3.

8-604. Adoption of Model Codes.
 Formerly 19-460.4

(5) Change the word “installation” to “erection” to better describe what is actually occurring on the building site.

8-605. Enforcement Authority.
 Formerly 19-460.5.

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(2)(a) Change the word “installation” to “erection” to better describe what is actually occurring on the building site.

(2)(b) Change the word “installation” to “erection” to better describe what is actually occurring on the building site.

(3) Change the word “installation” to “erection” to better describe what is actually occurring on the building site.

8-606. Delegation of Inspection Authority: Approved Inspection Agency’s Qualifications, Acceptance Requirements.

Formerly 19-460.6.

(2)(h) Delete names of obsolete (no longer in existence) organizations.

8-607. Approved Inspection Agency Authority.

Formerly 19-460.7

8-608. Quality Control Procedures.

Formerly 19-460.8.

(4) Delete names of obsolete (no longer in existence) organizations.

8-609. Change in Status, Alterations.

Formerly 19-460.9.

(6) Change the word “installation” to “erection” to better describe what is actually occurring on the building site.

(7) Change the word “installation” to “erection” to better describe what is actually occurring on the building site.

8-610. Alternate Methods and Materials.

Formerly 19-460.10.

8-611. Approved Inspection Agency: Inspection.

Formerly 19-460.11.

8-612. Reciprocity.

Formerly 19-460.12.

(2) Change the word “installed” to “erected” to better describe what is actually occurring on the building site.

(3) Change the word “installed” to “erected” to better describe what is actually occurring on the building site.

8-613. Multiple Site Manufacturing.

Formerly 19-460.13.

8-614. Council Certification Label.

Formerly 19-460.14.

8-615. Certification Label Application and Issuance.

Formerly 19-460.15.

8-616. Certification Label Denial.

Formerly 19-460.16.

8-617. Removal of Certification Labels.

Formerly 19-460.17.

8-618. Schedule of Fees.
Formerly 19-460.18.

8-619. Appeal Procedures.
Formerly 19-460.19.

- (1) Change the word “Board” to “Council.”
- (2) Change the word “Board” to “Council.”
- (4) Change the words “Board” to “Council” and “Board’s” to Council’s.”
- (5) Change the word “Board” to “Council.”

8-620. License Application Requirements.
Formerly 19-460.20.

(1) Change the word “installed” to “erected” to better describe what is actually occurring on the building site.

(4) Delete and move the language that addresses the sale of modular buildings from the “License Application” section to the new Regulation 8-621(1) “Sale of Modular Buildings.”

(5) Delete and move the language that addresses wholesale purchase of modular buildings from the “License Application” section to the new Regulation 8-621 “Sale of Modular Buildings.” Delete and move the language that addresses warranty information for modular buildings from the “License Application” section to Regulation 8-626(2).

8-621. Sale of Modular Buildings.

Add a new section titled “Sale of Modular Buildings” to address and clarify the provisions for the retail sale of modular buildings. Add language moved from Regulation 19-460.20(4) that addresses the sale of modular buildings. Add language moved from Regulation 19-460.20(5) that addresses the wholesale purchase of modular buildings.

8-622. License Issued.
Formerly 19-460.21.

8-623. Security Requirement.
Formerly 19-460.22.

8-624. Duties and Responsibilities of Council.
Formerly 19-460.23.

8-625. Denial, Revocation or Suspension of License.

Formerly 19-460.24. Add new subsection (j) to make illegal selling of modular buildings grounds for denial, revocation or suspension of a manufacturer’s or manufacturer’s representatives license.

8-626. Erection.
Formerly 19-460.25.

(1) Change the heading from “installed” to “erected” to better describe what is actually occurring on the building site. Amend the section to clarify that a modular building must be erected on the building site by a South Carolina licensed homebuilder or general contractor; and, that modular buildings are subject to the same statute of limitations as site built buildings.

(2) Add language moved from Regulation 19-460.20 (New 8-620) (5) that addresses the warranty information for modular buildings.

8-627. Exemption.
Formerly 19-460.26.

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8-628. Recertifying.
Formerly 19-460.27.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such hearing will be conducted at the Administrative Law Court at 9 a.m. on Thursday, January 10, 2008. Written comments may be directed to Gary F. Wiggins, Administrator, Building Codes Council, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., December 27, 2007.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: The Council is updating the regulations by accessing them through the Department.

Legal Authority: 1976 Code, Sections 23-43-40 and 40-1-70.

Plan for Implementation: These regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the regulations and post the regulations on the agency's Web site.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The regulations will establish enhanced communication between licensees and the public.

DETERMINATION OF COSTS AND BENEFITS:

The standardized format of the regulations will assist other regulatory entities with locating requirements within the regulations. There will be no cost increases to the State or its political subdivisions.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning these regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effects on the environment or public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

Implementation of these regulations will allow improvement in communication to the public.

Statement of Rationale:

The amendments are necessary to provide a higher degree of consumer protection and assure accountability, for the retail sale of modular buildings; and, to move the regulations from the Budget and Control Board, to

their appropriate location under the Department of Labor, Licensing and Regulation. The amendments are also needed to remove obsolete language and update the regulations to coincide with current statutory provisions.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 3184
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF PYROTECHNIC SAFETY
CHAPTER 71

Statutory Authority: 1976 Code Sections 40-56-20 and 40-1-70

Preamble:

The Department of Labor, Licensing and Regulation, Board of Pyrotechnic Safety proposes to amend its regulations to update and remove potential conflicts with the Federal ATF regulations and current building and maintenance codes. The Board also proposes to repeal existing Regulations 19-405.1 through 19-405.9 and replace with Regulations 71-7405.1 through 71-7405.8 so they are accessible through the Department of Labor, Licensing and Regulation codification rather than through the codification of the Budget and Control Board, which has not administered this regulatory program since 1994.

Section by Section Discussion

19-405.1 through 19-405.9 repealed in their entirety.

71-7405. Pyrotechnic Safety.

71-7405.1. General.

New section regarding purpose of regulation, application of regulation and definitions involved in the regulation of pyrotechnics.

71-7405-2. Codes and Standards.

New section establishing NFPA 1124, 2006 Edition, as the minimum standards for the regulation of pyrotechnics except as modified by these regulations.

71-7405.3. Licensing and Permitting Fees.

New section regarding fees and application due dates.

71-7405.4. Licensing and Permitting Requirements.

New section regarding license and permit expiration dates and inspections.

71-7405.5. General Provisions for Sale of Pyrotechnics.

New section regarding general provisions and appearance requirements before the Board.

71-7405.6. Wholesale Distributors and Jobbers.

New section regarding practice requirements of wholesale distributors and jobbers.

71-7405.7. Storage of Display Fireworks.

New section regarding storage of display fireworks.

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71-7405.8. Sale of Display Fireworks.

New section regarding sale of display fireworks, which can only be sold to licensed persons.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such hearing will be conducted at the Administrative Law Court at 1:00 p.m. on Thursday, January 10, 2008. Written comments may be directed to John Reich, South Carolina State Fire Marshal, at 141 Monticello Trail, Columbia, SC 29203, no later than 5:00 p.m., December 27, 2007.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: The Department is updating the regulation by removing outdated language and coordinating state regulation with established national safety standards.

Legal Authority: 1976 Code, Sections 40-56-20 and 40-1-70.

Plan for Implementation: These regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the amended regulations and post the regulations on the agency's Web site.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The regulations will establish enhanced coordination between licensees and local, state and federal regulators.

DETERMINATION OF COSTS AND BENEFITS:

The standardized format of the regulations will assist other regulatory entities with locating requirements within the regulations. There will be no cost increases to the State or its political subdivisions.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning these regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no direct effects on the environment or public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

Implementation of these regulations will allow improvement in communication to the public.

Statement of Rationale:

The purpose of the amendment of these regulations is to update them and remove potential conflicts to agree with the Federal ATF regulations and current building and maintenance codes. The proposed change in certification regulations reflects the restructuring of State government and will assure that they are more accessible to the regulated public.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

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Filed: November 13, 2007 9:53 am

Document No. 3176
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-11-10, 50-11-105, 50-11-310, 50-11-335, 50-11-350, 50-11-390, 50-11-520, 50-11-530, 50-11-854, 50-11-2200 and 50-11-2210.

123-40. Wildlife Management Area Regulations

Emergency Situation:

These emergency regulations amend and supersede South Carolina Department of Natural Resources Regulation Numbers 123-40. These regulations set open and closed seasons, bag limits and methods of taking wildlife; define special use restrictions related to hunting and methods for taking wildlife on Wildlife Management Areas. Because the hunting seasons on many of these areas extend until January 1 it is necessary to re-file these regulations as emergency.

Text:

(G) Francis Marion National Forest

During still gun hunts for deer there shall be no hunting or shooting from, on or across any road open to vehicle traffic. No buckshot on still gun hunts. During deer hunts when dogs are used buckshot only is permitted. On either-sex deer hunts with dogs, all deer must be checked in by one hour after legal sunset. Hogs may only be taken during deer hunts and special hog hunts. On all still gun and muzzleloader either-sex hunts for all units, all does must be tagged with an individual antlerless deer tag except when harvested on county-wide either-sex days. Individual antlerless deer tags are valid on days not designated as either-sex after Sept. 15 for still hunting only.

Total of 8 deer for all gun and muzzleloader hunts on the Francis Marion.

Hellhole WMA

Deer

Archery	Aug. 15 through Sept. 30	2 deer per day, either-sex Sept. 15- 30. Hogs - no limit.
Still Gun Hunts	Oct 1 through Jan. 1	2 deer per day, either-sex Hogs no limit. Doe tags must be used except on county either-sex days.
Dog Hunts (Shotguns only, no still gun hunting)	1 st Sat in December 2 nd Friday in December	2 deer per day, buck only, hogs no limit 2 deer per day, either-sex hogs no limit

Youth only deer hunt with dogs.	Sat. following the two-day Wambaw buck only hunt in Nov.	2 deer per day, either-sex Hogs no limit.
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Requirements for youth same as statewide youth deer hunt day.

On the either-sex deer hunt with dogs (except youth only hunts) all deer must be checked in at Hellhole Check Station.

Waterhorn WMA

Deer

Archery	Sept 24 through Oct. 15	2 deer per day, either-sex, hogs no limit.
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Muzzleloader	Open last full week in Oct. and lasting for 14 days	2 deer per day, either-sex, hogs no limit.
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Still Gun Hunts	3 rd Fri. & Sat in Aug. 1 st & 2 nd Fri. & Sat. in Sept. 2 nd Fri. & Sat in Nov.	2 deer per day, buck only, hogs no limit
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1 st full week in Dec. Dec. 26 through Dec. 31	2 deer per day, either-sex hogs no limit.
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Hog Hunts with dogs	Every other Sat. in Feb. beginning with the 1 st Sat.	No limit.
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Wambaw WMA

Deer

Still Gun Hunts	Aug 15 - Jan. 1 except during scheduled dog drive hunts.	2 deer per day, buck only, except either-sex Sept 15 – Jan 1 Hogs no limit. Doe tags must be used except on county either-sex days.
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Dog Hunts (Shotguns only)	Friday in Sept. before the last Saturday Northampton dog hunt & Wed & Thur before the 3 rd Sat. in Nov. & 2 nd Sat in Dec. & 2 hunting days after Dec 25.	2 deer per day, buck only, Hogs no limit
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1 st Sat in Nov.	2 deer per day, either-sex Hogs no limit.
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Youth only deer hunt with dogs.	4 th Sat in Oct.	2 deer per day, either-sex Hogs no limit.
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Requirements for youth same as statewide youth deer hunt day.

On either-sex deer hunts with dogs (except youth only hunts) all deer must be checked in at Awendaw check station on Hwy 17 or Honey Hill Lookout Tower.

Still gun hunts only East of Hwy 17. Rifles allowed.

Northampton WMA

Deer

Still Gun Hunts	Aug. 15 through Jan. 1 except during scheduled dog drive hunts	2 deer per day, buck only, except either-sex Sept 15- Jan 1. Hogs no limit. Doe tags must be used except on county either-sex days.
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Dog Hunts (Shotguns only)	last Sat in Sept. & Wed & Thur before the 2 nd Sat in Oct. & Friday before the 4 th Sat in Nov. & 3 rd hunting day after Dec. 25.	2 deer per day, buck only, Hogs no limit.
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	3 rd Sat in Oct.	2 deer per day, either-sex Hogs no limit.
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Youth only deer hunt with dogs.	Sat. of statewide youth deer hunt day in Jan	2 deer per day, either-sex Hogs no limit.
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Requirements for youth same as statewide youth deer hunt day.

On either-sex deer hunts with dogs (except youth only hunts) all deer must be checked in at P&C Grocery or Anglers in Jamestown.

Santee WMA

Deer

Still Gun Hunts	Aug 15 through Jan. 1 except during scheduled dog drive hunts.	2 deer per day, buck only, except either-sex Sept 15 - Jan 1. Hogs no limit. Doe tags must be used except on county either-sex days.
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Dog Drive Hunts (Shotguns only)	Last Fri & Sat in Aug. & Wed & Thur before the 4 th Sat in Oct. & 1 st Friday in Dec.	2 deer per day, buck only Hogs no limit.
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	Sat. prior to Northampton buck only hunt in Sept.	2 deer per day, either-sex Hogs no limit.
Youth only deer hunt with dogs.	1 st Sat. in Oct.	2 deer per day, either-sex Hogs no limit.

Requirements for youth same as statewide youth deer hunt day).

On either-sex deer hunts with dogs (except youth only hunts) all deer must be checked in at Bonneau Ferry entrance or M & B Alvin Community Mart.

Statement of Need and Reasonableness:

Periodically additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs. Amendments are needed to allow additional opportunity. Because the hunting seasons on many of these areas extend until January 1 it is necessary to re-file these regulations as emergency.

Fiscal Impact Statement:

This amendment of Regulation 123.40 will result in increased public hunting opportunities that should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

Filed: November 2, 2007 12:56 pm

Document No. 3169
STATE LAW ENFORCEMENT DIVISION
CHAPTER 73
Statutory Authority: 1976 Code Section 16-8-330

73-500. Statewide Criminal Gang Database

Emergency Situation:

On June 12, 2007, the Criminal Gang Prevention Act (A82, R109, S141) became law. As noted in the Act, the State of South Carolina is facing a mounting crisis caused by criminal gangs whose members threaten and terrorize peaceful citizens and commit a multitude of crimes. Section 16-8-330 of this Act requires the State Law Enforcement Division (SLED) to develop and manage a statewide criminal gang database to facilitate the exchange of information between federal, state, county, and municipal law enforcement agencies. Promulgation of regulations is necessary before this can be implemented. Emergency Regulations must be promulgated to effect this important public safety effort as quickly as possible.

Final Assessment Report Summary Prepared by the Office of Research and Statistics of the S.C. Budget and Control Board. N/A

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Text:

Emergency regulation: Statewide Criminal Gang Database (SCGD)

1. Background and scope

a. Pursuant to meeting the intent and purpose of the Criminal Gang Prevention Act (A82, R109, S141), SLED must develop and manage a statewide criminal gang database to facilitate the exchange of information between federal, state, county, and municipal law enforcement agencies pursuant to the intent and purpose of this article.

b. As specified in SC Code Section 16-8-330, all state, county, and municipal law enforcement agencies must furnish information they acquire relating to criminal gangs and gang-related incidents to SLED to be included in the database.

2. Responsibilities

a. SLED will:

- i. Maintain the Statewide Criminal Gang Database (SCGD);
- ii. Ensure that use of the SCGD is only by bona fide law enforcement agencies and officials;
- iii. Receive recommendations from Chiefs and Sheriffs regarding individuals selected for data entry to the SCGD;
- iv. Provide extensive training to qualified individuals regarding database entry requirements and other applicable requirements specified in regulation and statute;
- v. Provide access codes to those individuals who meet National Crime Information Center (NCIC) requirements and complete SLED SCGD training;
- vi. Monitor entries to and inquiries of the database;
- vii. Review applications for access and execute Memoranda of Understanding (MOU) with participating agencies;
- viii. Determine, as specified in state statutes, if information relating to criminal gangs, gang-related incidents, patterns of gang activity, or members or associates of criminal gangs received from federal law enforcement agencies and law enforcement agencies of other states is eligible to be included in the SCGD;
- ix. Verify through SLED Criminal Justice Information Services (CJIS) Site Security Surveys that participating agencies have provided adequate physical security and have security Standard Operating Procedures which meet the criteria of this regulation;
- x. Audit participating agencies to verify that quality assurance procedures are in place to meet NCIC requirements, and that compliance is maintained;
- xi. Terminate access for non-compliance;
- xii. Ensure applicable Federal Regulations regarding misuse are followed and civil penalties imposed when applicable; and
- xiii. Review and purge files per applicable Federal Regulations, including 28CFR Part 23.

b. Participating agencies will:

- i. Ensure that employees granted access to SCGD are NCIC-certified and have been trained as specified by SLED regarding implementation of the requirements of this regulation;
- ii. Provide physical security for SCGD terminals in accordance with NCIC requirements;
- iii. Maintain data received from the SCGD in accordance with NCIC requirements and 28 CFR Part 23;
- iv. Ensure that data submitted to SCGD has been collected in accordance with Code Sections 16-8-210 et seq. (specifically, Sections 16-8-230, -320 and -330) and that data not collected in accordance with those statutes is not submitted to the SCGD.
- v. Ensure that adequate quality assurance procedures are in place to comply with NCIC requirements, 28 CFR Part 23, this regulation, and any other applicable regulations or statutes.

3. Criteria for Access to the Statewide Criminal Gang Database
 - a. SLED will execute SCGD MOUs with participating agencies.
 - b. Participating agencies will provide a secure terminal and qualified operators.
 - c. Participating agencies will enter and maintain SCGD data in accordance with this regulation.

4. Criteria for Entry of Information to the Statewide Criminal Gang Database
 - a. Information submitted to the database must comply with SC Code Section 16-8-230 subsections (2) through (5)
 - b. Information submitted to the SCGD must be from sources deemed reliable in accordance with generally accepted law enforcement criteria.
 - c. Individuals entered into the SCGD based on association with other known criminal gang members must be consistent with the Federal Bureau of Investigation's Violent Gang and Terrorist Organization File (VGTOF) criteria as defined in SC Code Section 16-8-330 (D).

5. Criteria for Designation as an Active Member of a Criminal Gang
 - a. An individual admits to being a member of a criminal gang;
 - b. An individual is identified as a criminal gang member by a parent or guardian;
 - c. An individual is identified as a criminal gang member by a documented reliable informant;
 - d. An individual resides in or frequents a particular criminal gang's or group's area, and adopts their style of dress, their use of hand signs, or their tattoos, and associates with known criminal gang or criminal group members;
 - e. An individual is identified as a criminal gang member as corroborated by independent information;
 - f. An individual has been arrested more than once in the company of identified criminal gang members for offenses which are consistent with usual criminal gang activity, or criminal group activity for which the criminal group is associated with; or
 - g. An individual is identified as a criminal gang member by physical evidence such as photographs or other documentation.

6. Penalties for Misuse of the Statewide Criminal Gang Database
 - a. Misuse of the SCGD will subject the offender to SLED Policy 7.2.1, NCIC Operator Decertification;
 - b. Misuse of the SCGD may possibly subject the offender to a Federal Civil Fine of up to \$10,000 as specified in Federal Regulation 28CFR Part 23.

Statement of Need and Reasonableness:

N/A

DESCRIPTION OF REGULATION: N/A

Purpose: N/A

Legal Authority: N/A

Plan for Implementation: N/A

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: N/A

DETERMINATION OF COSTS AND BENEFITS: N/A

UNCERTAINTIES OF ESTIMATES: N/A

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EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: N/A

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: N/A

Document No. 3148
DEPARTMENT OF INSURANCE
 CHAPTER 69

Statutory Authority: Military Personnel Financial Services Protection Act of 2006, 10 U.S.C. § 992 *et seq.*,
 1976 Code Sections 1-23-110 *et seq.*, 38-3-110 and 38-57-10 *et seq.*

69-65. Military Sales Practices

Synopsis:

The South Carolina Department of Insurance proposes to promulgate a regulation in compliance with the Congressional mandate set forth in the Military Personnel Financial Services Protection Act, Pub. L. No. 109-290 (2006). The federal Act required the states to work collectively with the Secretary of Defense to implement appropriate standards to protect members of the Armed Forces from dishonest and predatory insurance sales practices while on a military installation. The Act also required the creation of standards for products specifically designed to meet the particular needs of members of the Armed forces.

The proposed regulation addresses the solicitation or sale of life insurance and annuity products to active duty members of the United States Armed Services. Specifically, the regulation addresses the conduct of insurers and insurance producers both on and off of a military installation and designates certain practices by insurers or insurance producers as false, misleading, deceptive or unfair.

This regulation is promulgated to comply with federal law; neither a fiscal impact statement nor a preliminary assessment is required.

Instructions: Promulgate R.69-65 as set forth in the text below.

Text:

69-65. Military Sales Practices

Section 1. Purpose

A. The purpose of this regulation is to set forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair.

B. Nothing herein shall be construed to create or imply a private cause of action for a violation of this regulation.

Section 2. Scope

This regulation shall apply only to the solicitation or sale of any life insurance or annuity product by an insurer or insurance producer to an active duty service member of the United States Armed Forces.

Section 3. Authority

This regulation is issued under the authority of S.C. Code Ann. Section 38-57-10 *et seq.*

Section 4. Exemptions

A. This regulation shall not apply to solicitations or sales involving:

- (1) Credit insurance;
- (2) Group life insurance or group annuities where there is no in-person, face-to-face solicitation of individuals by an insurance producer or where the contract or certificate does not include a side fund;
- (3) An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced

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by the same insurer pursuant to a program filed with and approved by the Director of Insurance; or, when a term conversion privilege is exercised among corporate affiliates;

(4) Individual stand-alone health policies, including disability income policies;

(5) Contracts offered by Service members' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI), as authorized by 38 U.S.C. Section 1965 *et seq.*;

(6) Life insurance contracts offered through or by a non-profit military association, qualifying under Section 501 (c) (23) of the Internal Revenue Code (IRC), and which are not underwritten by an insurer; or

(7) Contracts used to fund:

(a) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

(b) A plan described by Sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the IRC, as amended, if established or maintained by an employer;

(c) A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC;

(d) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

(e) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

(f) Prearranged funeral contracts.

B. Nothing herein shall be construed to abrogate the ability of nonprofit organizations (and/or other organizations) to educate members of the United States Armed Forces in accordance with Department of Defense DoD Instruction 1344.07 – PERSONAL COMMERCIAL SOLICITATION ON DOD INSTALLATIONS or successor directive.

C. For purposes of this regulation, general advertisements, direct mail and internet marketing shall not constitute "solicitation." Telephone marketing shall not constitute "solicitation" provided the caller explicitly and conspicuously discloses that the product concerned is life insurance and makes no statements that avoid a clear and unequivocal statement that life insurance is the subject matter of the solicitation. Provided however, nothing in this subsection shall be construed to exempt an insurer or insurance producer from this regulation in any in-person, face-to-face meeting established as a result of the "solicitation" exemptions identified in this subsection.

Section 5. Definitions

A. "Active Duty" means full-time duty in the active military service of the United States and includes members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or full-time training. The term does not include members of the reserve component who are performing active duty or active duty for training under military calls or orders specifying periods of less than 31 calendar days.

B. "Department of Defense (DoD) Personnel" means all active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the Department of Defense.

C. "Door to Door" means a solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without prior specific appointment.

D. "General Advertisement" means an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of insurance, or the promotion of the insurer or the insurance producer.

E. "Insurer" means an insurance company required to be licensed under the laws of this state to provide life insurance products, including annuities.

F. "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate life insurance, including annuities.

G. "Known" or "Knowingly" means, depending on its use herein, the insurance producer or insurer had actual awareness, or in the exercise of ordinary care should have known, at the time of the act or practice complained of, that the person solicited:

- (1) is a service member; or
- (2) is a service member with a pay grade of E-4 or below.

H. "Life Insurance" means insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income and unless otherwise specifically excluded, includes individually issued annuities.

I. "Military Installation" means any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.

J. "MyPay" is a Defense Finance and Accounting Service (DFAS) web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.

K. "Service Member" means any active duty officer (commissioned and warrant) or enlisted member of the United States Armed Forces.

L. "Side Fund" means a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement or other mechanism which accumulates premium or deposits with interest or by other means. The term does not include:

- (1) accumulated value or cash value or secondary guarantees provided by a universal life policy;
- (2) cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or
- (3) a premium deposit fund which:
 - (a) contains only premiums paid in advance which accumulate at interest;
 - (b) imposes no penalty for withdrawal;
 - (c) does not permit funding beyond future required premiums;
 - (d) is not marketed or intended as an investment; and
 - (e) does not carry a commission, either paid or calculated.

M. "Specific Appointment" means a prearranged appointment agreed upon by both parties and definite as to place and time.

N. "United States Armed Forces" means all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

Section 6. Practices Declared False, Misleading, Deceptive or Unfair on a Military Installation

A. The following acts or practices when committed on a military installation by an insurer or insurance producer with respect to the in-person, face-to-face solicitation of life insurance are declared to be false, misleading, deceptive or unfair:

- (1) Knowingly soliciting the purchase of any life insurance product "door to door" or without first establishing a specific appointment for each meeting with the prospective purchaser.
- (2) Soliciting service members in a group or "mass" audience or in a "captive" audience where attendance is not voluntary.
- (3) Knowingly making appointments with or soliciting service members during their normally scheduled duty hours.
- (4) Making appointments with or soliciting service members in barracks, day rooms, unit areas, or transient personnel housing or other areas where the installation commander has prohibited solicitation.
- (5) Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander's designee.
- (6) Posting unauthorized bulletins, notices or advertisements.
- (7) Failing to present DD Form 2885, *Personal Commercial Solicitation Evaluation*, to service members solicited or encouraging service members solicited not to complete or submit a DD Form 2885.
- (8) Knowingly accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the United States Armed Forces without first obtaining for the insurer's files a completed copy of any required form which confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives or rules of the DoD or any branch of the Armed Forces.

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B. The following acts or practices when committed on a military installation by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair:

(1) Using DoD personnel, directly or indirectly, as a representative or agent in any official or business capacity with or without compensation with respect to the solicitation or sale of life insurance to service members.

(2) Using an insurance producer to participate in any United States Armed Forces sponsored education or orientation program.

Section 7. Practices Declared False, Misleading, Deceptive or Unfair Regardless of Location

A. The following acts or practices by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair:

(1) Submitting, processing or assisting in the submission or processing of any allotment form or similar device used by the United States Armed Forces to direct a service member's pay to a third party for the purchase of life insurance. The foregoing includes, but is not limited to, using or assisting in using a service member's "MyPay" account or other similar internet or electronic medium for such purposes. This subsection does not prohibit assisting a service member by providing insurer or premium information necessary to complete any allotment form.

(2) Knowingly receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship. For purposes of this section, a formal banking relationship is established when the depository institution:

(a) provides the service member a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. § 4301 *et seq.* and the regulations promulgated thereunder; and

(b) permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.

(3) Employing any device or method or entering into any agreement whereby funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's Leave and Earnings Statement or equivalent or successor form as "Savings" or "Checking" and where the service member has no formal banking relationship as defined in subsection 7 (A)(2).

(4) Entering into any agreement with a depository institution for the purpose of receiving funds from a service member whereby the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship.

(5) Using DoD personnel, directly or indirectly, as a representative or agent in any official or unofficial capacity with or without compensation with respect to the solicitation or sale of life insurance to service members who are junior in rank or grade, or to the family members of such personnel.

(6) Offering or giving anything of value, directly or indirectly, to DoD personnel to procure their assistance in encouraging, assisting or facilitating the solicitation or sale of life insurance to another service member.

(7) Knowingly offering or giving anything of value to a service member with a pay grade of E-4 or below for his or her attendance to any event where an application for life insurance is solicited.

(8) Advising a service member with a pay grade of E-4 or below to change his or her income tax withholding or State of legal residence for the sole purpose of increasing disposable income to purchase life insurance.

B. The following acts or practices by an insurer or insurance producer lead to confusion regarding source, sponsorship, approval or affiliation and are declared to be false, misleading, deceptive or unfair:

(1) Making any representation, or using any device, title, descriptive name or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer or product offered is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, the United States Armed Forces, or any state or federal agency or government entity. Examples of prohibited insurance producer titles include, but are not limited to, "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant" or "Veteran's Benefits Counselor." Nothing herein shall be construed to prohibit a person from using a

professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning. Such designations include, but are not limited to, Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Master of Science in Financial Services (MSFS), or Masters of Science Financial Planning (MS).

(2) Soliciting the purchase of any life insurance product through the use of or in conjunction with any third party organization that promotes the welfare of or assists members of the United States Armed Forces in a manner that has the tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance producer or insurance product is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, or the United States Armed Forces.

C. The following acts or practices by an insurer or insurance producer lead to confusion regarding premiums, costs or investment returns and are declared to be false, misleading, deceptive or unfair:

(1) Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid.

(2) Excluding individually issued annuities, misrepresenting the mortality costs of a life insurance product, including stating or implying that the product "costs nothing" or is "free."

D. The following acts or practices by an insurer or insurance producer regarding SGLI or VGLI are declared to be false, misleading, deceptive or unfair:

(1) Making any representation regarding the availability, suitability, amount, cost, exclusions or limitations to coverage provided to a service member or dependents by SGLI or VGLI, which is false, misleading or deceptive.

(2) Making any representation regarding conversion requirements, including the costs of coverage, or exclusions or limitations to coverage of SGLI or VGLI to private insurers which is false, misleading or deceptive.

(3) Suggesting, recommending or encouraging a service member to cancel or terminate his or her SGLI policy or issuing a life insurance policy which replaces an existing SGLI policy unless the replacement shall take effect upon or after the service member's separation from the United States Armed Forces.

E. The following acts or practices by an insurer and or insurance producer regarding disclosure are declared to be false, misleading, deceptive or unfair:

(1) Deploying, using or contracting for any lead generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance.

(2) Failing to disclose that a solicitation for the sale of life insurance will be made when establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser.

(3) Excluding individually issued annuities, failing to clearly and conspicuously disclose the fact that the product being sold is life insurance.

(4) Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by Section 10 of the "Military Personnel Financial Services Protection Act," Pub. L. No. 109-290, p.16.

(5) Excluding individually issued annuities, when the sale is conducted in-person face-to-face with an individual known to be a service member, failing to provide the applicant at the time the application is taken:

(a) an explanation of any free look period with instructions on how to cancel if a policy is issued; and

(b) either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance, the death benefit applied for and its expected first year cost. A basic illustration that meets the requirements of Regulation 69-40, Life Insurance Policy Illustration Rules, shall be deemed sufficient to meet this requirement for a written disclosure.

F. The following acts or practices by an insurer or insurance producer with respect to the sale of certain life insurance products are declared to be false, misleading, deceptive or unfair:

(1) Excluding individually issued annuities, recommending the purchase of any life insurance product which includes a side fund to a service member in pay grades E-4 and below unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable.

(2) Offering for sale or selling a life insurance product which includes a side fund to a service member in pay grades E-4 and below who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's SGLI death benefit, together

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with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance.

(a) "Insurable needs" are the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate and/or survivors or dependents.

(b) "Other military survivor benefits" include, but are not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits.

(3) Excluding individually issued annuities, offering for sale or selling any life insurance contract which includes a side fund:

(a) unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;

(b) unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be provided for at least each policy year from one (1) to ten (10) and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and

(c) which by default diverts or transfers funds accumulated in the side fund to pay, reduce or offset any premiums due.

(4) Excluding individually issued annuities, offering for sale or selling any life insurance contract which after considering all policy benefits, including but not limited to endowment, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance.

(5) Selling any life insurance product to an individual known to be a service member that excludes coverage if the insured's death is related to war, declared or undeclared, or any act related to military service except for an accidental death coverage, *e.g.*, double indemnity, which may be excluded.

Section 8. Severability

If any provision of these sections or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these sections which can be given effect without the invalid provisions or application. To this end all provisions of these sections are declared to be severable.

Section 9. Effective Date

This regulation shall become effective upon date of final publication in the *South Carolina State Register* and shall apply to acts or practices committed on or after that date.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Military Sales Practices

Purpose: To promulgate a regulation in compliance with the federal Military Personnel Financial Services Protection Act, Pub. L. No 109-290 (2006). The proposed regulation sets forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain practices to be false, misleading, deceptive or unfair.

Legal Authority: Military Personnel Financial Services Protection Act of 2006, 10 U.S.C. § 992 *et seq.*, S.C. Code Ann. Sections 1-23-110 *et seq.*, 38-3-110 and 38-57-10 *et seq.*

Plan for Implementation: The proposed regulation will take effect upon publication in the *South Carolina State Register*. Legislative review is not required.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed regulation is based on a model regulation developed by the National Association of Insurance Commissioners (NAIC) pursuant to the Congressional mandate announced in the Military Personnel Financial Services Protection Act of 2006. The federal Act clearly provides that the states shall work collectively to implement appropriate standards to protect the members of the Armed Forces from dishonest and predatory insurance sales practices while on a military installation. The Act also provides that each state shall report to Congress by September 29, 2007 on the progress made regarding the adoption of the standards collectively developed. Congress also called on the NAIC to report to it on “ways of improving the quality of and sale of life insurance products. . .by creating standards for products specifically designed to meet the particular needs of members of the Armed Forces.” Promulgation of this regulation is necessary to bring the state into compliance with the federal Act.

DETERMINATION OF COSTS AND BENEFITS: There will be no additional costs to the state or its political subdivisions. This proposed regulation will benefit our state by ensuring the protection of our military personnel against abusive insurance sales practices. As of May 2007, 32,722 active military personnel were located in South Carolina.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: This regulation does not have any effect on the environment. This regulation protects and safe-guards our Armed forces from abusive sales tactics in regards to the sale of life insurance.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: There will be no detrimental effect on the environment or public health if this regulation is not implemented.