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2021 REGULAR SESSION

Acts and Joint Resolutions

of the

GENERAL ASSEMBLY
OF THE STATE OF SOUTH CAROLINA

(continued on inside cover)

Numbers in parenthesis to left of act numbers (numbers in bold face) refer as follows: number with R before it refers to ratification number, number with S before it refers to bill number in Senate, and number with H before it refers to bill number in House of Representatives.

Ashley Harwell-Beach, Code Commissioner, P.O. Box 11489,
Columbia, S.C. 29211

Ratified the 28th day of April, 2021.

Approved the 28th day of April, 2021.

No. 28

(R41, S229)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "SOUTH CAROLINA CHILD ABUSE RESPONSE PROTOCOL ACT" BY ADDING ARTICLE 24 TO CHAPTER 11, TITLE 63 SO AS TO REQUIRE MULTIDISCIPLINARY TEAMS INVOLVED IN CHILD ABUSE INVESTIGATION AND PROSECUTION TO FOLLOW CERTAIN CHILD ABUSE RESPONSE PROTOCOL, TO PROVIDE FOR THE ESTABLISHMENT OF AN ADVISORY COMMITTEE TO REVIEW AND UPDATE THE PROTOCOL, AND FOR OTHER PURPOSES; AND TO AMEND SECTION 63-11-310, RELATING TO CHILDREN'S ADVOCACY CENTERS, SO AS TO REQUIRE CHILDREN'S ADVOCACY CENTERS TO HOLD CERTAIN ACCREDITATION STATUS OR BE ACTIVELY PURSUING ACCREDITATION, AND FOR OTHER PURPOSES.

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

Citation

SECTION 1. This act must be known and may be cited as the "South Carolina Child Abuse Response Protocol Act".

South Carolina Child Abuse Response Protocol

SECTION 2. Chapter 11, Title 63 of the 1976 Code is amended by adding:

"Article 24

South Carolina Child Abuse Response Protocol

Section 63-11-2400. In the investigation of a known or suspected crime against a child, a multidisciplinary team must follow the South Carolina Child Abuse Response Protocol as developed by the South Carolina Children's Justice Act Task Force and the South Carolina Network of Children's Advocacy Centers. Failure to comply with the South Carolina Child Abuse Response Protocol may not be used by the defense in any prosecution and is not grounds for dismissal of any criminal charge, nor does it provide any cause of action against any state agency, political subdivision, member of a multidisciplinary team, member of any prosecutor's office, member of any law enforcement agency, or law enforcement officer.

Section 63-11-2410. (A) The South Carolina Children's Justice Act Task Force and the South Carolina Network of Children's Advocacy Centers shall develop and provide initial training on the protocol and updated training as needed for this purpose. The protocol must be publicly available and must be annually reviewed and updated as needed by an advisory committee known as the Child Abuse Protocol Review Committee.

(B)(1) The Governor shall appoint the members of the Child Abuse Protocol Review Committee and may consult with the South Carolina Children's Justice Act Task Force and the South Carolina Network of Children's Advocacy Centers in making his appointments. The committee shall consist of thirteen members as follows:

(a) the Executive Director of the South Carolina Network of Children's Advocacy Centers, or his designee;

(b) one member from state law enforcement;

(c) one member from county law enforcement;

(d) one member from a solicitor's office;

(e) the Executive Director of the Department of Social Services, or his designee;

(f) one member who is the Medical Director of the South Carolina Children's Advocacy Medical Response System, or his designee;

(g) one member from the State Guardian Ad Litem Program or Richland County Court Appointed Special Advocates;

(h) one member from a school district;

(i) one member from a statewide organization experienced in working with children with all disabilities;

(j) the Executive Director of the South Carolina Police Chief's Association, or his designee;

(k) the Executive Director of the South Carolina Sheriff's Association, or his designee; and

(l) two at-large members.

(2) The Department of Children's Advocacy shall convene the first meeting of the committee for the purpose of electing a chair and shall thereafter provide staff support to the committee. Members of the committee shall serve for terms of four years and may serve in a holdover capacity for up to six months after the expiration of their term, should a qualified successor not be appointed.

Section 63-11-2420. The Department of Children's Advocacy shall maintain the protocol and the committee's updates to the protocol."

Children's Advocacy Centers

SECTION 3. Section 63-11-310(B)(1), (C), and (D) of the 1976 Code is amended to read:

"(1) Children's Advocacy Centers must establish memoranda of agreement with governmental entities charged with the investigation and prosecution of child abuse. Children's Advocacy Centers must be fully accredited by the National Children's Alliance or must be an associate/developing or affiliate member of the South Carolina Network of Children's Advocacy Centers and be actively pursuing full accreditation with the National Children's Alliance within the next two years.

(C) The South Carolina Network of Children's Advocacy Centers must coordinate and facilitate the exchange of information among statewide centers and provide technical assistance to communities in the establishment, growth, and certification of local centers. The network must also educate the public and legislature regarding the needs of abused children and provide or coordinate multidisciplinary training opportunities which support the comprehensive response to suspected child maltreatment."

Time effective

SECTION 4. SECTION 1 and Section 63-11-2410(B), as added by this act, take effect upon approval by the Governor. The remaining provisions take effect one year after approval by the Governor.

Ratified the 4th day of May, 2021.

Approved the 6th day of May, 2021.

No. 29

(R42, S241)

AN ACT TO AMEND SECTION 59-112-50, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF "COVERED INDIVIDUAL" FOR THE PURPOSES OF TUITION RATES FOR MILITARY PERSONNEL AND THEIR DEPENDENTS, SO AS TO ELIMINATE THE REQUIREMENT THAT A VETERAN OR DEPENDENT ENROLL IN A PUBLIC INSTITUTION OF HIGHER EDUCATION WITHIN THREE YEARS OF THE VETERAN'S DISCHARGE IN ORDER TO RECEIVE EDUCATIONAL ASSISTANCE.

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

Covered individuals expanded

SECTION 1. Section 59-112-50(C) of the 1976 Code, as last amended by Act 10 of 2019, is further amended to read:

"(C)(1)Notwithstanding any other provision of law, a covered individual enrolled in a public institution of higher education and receiving educational assistance under Chapter 30, Chapter 31, and Chapter 33, Title 38 of the United States Code are entitled to pay in-state tuition and fees without regard to the length of time the covered individual has resided in this State.

(2) For purposes of this subsection, a covered individual is defined as:

(a) a veteran who served ninety days or longer on active duty in the uniformed service of the United States, their respective reserve forces, or the National Guard;

(b) a person who is entitled to and receiving assistance under Section 3319, Title 38 of the United States Code by virtue of the person's relationship to the veteran described in subitem (a);

(c) a person using transferred benefits under Section 3319, Title 38 of the United States Code while the transferor is on active duty in the uniformed service of the United States, their respective reserve forces, or the National Guard;

(d) a person who is entitled to and receiving assistance under Section 3311(b)(9), Title 38 of the United States Code; or

(e) a person who is entitled to and is receiving assistance under Section 3102(a), Title 38 of the United States Code.

(3) A covered individual must live in this State while enrolled at the in-state institution."

Time effective

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

Ratified the 4th day of May, 2021.

Approved the 6th day of May, 2021.

No. 30

(R43, S467)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 34-1-150 SO AS TO PROVIDE REQUIREMENTS FOR AN APPLICANT SEEKING PERMISSION TO ORGANIZE A BANK; BY ADDING SECTION 34-1-160 SO AS TO PROVIDE CONDITIONS THAT MUST BE MET IN ORDER TO AUTHORIZE THE ORGANIZATION OF A PROPOSED BANK; BY ADDING SECTION 34-1-170 SO AS TO PROVIDE FOR THE REQUIREMENTS OF THE ARTICLES OF INCORPORATION OF A PROPOSED BANK; BY ADDING SECTION 34-1-180 SO AS TO PROVIDE THE REQUIREMENTS FOR THE BOARD OF FINANCIAL INSTITUTIONS TO APPROVE A CHARTER FOR A PROPOSED BANK; BY ADDING SECTION 34-1-190 SO AS TO PROVIDE THAT THE BOARD SHALL DECIDE WHETHER TO UPHOLD OR OVERTURN ITS APPROVAL OR DENIAL OF AN APPLICATION; BY ADDING SECTION 34-1-200 SO AS TO PROVIDE THE REQUIREMENTS FOR ISSUING A BANK

CHARTER; BY ADDING SECTION 34-1-210 SO AS TO PROVIDE THAT A REMOTE SERVICE UNIT IS NOT CONSIDERED A BRANCH OF A BANK; BY ADDING SECTION 34-1-220 SO AS TO ALLOW CERTAIN DELEGATIONS TO THE COMMISSIONER OF BANKING, TO AMEND SECTION 34-3-350, RELATING TO THE REVIEW OF REPORTS OF EXAMINATIONS, SO AS TO PROVIDE THAT THE COMMISSIONER OF BANKING SHALL FORWARD A COPY OF THE REPORT TO THE CHIEF EXECUTIVE; TO AMEND SECTION 34-3-360, RELATING TO THE FORM OF NOTICE TO A CASHIER, SO AS TO REPLACE "STATE BOARD OF BANK CONTROL" WITH "COMMISSIONER OF BANKING" AND TO REPLACE "CASHIER" WITH "CHIEF EXECUTIVE"; TO AMEND SECTION 34-3-370, RELATING TO THE FORM OF REPORT TO THE STATE BOARD, SO AS TO REPLACE "STATE BOARD OF BANK CONTROL" WITH "COMMISSIONER OF BANKING" AND TO REPLACE "PRESIDENT OR CASHIER" WITH "CHIEF EXECUTIVE"; TO AMEND SECTION 34-3-380, RELATING TO REPORTS OF CONDITION, SO AS TO REPLACE "PRESIDENT OR CASHIER" WITH "CHIEF EXECUTIVE OR CHIEF FINANCIAL OFFICER" AND TO PROVIDE THAT TWO DIRECTORS SHALL VERIFY THE REPORT; TO AMEND SECTION 34-3-810, RELATING TO THE CONVERSION OF A NATIONAL BANK OR NON-SOUTH CAROLINA STATE BANK INTO A SOUTH CAROLINA STATE BANK, SO AS TO PERMIT ANOTHER STATE'S BANK TO CONVERT INTO A SOUTH CAROLINA STATE BANK AND TO REQUIRE BOARD APPROVAL AND TO REQUIRE A NATIONAL OR OTHER STATE BANKING CORPORATION TO FILE AN APPLICATION OF CONVERSION; TO AMEND SECTION 34-3-820, RELATING TO THE TIMING OF THE CORPORATE EXISTENCE OF THE STATE BANK, SO AS TO INCLUDE REFERENCES TO A NON-SOUTH CAROLINA STATE BANK CONVERTING TO A SOUTH CAROLINA STATE BANK; TO AMEND SECTION 34-3-830, RELATING TO THE TRANSFER OF ASSETS TO THE SOUTH CAROLINA STATE BANK, SO AS TO INCLUDE REFERENCES TO A NON-SOUTH CAROLINA STATE BANK CONVERTING TO A SOUTH CAROLINA STATE BANK; TO AMEND SECTION 34-3-840, RELATING TO THE DIRECTORS AND ORGANIZATION OF A NATIONAL BANKING CORPORATION OR STATE BANKING

CORPORATION, SO AS TO PROVIDE THAT UNLESS OTHERWISE ELECTED BY THE SHAREHOLDERS OF THE NATIONAL BANKING CORPORATION OR STATE BANKING CORPORATION, THE DIRECTORS AND OFFICERS IN OFFICE AT THE TIME OF ITS DISSOLUTION ARE THE DIRECTORS AND OFFICERS OF THE BANK CREATED; TO AMEND SECTION 34-9-10, RELATING TO THE AMOUNT OF CAPITAL STOCK TO BE PAID IN CASH, SO AS TO PROVIDE PAYMENT OF UNITED STATES CURRENCY AND TO DELETE A PROVISION THAT REQUIRES NO AUTHORIZED BUT UNISSUED CAPITAL STOCK MAY BE ISSUED WITHOUT APPROVAL BY THE BOARD; TO AMEND SECTION 34-9-40, RELATING TO MINIMUM CAPITAL STOCK REQUIREMENTS, SO AS TO PROVIDE THAT A BANKING COMPANY OR CORPORATION MUST HAVE MINIMUM CAPITAL IN THE AMOUNT REQUIRED BY THE STATE BOARD OF FINANCIAL INSTITUTIONS; TO AMEND SECTION 34-11-60, RELATING TO FRAUDULENT CHECKS, SO AS TO REMOVE THE REQUIREMENT THAT A HOME TELEPHONE NUMBER IS NECESSARY TO ESTABLISH PRIMA FACIE EVIDENCE AGAINST A DEFENDANT; TO AMEND SECTION 34-13-140, RELATING TO THE RESTRICTIONS ON LOAN OR DISCOUNT ON OR PURCHASE OF A BANK'S OWN STOCK, SO AS TO PROVIDE AN EXCEPTION TO THE RESTRICTION IF THE PURCHASE IS APPROVED BY THE BOARD OF FINANCIAL INSTITUTIONS OR IF THE BANKING ASSOCIATION HOLDS THE OUTSTANDING SHARES AS TREASURY STOCK; TO AMEND SECTION 34-26-350, RELATING TO THE PRINCIPAL PLACE OF BUSINESS OF A CREDIT UNION, SO AS TO PROVIDE THAT THE MAINTENANCE OF THE FACILITY MUST BE REASONABLY NECESSARY TO FURNISH SERVICE TO ITS MEMBERS OR POTENTIAL MEMBERS; TO AMEND SECTION 34-26-530, RELATING TO AN APPLICATION FOR MEMBERSHIP TO A CREDIT UNION, SO AS TO REMOVE A REQUIREMENT FOR MEMBERSHIP OFFICERS TO APPROVE APPLICATIONS; TO AMEND SECTION 34-26-640, RELATING TO BOARD MEETINGS, SO AS TO PROVIDE THAT THE BOARD MUST MEET AT LEAST QUARTERLY; TO AMEND SECTION 34-26-645, RELATING TO THE DUTIES OF THE BOARD, SO AS TO REMOVE THE DUTY TO ESTABLISH TITLES FOR SENIOR MANAGEMENT POSITIONS; TO

AMEND SECTION 34-26-1220, RELATING TO THE CONVERSION OF A CREDIT UNION, SO AS TO PROVIDE THAT THE ASSETS AND LIABILITIES OF THE CREDIT UNION WILL VEST IN AND BECOME THE PROPERTY OF THE SUCCESSOR CREDIT UNION; TO REPEAL CHAPTERS 12 AND 27 OF TITLE 34 RELATING TO COUNTY AND MULTICOUNTY CHECK CLEARING HOUSES; TO REPEAL SECTION 34-1-70 RELATING TO THE APPROVAL OF CHARTERS OF BANKS, BUILDING AND LOAN ASSOCIATIONS, SAVINGS AND LOAN ASSOCIATIONS, AND SAVINGS BANKS; TO REPEAL SECTION 34-3-60 RELATING TO BRANCH BANK IDENTIFICATION; TO REPEAL SECTION 34-9-70 RELATING TO CERTAIN PAID-IN CAPITAL REQUIREMENTS AND EXCEPTIONS; TO REPEAL SECTION 34-9-80 RELATING TO THE ISSUANCE OF PREFERRED STOCK; TO REPEAL SECTION 34-11-40 RELATING TO THE DUPLICATE FOR LOST OR DESTROYED TIME CERTIFICATE OF DEPOSITS; AND TO REPEAL SECTION 34-11-50 RELATING TO THE DUPLICATE FOR ANY LOST OR DESTROYED CERTIFICATE OF DEPOSIT OR SAVINGS ACCOUNT BOOK.

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

Bank organization

SECTION 1. Chapter 1, Title 34 of the 1976 Code is amended by adding:

"Section 34-1-150. (A) An applicant for permission to organize a bank, building and loan association, savings and loan association, or savings bank and for a charter shall file an application with the Board of Financial Institutions. The application must be in the form required by the board and must contain information as the board requires, set forth in sufficient detail to enable the board to evaluate the applicant's satisfaction of the criteria set forth in Section 34-1-180. The applicant shall pay a nonrefundable application fee as prescribed by the board at the time of filing the application.

(B) An applicant for permission to establish a branch bank, branch building and loan association, branch savings and loan association, or branch savings bank shall file an application with the board. The application must be in the form required by the board and must contain

information, set forth in sufficient detail, to enable the board to evaluate whether the establishment of a branch would serve the public interest, taking into consideration local circumstances and conditions at the place where the applicant proposes to do business.

(C) Upon receipt of an application to organize or to establish a branch of a bank, building and loan association, savings and loan association, or savings bank, the board shall conduct an examination of the applicant and any other matters considered relevant by the board. The board may require additional information and may require the amendment of the application in the course of the examination. An applicant's failure to furnish all required information or to pay any required fee within thirty days after filing the application may be considered an abandonment of the application.

Section 34-1-160. (A) With the approval of the board, the organizers may file articles of incorporation for the proposed bank, building and loan association, savings and loan association, or savings bank with the Secretary of State. The board shall authorize the organization of the proposed bank, building and loan association, savings and loan association, or savings bank if the commissioner is satisfied that each of the following conditions are met:

(1) the application is complete;

(2) the examination as provided for in Section 34-1-150(C) indicates that the requirements for the issuance of a charter to the applicant as described in Section 34-1-180 are reasonably likely to be satisfied; and

(3) the proposed name of the proposed bank, building and loan association, savings and loan association, or savings bank is not likely to mislead the public as to its character or purpose and is not the same as a name already adopted by an existing depository institution or trust institution operating in this State.

(B) If the board approves the organization of the proposed bank, building and loan association, savings and loan association, or savings bank, the board shall issue a certificate to the Secretary of State. The Secretary of State shall transmit to the board a certified copy of the filed articles of incorporation of the proposed bank, building and loan association, savings and loan association, or savings bank.

(C)(1) Unless and until the board approves and issues a charter to the proposed bank, building and loan association, savings and loan association, or savings bank, it may not transact any business except as is incidental and necessary to its organization or the application for a charter or preparation for commencing the business of banking.

(2) All funds, other than its operational expense fund from which to pay organizational expenses, and paid-for shares of the proposed bank, building and loan association, savings and loan association, or savings bank must be placed in escrow under a written escrow agreement with a third-party escrow agent satisfactory to the commissioner.

(3) All funds for shares placed into escrow and all dividends or interest on the funds may be removed from escrow only with the commissioner's approval except to the extent that the funds are refunded to subscribers or as otherwise required by law.

(D) A proposed bank, building and loan association, savings and loan association, or savings bank is subject to the jurisdiction of the commissioner and the board.

Section 34-1-170. (A) The articles of incorporation of a proposed bank, building and loan association, savings and loan association, or savings bank must be signed and acknowledged by or on behalf of an organizer and must contain the following:

(1) the information required to be set forth in articles of incorporation under Title 33;

(2) any provision consistent with Title 33 and other applicable law that the organizers elect to set forth for the regulation of the internal affairs of the proposed bank, building and loan association, savings and loan association, or savings bank and that the board authorizes or requires; and

(3) any provision the board requires or authorizes as a substitute for a provision that otherwise would be required by Title 33.

(B) Before the chartering of a proposed bank, building and loan association, savings and loan association, or savings bank, the articles of incorporation filed under the provisions of Section 34-1-160 must be sufficiently certified to the FDIC or any other applicable regulatory agencies that the proposed bank, building and loan association, savings and loan association, or savings bank is a legal entity.

Section 34-1-180. (A) The board may approve a charter for a proposed bank, building and loan association, savings and loan association, or savings bank only when the board determines that all of the following requirements have been satisfied or are reasonably probable to be satisfied within a reasonable period of time specified by the board in the order of approval:

(1) The proposed bank, building and loan association, savings and loan association, or savings bank has solicited or will solicit subscriptions for purchases of shares sufficient to provide an amount of

required capital satisfactory to the board for the commencement of the business of banking.

(2) All prior public solicitations for purchases of shares and all future solicitations will be solicited with appropriate disclosure, taking into account all the circumstances of the public solicitation, including a prominent statement in any solicitation document to the effect that the solicitation has not been approved by the board and that a representation to the contrary is a criminal offense.

(3) All payments for purchases of shares in a bank, building and loan association, savings and loan association, or savings bank in organization are made in United States currency.

(4) The proposed bank, building and loan association, savings and loan association, or savings bank has an operational expense fund from which to pay organizational expenses, in an amount determined by the board to be sufficient for the safe and sound operation of the proposed bank, building and loan association, savings and loan association, or savings bank while the charter application is pending.

(5) The proposed bank, building and loan association, savings and loan association, or savings bank has been formed for legitimate and lawful business purposes.

(6) The character, competence, and experience of the organizers, proposed directors, proposed officers, and initial holders of more than ten percent of the voting securities of the proposed bank, building and loan association, savings and loan association, or savings bank will command the confidence of the public.

(7) The proposed officers and directors, as a group, have degrees of character, competence, and experience sufficient to justify a belief that the proposed bank, building and loan association, savings and loan association, or savings bank is free from improper or unlawful influence and otherwise will operate safely, soundly, and in compliance with law.

(8) The anticipated volume and nature of business of the proposed bank, building and loan association, savings and loan association, or savings bank projected in the application are reasonable and indicate a reasonable probability of safe, sound, and profitable operation of the proposed bank, building and loan association, savings and loan association, or savings bank.

(9) If the proposed bank, building and loan association, savings and loan association, or savings bank intends to conduct ‘trust business’, trust powers should be granted based on consideration of the various factors set forth in Chapter 21, Title 34 for considering applications and setting capital for a trust institution.

(B) The board's determination that the requirements described in subsection (A) are reasonably probable of satisfaction may be based on partial satisfaction of the requirements at a level set by the board as a prerequisite for approval of the charter, and also may be based on presentation of a plan for the full satisfaction of the requirements.

(C) If the board determines that the proposed bank, building and loan association, savings and loan association, or savings bank has satisfied or is reasonably probable to satisfy the requirements for issuance of a charter, the board shall issue an order approving the application for a charter. The board may, in the order approving the proposed bank, building and loan association, savings and loan association, or savings bank's charter, impose other reasonable conditions or restrictions upon the proposed bank, building and loan association, savings and loan association, or savings bank or the new bank, building and loan association, savings and loan association, or savings bank, consistent with this chapter.

(D) If the board determines that the proposed bank, building and loan association, savings and loan association, or savings bank has not satisfied and is not reasonably probable of satisfying the requirements for issuance of a charter or if the board determines that the application to establish a branch does not meet the requirements, the board shall issue an order denying approval of the application, pending a request for a hearing by the applicant. The applicant may, within ten days of issuance of the order, give notice of appeal of this decision to the board.

Section 34-1-190. (A) The board shall decide whether to uphold or overturn its denial of an application within sixty days after receipt of the applicant's request for a hearing. However, if the board requests additional information from the applicant following receipt, the time limit for decision by the board must be the later of:

(1) the date set forth in this subsection; or

(2) thirty days after the board's receipt of the requested additional information.

(B) The board shall consider oral testimony and any other information and evidence it considers appropriate, either written or oral. The board's review must be limited to a determination of whether the criteria pursuant to Section 34-1-180 has been met and whether the provisions of this chapter have been followed.

(C) The board in its discretion may hold a public hearing in connection with its review if a significant issue of law or fact has been raised with respect to the proposed applicant.

(D) If the board holds a public hearing within ninety days after receipt of the applicant's request for a hearing, the time limit specified in subsection (A) must be extended to thirty days after the conclusion of the public hearing.

(E) If the board denies an application for a charter, the applicant may appeal the denial or approval containing the conditions to the Administrative Law Court pursuant to the rules of that court.

Section 34-1-200. (A) A proposed bank, building and loan association, savings and loan association, or savings bank may not engage in business except as allowed under Section 34-1-160 until the board approves the charter. In addition to the requirements set forth in Section 34-1-180, the board may not issue the charter until the board is satisfied that the proposed bank, building and loan association, savings and loan association, or savings bank has done each of the following:

(1) received payment in United States currency for the purchase of shares and will have required satisfactory capital upon commencing business, in each case in at least the amount required by the board's order approving the application;

(2) elected the proposed officers and directors named in the application or other officers and directors approved by the board;

(3) secured deposit insurance from the FDIC;

(4) complied with all requirements of the board's order approving the application for a charter; and

(5) made preparations that would indicate readiness to commence the business of banking in the reasonable discretion of the board upon a preopening examination.

(B) The charter approved by the board must set forth any trust powers of the bank, building and loan association, savings and loan association, or savings bank that may be full or partial trust powers.

(C) If a bank, building and loan association, savings and loan association, or savings bank does not open and engage in the business of banking within six months after the date its charter is issued or within such longer period as may be permitted by the board, the board shall revoke the charter.

(D) If the board determines that a charter should not be issued following board approval, the board shall issue an order revoking the charter, and the applicant may appeal that decision to the board. If the board upholds the revocation, the applicant may appeal the revocation to the Administrative Law Court pursuant to the rules of that court.

(E) Following the exhaustion of all appeals, the board may dissolve and liquidate the proposed bank, building and loan association, savings

and loan association, or savings bank, or order the organizers to dissolve and liquidate the proposed bank, building and loan association, savings and loan association, or savings bank, if any one of the following occurs:

(1) the board does not issue a charter;

(2) the board denies approval of a charter; or

(3) the charter is revoked by the board pursuant to subsection (C) or other applicable law.

Section 34-1-210. A remote service unit as defined in Section 34-28-30 is not considered a branch of a bank, building and loan association, savings and loan association, or a savings bank and is not subject to any of the provisions of this chapter applicable to branch applications.

Section 34-1-220. For purposes of the provisions of this chapter, the board may delegate to the Commissioner of Banking its authority to receive applications, develop necessary forms, issue certificates or correspondence on behalf of the board, conduct examinations, request additional information or documentation from applicants, approve articles of incorporation, and establish capital requirements and other standards for the safety and soundness of bank operations. Any such delegation may be revoked by the board at any time."

Commissioner of Banking

SECTION 2. Section 34-3-350 of the 1976 Code is amended to read:

"Section 34-3-350. Upon the examination of any state banking institution, the Commissioner of Banking shall, as soon as he can conveniently do so, forward a copy of the report of the examination to the chief executive of the bank who shall, within thirty days of receipt of the report, call a meeting of the directors of the bank for the purpose of reviewing the report and taking such action as is necessary. In forwarding such report to the chief executive, the commissioner shall use the form of notice contained in Section 34-3-360 and in certifying that such reports have been reviewed by the directors, the banking institution shall use the form contained in Section 34-3-370, and all directors who were present at the meeting shall sign the form contained in Section 34-3-370, certifying that they have received the report of the commissioner."

Conforming changes

SECTION 3. Section 34-3-360 of the 1976 Code is amended to read:

"Section 34-3-360. The form of notice from the Commissioner of Banking to the chief executive of the bank referred to in Section 34-3-350 must be as follows:

To the Chief Executive: In accordance with the law I enclose a copy of the report of examination of your bank made _____, 20___, by the Commissioner of Banking, _____, with the request that it be considered at a meeting of your directors to be held within thirty days from this date and a record of the action taken thereon entered upon the minutes. Please also fill out and return the form attached.

Commissioner of Banking."

Conforming changes

SECTION 4. Section 34-3-370 of the 1976 Code is amended to read:

"Section 34-3-370. The form of report to the Commissioner of Banking referred to in Section 34-3-350 shall be as follows:

To the Commissioner of Banking:

The report of the recent examination of this bank has been received, was submitted to the directors at a board meeting held _____ and was duly considered and a record of the action taken made upon the minutes.

(Chief Executive)

Name and location of bank.

We, the undersigned directors of _____ bank, have reviewed the report of the Commissioner of Banking under date of _____."

Reporting requirements

SECTION 5. Section 34-3-380 of the 1976 Code is amended to read:

"Section 34-3-380. All institutions doing business in this State in lending money and receiving deposits, under acts of incorporation granted by the State, under penalty of a forfeiture of their charters, shall provide when and as called for by the State Board of Financial Institutions, without previous notice, a correct report of the condition and business of the institution. The report must contain a statement under oath by the chief executive or chief financial officer of the institution of the amount of the capital stock paid in, the institution's total capital as compared to the minimum capital set forth in Section 34-9-40, deposits, discounts, property, and liabilities of the institution verified by two of the directors. This section applies to all private banking institutions whether chartered or not. The board shall accept in lieu of the report required by this section a report of condition filed with the federal banking agencies."

National banks

SECTION 6. Section 34-3-810 of the 1976 Code is amended to read:

"Section 34-3-810. (A) Subject to approval by the board, any banking corporation organized under the laws of the United States or under the laws of any other state and doing business in this State may become an incorporated bank of this State with all the powers and subject to all the obligations and duties of banks incorporated under the laws of this State, provided such banking corporation has authority by virtue of the laws of the United States to dissolve its organization as a national banking corporation or of the laws of the other state to dissolve its organization as a state banking corporation of such state.

(B) A national banking corporation or a banking corporation of another state desiring to become such an incorporated bank under the laws of this State shall proceed in the following manner:

(1) file an application of conversion to a state bank with the board;

(2) take such action in the manner prescribed or authorized by the laws of the United States or other such state as shall make its dissolution as a national banking corporation or as a state banking corporation effective at a specified future date; and

(3) A majority of its directors shall thereafter and before the time when its dissolution becomes effective execute under their hands and seals in duplicate, upon the authority of a resolution adopted by the owners of at least two-thirds of its capital stock at a meeting held after ten days' notice thereof given to each stockholder by registered mail, a certificate setting forth the following facts:

(a) its name and place of business as a national banking association or a state banking association and the name that it proposes to use as its corporate name after becoming a banking corporation under the laws of this State;

(b) the principal place of business in South Carolina for the state banking association;

(c) the amount of its capital stock and the number of shares into which it is divided and the par value of each;

(d) the names of its directors and of its officers at the date of its dissolution as a national bank and who will constitute its directors and officers as a state bank; and

(e) the date upon which its dissolution as a national banking association or state banking association shall become effective and upon which date it shall commence business as a bank under the laws of this State.

(C) Such certificate in duplicate must be thereupon lodged with the Secretary of State, who shall endorse on the certificate in duplicate the date of its filing in his office. One duplicate of the certificate must be filed in the office of the Secretary of State and the other so endorsed must be issued to the bank and be recorded in the office of the register of deeds in the county in which the principal place of business of the bank is located."

Conforming changes

SECTION 7. Section 34-3-820 of the 1976 Code is amended to read:

"Section 34-3-820. After the issuance of such certificate by the Secretary of State and the payment to him of the same fees as would be payable for the incorporation of a bank under the laws of this State with a similar capital stock, the corporate existence of such bank as a state bank shall begin as soon as its dissolution as a national banking corporation or state banking corporation becomes effective."

Conforming changes

SECTION 8. Section 34-3-830 of the 1976 Code is amended to read:

"Section 34-3-830. At the time the corporate existence of such state bank begins all the property of the former national banking corporation or state banking corporation, including all of its right, title, and interest in and to all property of whatsoever kind, whether real, personal or

mixed, and things in action and every right, privilege, interest, and asset of any conceivable value or benefit then existing, belonging, or appertaining to it or which would inure to it shall immediately by act of law and without any conveyance or transfer and without any further act or deed be vested in and become the property of such state bank, which shall have, hold, and enjoy them in its own right as fully and to the same extent as they were possessed, held, and enjoyed by the national banking corporation or state banking corporation. The State bank shall be deemed to be a continuation of the entity and of the identity of the national banking corporation or state banking corporation operating under and pursuant to the laws of this State, and all the rights, obligation, and relations of the national banking corporation or state banking corporation to or in respect to any person, estate, creditor, depositor, trustee, or beneficiary of any trust and in or in respect to any executorship or trusteeship or other trust or fiduciary function shall remain unimpaired, and such state bank, as of the beginning of its corporate existence, shall by operation of this section succeed to all such rights, obligations, relations, and trust and the duties and liabilities connected therewith and shall execute and perform each and every such trust or relation in the same manner as if such state bank had itself assumed the trust or relation, including the obligations and liabilities connected therewith. If such national banking corporation or such state banking corporation is acting as administrator, coadministrator, executor, coexecutor, or cotrustee of or in respect to any estate or trust being administered under the laws of this State such relation, as well as any other similar fiduciary relation, and all rights, privileges, duties, and obligations connected therewith shall remain unimpaired and shall continue into and in the state bank, from and as of the beginning of its corporate existence, irrespective of the date when such relation may have been created or established and irrespective of the date of any trust agreement relating thereto or the date of the death of any testator or decedent whose estate is being so administered. Neither the act of the national banking corporation or state banking corporation, under Section 34-3-810 in fixing the date of or providing for its liquidation or dissolution, nor its liquidation or dissolution under the national banking laws or other state banking laws, nor any other thing done in connection with the change from a national bank or other state bank to a state bank shall, in respect to any such executorship, trusteeship, or similar fiduciary relation, be deemed to be or to effect, under the laws of this State, a renunciation or revocation of any letters of administration or letters testamentary to such relation, nor a removal or resignation for any such executorship or trusteeship, nor

shall they be deemed to be of the same effect as if the executor or trustee had died or otherwise become incompetent to act."

Conforming changes

SECTION 9. Section 34-3-840 of the 1976 Code is amended to read:

"Section 34-3-840. Unless otherwise elected by the shareholders of the national banking corporation or state banking corporation, the directors and officers of the national banking corporation or state banking corporation in office at the time of its dissolution shall be the directors and officers of the bank created in pursuance of this article until the first annual election of directors and officers thereafter and may take all necessary measures to perfect its organization and to adopt such bylaws and regulations concerning its business and management as may be proper and not inconsistent with law."

Conforming changes

SECTION 10. Section 34-9-10 of the 1976 Code is amended to read:

"Section 34-9-10. No bank may be organized as a banking corporation or company under the laws of this State unless there has been first paid in United States currency the full subscription price of so much of the authorized capital stock as required by the State Board of Financial Institutions. Notes of stockholders, and other notes and mortgages on property, real, personal or mixed, may not be considered and accepted as cash in payment for shares of capital stock of any such bank."

Minimum capital

SECTION 11. Section 34-9-40 of the 1976 Code is amended to read:

"Section 34-9-40. Every banking company or corporation hereafter organized shall have a minimum capital in the amount required by the State Board of Financial Institutions. In determining the minimum amount the State Board of Financial Institutions shall give due consideration to the location of the proposed bank, the proposed bank's business plan, and the economic environment in which the proposed bank will operate."

Conforming changes

SECTION 12. Section 34-11-60(b)(1) of the 1976 Code is amended to read:

"(1) To establish this prima facie evidence, the full name, residence address, and telephone number of the person presenting the check, draft, or other written order must be obtained by the party receiving the instrument. This information may be provided by having the information recorded on the check or instrument itself, or the number of a check-cashing identification card issued by the receiving party may be recorded on the check. The check-cashing identification card must be issued only after the full name, residence address, and telephone number of the person presenting the check, draft, or other written order has been placed on file by the receiving party."

Board approval

SECTION 13. Section 34-13-140 of the 1976 Code is amended to read:

"Section 34-13-140. (A) It is unlawful for any banking institution to make any loan or discount on the security of the shares of its own capital stock or to be the purchaser or holder of any such shares unless such security or purchase is necessary to prevent loss upon a debt previously contracted in good faith, unless the purchase is approved by the board, or except as permitted in subsection (B).

(B) Subject to the approval of the board, a South Carolina state-chartered banking association may acquire its own outstanding shares and hold them as treasury stock in the same manner as a corporation pursuant to Title 33."

Potential members

SECTION 14. Section 34-26-350(2) of the 1976 Code is amended to read:

"(2) A credit union may maintain and dispose of other service facilities, including automated terminals, at locations other than its principal office upon approval of the commissioner. The maintenance of such facilities must be reasonably necessary to furnish service to its members or potential members."

Applications

SECTION 15. Section 34-26-530 of the 1976 Code is amended to read:

"Section 34-26-530. Persons wishing to join a credit union must do so by written application which shall be acted upon in accordance with credit union procedure. A person denied membership may appeal the denial to the credit union board."

Board meetings

SECTION 16. Section 34-26-640(A) of the 1976 Code is amended to read:

"(A) The board of directors shall meet as often as necessary and at least quarterly."

Conforming changes

SECTION 17. Section 34-26-645(13) of the 1976 Code is amended to read:

"(13) establish titles for all elected officers; and"

Assets and liabilities of credit unions

SECTION 18. Section 34-26-1220 of the 1976 Code is amended to read:

"Section 34-26-1220. (1) A credit union incorporated under the laws of this State may be converted to a credit union organized under the laws of any state or under the laws of the United States, or a credit union organized under the laws of the United States or of any other state may convert to a credit union incorporated under the laws of this State.

(2) To effect such a conversion, a credit union must receive the approval of a majority of the members voting in accordance with the credit union's bylaws on the question of a charter conversion and upon the approval of the credit union's current and future regulator.

(3) The assets and liabilities of the predecessor credit union will vest in and become the property of the successor credit union subject to all existing liabilities against the predecessor credit union. Members of the

predecessor credit union may become members of the successor credit union pursuant to this chapter."

Repeals

SECTION 19. Chapters 12 and 27 of Title 34, and Sections 34-1-70, 34-3-60, 34-9-70, 34-9-80, 34-11-40, and 34-11-50 of the 1976 Code are repealed.

Time effective

SECTION 20. This act takes effect upon approval by the Governor.

Ratified the 4th day of May, 2021.

Approved the 6th day of May, 2021.

No. 31

(R44, S510)

AN ACT TO AMEND SECTION 56-15-10, AS AMENDED CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR THE REGULATION OF MOTOR VEHICLE MANUFACTURERS, DISTRIBUTORS, AND DEALERS, SO AS TO REVISE THE DEFINITION OF CERTAIN TERMS AND PROVIDE ADDITIONAL TERMS AND THEIR DEFINITIONS; BY ADDING SECTION 56-15-35, SO AS TO PROVIDE FOR THE HANDLING OF CERTAIN CONSUMER DATA BY FRANCHISORS, MANUFACTURERS, DISTRIBUTORS, OR THIRD PARTY AFFILIATES; TO AMEND SECTION 56-15-40, RELATING TO SPECIFIC ACTS DEEMED UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS OR PRACTICES REGARDING MOTOR VEHICLE MANUFACTURERS, DISTRIBUTORS, AND DEALERS, SO AS TO DEFINE CERTAIN TERMS, REVISE THE PROVISIONS RELATING TO CERTAIN ENTITIES TAKING ADVERSE ACTIONS AGAINST A DEALER FOR OFFERING OR DECLINING TO OFFER PROMOTIONS, SERVICE CONTRACTS, DEBT CANCELLATION AGREEMENTS,

MAINTENANCE AGREEMENTS, OR OTHER SIMILAR PRODUCTS, TERMINATING OR CANCELING A FRANCHISE OR SELLING AGREEMENTS TO A DEALER WITHOUT DUE CAUSE, AND PROVIDE THAT CERTAIN ADDITIONAL CONDUCT CONSTITUTES A VIOLATION OF THIS SECTION; TO AMEND SECTION 56-15-45, RELATING TO OWNERSHIP, OPERATION OR CONTROL OF COMPETING DEALERSHIPS BY MANUFACTURERS OR FRANCHISORS, SO AS TO PROVIDE FOR A DATE CHANGE, TO DELETE QUALIFICATIONS FOR AN EXEMPTION, AND TO PROVIDE A MANUFACTURER MAY NOT LEASE OR ENTER INTO SUBSCRIPTION AGREEMENTS EXCEPT TO A NEW DEALER HOLDING FRANCHISES IN THE LINE MAKE THAT INCLUDES THE VEHICLES; TO AMEND SECTION 56-15-46, RELATING TO THE NOTICE OF INTENT TO ESTABLISH OR RELOCATE COMPETING DEALERSHIPS, SO AS TO REVISE THE RADIUS THAT PERTAINS TO THE AREA IN WHICH FRANCHISORS INTEND TO ESTABLISH NEW DEALERSHIPS NEAR AN EXISTING DEALERSHIP, ADD A TIME REQUIREMENT FOR NOTICE, AND REVISE THE CIRCUMSTANCES FOR WHICH THIS SECTION DOES NOT APPLY; TO AMEND SECTION 56-15-50, RELATING TO THE REQUIREMENT THAT MANUFACTURERS MUST SPECIFY DELIVERY AND PREPARATION OBLIGATIONS OF DEALERS, FILING OF COPY OF OBLIGATIONS, AND SCHEDULE OF COMPENSATION, SO AS TO PROVIDE MANUFACTURERS AND FRANCHISORS SHALL INDEMNIFY AND HOLD HARMLESS ITS FRANCHISED DEALERS UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 56-15-60, RELATING TO THE FULFILLMENT OF WARRANTY AGREEMENTS AND A DEALER'S CLAIMS FOR COMPENSATION, SO AS TO REVISE THE PROVISIONS RELATING TO WARRANTY AGREEMENTS THAT AFFECT CERTAIN MOTOR VEHICLE MANUFACTURERS, DEALERS, DISTRIBUTORS, FACTORY BRANCHES, AND DISTRIBUTOR BRANCHES; TO AMEND SECTION 56-15-65, RELATING TO REQUIREMENTS FOR CHANGES OF LOCATION OR ALTERATION OF DEALERSHIPS, SO AS TO PROVIDE CERTAIN CONDUCT BY MANUFACTURERS, DISTRIBUTORS, FACTORY REPRESENTATIVES, OR DISTRIBUTOR REPRESENTATIVES IS A VIOLATION OF THIS SECTION; TO AMEND SECTION 56-15-70, RELATING

TO CERTAIN UNREASONABLE RESTRICTIONS ON DEALERS OR FRANCHISEES THAT ARE UNLAWFUL, SO AS TO PROVIDE ADDITIONAL RESTRICTIONS THAT ARE UNLAWFUL; TO AMEND SECTION 56-15-90, RELATING TO THE FAILURE TO RENEW, THE TERMINATION OR RESTRICTION OF TRANSFERS OF A FRANCHISE, AND DETERMINING REASONABLE COMPENSATION FOR THE VALUE OF DEALERSHIP FRANCHISES, SO AS TO REVISE THE PROVISIONS RELATING TO THE DETERMINATION OF FAIR AND REASONABLE COMPENSATION FOR BUSINESSES; AND TO AMEND SECTION 56-15-140, RELATING TO VENUE FOR ACTIONS RELATING TO THE REGULATION OF VEHICLE MANUFACTURERS, DISTRIBUTORS, AND DEALERS, SO AS TO PROVIDE THE VENUE IS IN THE STATE COURTS IN SOUTH CAROLINA.

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

Definitions

SECTION 1. Section 56-15-10(h)(1), as last amended by Act 255 of 2018, and (j), and (l) of the 1976 Code is amended to read:

"(1) manufacturers, distributors, or wholesalers;

(j)'Franchisor' a manufacturer, distributor, or wholesaler who grants a franchise to a motor vehicle dealer.

(l)'Sale', shall include the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation, mortgage in any form, whether by transfer in trust or otherwise, of any motor vehicle or interest therein or of any franchise related thereto; and any option, lease, subscription or other contract, or solicitation, looking to a sale, or offer or attempt to sell in any form, whether spoken or written. A gift or delivery of any motor vehicle or franchise with respect thereto with, or as, a bonus on account of the sale of anything shall be deemed a sale of such motor vehicle or franchise."

Definitions

SECTION 2. Section 56-15-10 of the 1976 Code, as last amended by Act 255 of 2018, is further amended by adding appropriately lettered items to read:

"( ) 'Consumer data' has the same meaning as 'nonpublic personal information', as defined in 15 U.S.C. Section 6809(4), and that is collected by a dealer and provided directly to a manufacturer or third party acting on behalf of a manufacturer. 'Consumer data' does not include the same or similar data obtained by a manufacturer from any source other than the dealer or dealer's data management system.

( )(1) 'Data management system' means a computer hardware or software system that:

(a) is owned, leased, or licensed by a dealer, including a system of web-based applications, computer software, or computer hardware;

(b) is located at the dealership or hosted remotely; and

(c) stores and provides access to consumer data collected or stored by a dealer.

(2) 'Data management system' includes, but shall not be limited to, dealership management systems and customer relations management systems.

( ) 'New motor vehicle dealer' means a dealer that:

(1) buys, sells, exchanges, offers, or attempts to negotiate a sale or exchange of an interest in new, or new and used, motor vehicles; or

(2) engages, wholly or in part, in the business of selling new, or new and used, motor vehicles.

( ) 'Relevant market area' means:

(1) an area within a ten mile radius around an existing dealer, for purposes of the relocation of an existing dealership; and

(2) an area within a fifteen mile radius around an existing dealer, for purposes of the addition of a new dealer to the market.

( ) 'Stop-Sale Order' means a notification issued by a manufacturer to its franchised new motor vehicle dealers stating that certain used vehicles in inventory may not be sold or leased, at either retail or wholesale, due to a federal safety recall for a defect or noncompliance, or a federal emissions recall."

Consumer data

SECTION 3. Article 1, Chapter 15, Title 56 of the 1976 Code is amended by adding:

"Section 56-15-35. (A) If a franchisor, manufacturer, distributor, or third party acting on behalf of a franchisor, manufacturer, or distributor handles consumer data, then the franchisor, manufacturer, distributor, or third party:

(1) must comply with and shall not cause a dealer to violate applicable restrictions regarding reuse or consumer data disclosure established by federal or state law;

(2) upon a dealer's written request, must provide a statement to the dealer describing procedures that meet or exceed any federal or state consumer data protection requirements;

(3) upon a dealer's written request, must provide a written list of the consumer data obtained from the dealer and all persons to whom any consumer data has been furnished during the preceding six months. The dealer may make such a request no more than once every six months. The list must indicate the specific fields of consumer data that were provided to each person. Notwithstanding the foregoing, such a list may not be required to include:

(a) a person to whom consumer data was provided, or the specific consumer data provided to such person, if the person was, at the time the consumer data was provided, a service provider or subcontractor acting in the course of performance of services on behalf of or for the benefit of the franchisor, manufacturer, or distributor, provided that the franchisor, manufacturer, or distributor has entered into an agreement with the person requiring that the person comply with the safeguard requirements of applicable state and federal law including, but not limited to, those established in the Gramm-Leach-Bliley Act, 15 U.S.C. Section 6801, et seq.; or

(b) a person to whom consumer data was provided, or the specific consumer data provided to the person, if the dealer has previously consented in writing to the person receiving the consumer data and the dealer has not withdrawn the consent in writing;

(4)(a) may not require a dealer to provide direct or indirect access to the dealer's data management system for obtaining consumer data. A dealer may furnish consumer data in a widely accepted file format, such as comma delimited, and through a third-party vendor selected by the dealer;

(b) may directly access or obtain consumer data from a dealer's data management system with the express written consent from the dealer. The consent must be a separate document executed by the dealer principal and may be withdrawn by the dealer upon providing a thirty-day written notice to the manufacturer or distributor. Consent is not required as a condition of a new motor vehicle dealer's participation

in an incentive program, unless consent is necessary to obtain consumer data to implement the program; and

(5) must indemnify the dealer for any third-party claims or damages incurred by the dealer to the extent the damage is caused by access to, use of, or disclosure of consumer data in violation of this section by the franchisor, manufacturer, distributor, or a third party to whom the franchisor, manufacturer, or distributor has provided consumer data.

(B) This section is not a limitation on a franchisor's, manufacturer's, or distributor's ability to require the dealer to provide or use customer information exclusively related to the manufacturer or distributor's own vehicle makes to the extent necessary to:

(1) satisfy safety, recall, warranty, or other legal notice obligations required of the manufacturer;

(2) complete the sale and delivery of a new motor vehicle to a customer;

(3) validate and pay customer or dealer incentives;

(4) submit claims for any services supplied by the dealer for any claim for warranty parts or repair;

(5) perform market analysis;

(6) perform sales or service consumer satisfaction surveys; or

(7) perform reasonable marketing that benefits the dealer."

Unfair methods of competition and unfair or deceptive acts

SECTION 4. Section 56-15-40 of the 1976 Code is amended to read:

"Section 56-15-40. (A) For the purposes of this section:

(1) 'Goods' does not include moveable displays, brochures, or promotional materials containing information subject to a manufacturer's or distributor's intellectual property rights; special tools as reasonably required by the manufacturer; or repair parts under a manufacturer's or distributor's warranty obligations.

(2) 'Financial services company' or 'captive finance source' means any finance source that provides automotive-related loans, or purchases retail installment contracts or lease contracts for motor vehicles and is, directly or indirectly, owned, operated, or controlled, in whole or in part, by a manufacturer, a distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesale branch or division.

(B) It shall be deemed a violation of Section 56-15-30(a) for any manufacturer, factory branch, factory representative, distributor, or

wholesaler, distributor branch, distributor representative or motor vehicle dealer to engage in any action which is arbitrary, in bad faith, or unconscionable and which causes damage to any of the parties or to the public.

(C) It shall be deemed a violation of Section 56-15-30(a) for a manufacturer, a distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesale branch or division, or an officer, agent or other representative, to require, coerce, or attempt to coerce, any motor vehicle dealer:

(1) to order or accept delivery of any motor vehicle or vehicles, appliances, equipment, parts or accessories, or any other commodity or commodities which such motor vehicle dealer has not voluntarily ordered;

(2) to order or accept delivery of any motor vehicle with special features, appliances, accessories, or equipment not included in the list price of said motor vehicles as publicly advertised by the manufacturer thereof;

(3) to order for any person any parts, accessories, equipment, machinery, tools, appliances, or any commodity whatsoever;

(4) to offer or promote service contracts, debt cancellation agreements, maintenance agreements, or other similar products approved, endorsed, sponsored, or offered by the manufacturer, distributor, affiliate, or captive finance source. This does not prohibit a manufacturer, distributor, affiliate, or captive finance source from offering voluntary incentives to the motor vehicle dealer;

(5) to sell, assign, or transfer any retail installment sales contract or lease obtained by the motor vehicle dealer in connection with the sale or lease of a new motor vehicle manufactured by the manufacturer to a specified finance company, class of finance companies, leasing company, class of leasing companies, or to any other specified person.

(D) It shall be deemed a violation of Section 56-15-30(a) for a manufacturer, a distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesale branch or division, or officer, agent or other representative thereof:

(1) to refuse to deliver in reasonable quantities and within a reasonable time after receipt of dealer's order, to any motor vehicle dealer having a franchise or contractual arrangement for the retail sale of new motor vehicles sold or distributed by such manufacturer, distributor branch or division, factory branch or division, or wholesale branch or division, any such motor vehicles as are covered by such franchise or contract specifically publicly advertised by such manufacturer, distributor, wholesaler, distributor branch or division,

factory branch or division, or wholesale branch or division to be available for immediate delivery; provided, however, the failure to deliver any motor vehicle shall not be considered a violation of this chapter if such failure be due to an act of God, work stoppage or delay due to a strike or labor difficulty, shortage of materials, freight embargo or other cause over which the manufacturer, distributor, or wholesaler, or any agent thereof, shall have no control;

(2) to coerce, or attempt to coerce, any motor vehicle dealer to enter into any agreement with such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, or officer, agent or other representative thereof, or to do any other act prejudicial to such dealer by threatening to cancel any franchise or any contractual agreement existing between such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, and such dealer; provided, however, that notice in good faith to any motor vehicle dealer of such dealer's violation of any terms or provisions of such franchise or contractual agreement shall not constitute a violation of this chapter;

(3) to terminate or cancel the franchise or selling agreement of any such dealer without due cause. The nonrenewal of a franchise or selling agreement, without due cause, shall constitute an unfair termination or cancellation, regardless of the terms or provisions of such franchise or selling agreement. Such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, or officer, agent or other representatives thereof shall notify a motor vehicle dealer in writing of the termination or cancellation of the franchise or selling agreement of such dealer at least ninety days before the effective date thereof, stating the specific grounds for such termination or cancellation, except that such notification may not be provided less than fifteen days before the effective date of the termination, cancellation, or nonrenewal with respect to any of the following: (a) insolvency of the new motor vehicle dealer, or filing of any petition by or against the new motor vehicle dealer under any bankruptcy or receivership law; (b) failure of the new motor vehicle dealer to conduct its customary sales and service operations during its customary business hours for seven consecutive business days, except for acts of God or circumstances beyond the direct control of the new motor vehicle dealer; (c) revocation of any license which the new motor vehicle dealer is required to have to operate a dealership; or (d) conviction of a felony involving moral turpitude, under the laws of this State or any other state, territory, or the District of Columbia; and such

manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, or officer, agent or other representative thereof shall notify a motor vehicle dealer in writing by registered or certified mail with a return receipt requested at least ninety days before the contractual term of his franchise or selling agreement expires that the same will not be renewed, stating the specific grounds for such nonrenewal in those cases where there is no intention to renew, and in no event shall the contractual term of any such franchise or selling agreement expire, without the written consent of the motor vehicle dealer involved, prior to the expiration of at least ninety days following such written notice, or before the expiration of at least fifteen days following written notice of termination, cancellation, or nonrenewal for any of the following: (a) insolvency of the new motor vehicle dealer, or filing of any petition by or against the new motor vehicle dealer under any bankruptcy or receivership law; (b) failure of the new motor vehicle dealer to conduct its customary sales and service operations during its customary business hours for seven consecutive business days, except for acts of God or circumstances beyond the direct control of the new motor vehicle dealer; (c) revocation of any license which the new motor vehicle dealer is required to have to operate a dealership; or (d) conviction of a felony involving moral turpitude, under the laws of this State or any other state, territory, or the District of Columbia. During a termination, cancellation, or nonrenewal requiring the ninety-day notification period, either party may in appropriate circumstances petition a court to modify such ninety-day stay or to extend it pending a final determination of such proceedings on the merits. The court shall have authority to grant preliminary and final injunctive relief. A dealer who receives notice of franchise termination, cancellation, or nonrenewal as provided herein shall continue to have the right to assign, sell, or transfer the franchise to a third party under the franchise and pursuant to Section 56-15-70 unless otherwise ordered by a court and until franchise termination, cancellation, or nonrenewal is effective;

(4) to resort to or use any false or misleading advertisement in connection with his business as such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, or officer, agent or other representative thereof;

(5) to offer to sell or to sell any new motor vehicle to any motor vehicle dealer at a lower actual price therefor than the actual price offered to any other motor vehicle dealer for the same model vehicle similarly equipped or to utilize any device including, but not limited to,

a sales promotion plan or a program which results in such lesser actual price; provided, however, the provisions of this paragraph shall not apply to sales to a motor vehicle dealer for resale to any unit of the United States Government, the State or any of its political subdivisions; and provided, further, the provisions of this paragraph shall not apply to sales to a motor vehicle dealer of any motor vehicle ultimately sold, donated or used by such dealer in a driver education program; and provided, further, that the provisions of this paragraph shall not apply so long as a manufacturer, distributor, or wholesaler, or any agent thereof, offers to sell or sells new motor vehicles to all motor vehicle dealers at an equal price. This provision shall not apply to sales by manufacturer, distributor, or wholesaler to the United States Government or any agency thereof;

(6) to wilfully discriminate, either directly or indirectly, in price between different purchasers of a commodity of like grade or quality where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly or to injure or destroy the business of a competitor;

(7) to offer to sell or to sell parts or accessories to any new motor vehicle dealer for use in his own business for the purpose of repairing or replacing the same on a comparable part or accessory, at a lower actual price therefor than the actual price charged to any other new motor vehicle dealer for similar parts or accessories for use in his own business; provided, however, in those cases where motor vehicle dealers operate and serve as wholesalers of parts and accessories to retail outlets or other dealers, whether or not such dealer is regularly designated as a wholesaler, nothing herein contained shall be construed to prevent a manufacturer, distributor, or wholesaler, or any agent thereof, from selling to such motor vehicle dealer who operates and services as a wholesaler of parts and accessories, such parts and accessories as may be ordered by such motor vehicle dealer for resale to retail outlets, at a lower actual price than the actual price charged a motor vehicle dealer who does not operate or serve as a wholesaler of parts and accessories;

(8) to prevent or attempt to prevent by contract or otherwise, any motor vehicle dealer from changing the capital structure of his dealership or the means by or through which he finances the operation of his dealership, provided the dealer at all times meets any reasonable capital standards agreed to between the dealership and the manufacturer, distributor, or wholesaler, and provided such change by the dealer does not result in a change in the executive management of the dealership;

(9) to prevent or attempt to prevent by contract or otherwise, any motor vehicle dealer or any officer, partner or stockholder of any motor

vehicle dealer from selling or transferring any part of the interest of any of them to any other person or persons or party or parties; provided, however, that no dealer, officer, partner or stockholder shall have the right to sell, transfer or assign the franchise or power of management or control thereunder without the consent of the manufacturer, distributor, or wholesaler except that such consent shall not be unreasonably withheld. If a manufacturer or distributor objects, then the objection must state the reasons for the denial of the request. A copy must be provided to the motor vehicle dealer by certified mail, return receipt requested, within forty-five days of the receipt of the dealer candidate's application and all documents reasonably required by the manufacturer, distributor, or wholesaler;

(10) to obtain money, goods, services, anything of value, or any other benefit from any other person with whom the motor vehicle dealer does business, on account of or in relation to the transactions between the dealer and such other person, unless such benefit is promptly accounted for and transmitted to the motor vehicle dealer;

(11) to require a motor vehicle dealer to assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability imposed by this chapter;

(12) to allocate its products within this State in a manner that provides any of its franchised dealers an unfair, unreasonable, and inequitable supply of products and vehicles by series, product line, and model, based on each dealer's historical selling pattern as compared to other same line-make dealers. Additionally, a manufacturer or distributor may not establish a specific sales performance standard that does not take into account the actual vehicle allocation offered to the dealer by the manufacturer or distributor, as well as the dealer's inventory levels relevant to achieve any minimum performance standards to which the manufacturer or distributor holds the dealer accountable; provided, however, the failure to provide allocation of any products or vehicles, including by series, product line, or model, may not be considered a violation of this chapter if such failure is due to an act of God, natural disaster, force majeure, work stoppage or delay due to a strike or labor difficulty, shortage of materials, production limitation, freight embargo, or other cause over which the manufacturer, distributor, or wholesaler, or any agent thereof, has no control, including the dealer's refusal or declination to accept product allocation offered; or

(13) to require, coerce, or attempt to coerce a dealer that is constructing, renovating, or substantially altering its dealership facility to purchase goods or services from a vendor selected, identified, or designated by a manufacturer, distributor, affiliate, or captive finance

source if the dealer may obtain goods or services, that are of substantially similar material, quality, and design to those required by the manufacturer, distributor, affiliate, or captive finance source from a vendor selected by the dealer. Prior to selecting a vendor, the dealer must obtain approval from the manufacturer, distributor, affiliate, or captive finance source. Approval may not be unreasonably withheld. If the manufacturer, distributor, affiliate, or captive finance source claims that a vendor selected by the dealer cannot supply substantially similar goods or services, then the dealer may file a protest with the court of common pleas. The court shall conduct a hearing on the merits of the protest within ninety days following the filing of a response to the protest. The manufacturer, distributor, affiliate, or captive finance source shall bear the burden of proving that the goods or services chosen by the dealer are not of substantially similar material, quality, and design to those required by the manufacturer, distributor, affiliate, or captive finance source. Nothing in this item may be construed to allow a dealer to impair or eliminate a manufacturer, distributor, affiliate, or captive finance source's intellectual property or trademark rights and trade dress usage guidelines or impair other intellectual property interests owned or controlled by the manufacturer, distributor, affiliate, or captive finance source, including the design and use of signs. This section does not apply to any facility or premise improvement or alteration that is voluntarily agreed to by the new motor vehicle dealer and for which the dealer receives facilities-related compensation from the manufacturer or distributor for the facility improvement or alteration equivalent to at least a majority of the cost incurred by the dealer for the facility improvement or alteration."

Ownership, operating, or control of competing dealerships

SECTION 5. Section 56-15-45(A)(3) and (D) of the 1976 Code is amended to read:

"(3) at the same location at which the manufacturer or franchisor has been continuously engaged in the retail sale of new motor vehicles as the owner, operator, or controller of the dealership since January 1, 1998.

(D) Except as may be provided otherwise in subsections (A) and (B) of this section, a manufacturer or franchisor may not sell, or lease, directly or indirectly, a motor vehicle to a consumer in this State, except through a new motor vehicle dealer holding a franchise for the line make that includes the motor vehicle. This subsection does not apply to

manufacturer or franchisor sales of new motor vehicles to the federal government, nor to manufacturer or franchisor leases of new motor vehicles to employees of the manufacturer or franchisor. Nothing in this subsection prohibits a manufacturer or franchisor or any parent, affiliate, wholly or partially owned subsidiary, officer, or representative of a manufacturer or franchisor operating as a motor vehicle lessor from selling a motor vehicle to the lessee at the conclusion of a lease agreement between the two parties. Nothing in this subsection prevents a manufacturer or franchisor from establishing an e-commerce website for the purpose of referring prospective customers to motor vehicle dealers holding a franchise for the same line make of the manufacturer or franchisor."

Notice

SECTION 6. Section 56-15-46 of the 1976 Code is amended to read:

"Section 56-15-46. (A) A franchisor that intends to establish a new dealership or to relocate a current dealership for a particular line-make motor vehicle within the relevant market area of an existing dealership of the same line-make motor vehicle shall give at least sixty-days' prior written notice of that intent by certified mail to the existing dealership. The notice must include the:

(1) specific location of the additional or relocated dealership;

(2) date of commencement of operation of the additional or relocated dealership at the new location;

(3) identities of all existing dealerships located in the market area of the new or relocated dealership; and

(4) names and addresses of the dealer and principals in the new or relocated dealership.

(B) If a franchisor intends to establish a new dealership or to relocate an existing dealership within the relevant market area of an existing dealership, then that existing dealership may petition the court, within sixty days of the receipt of the notice, to enjoin or prohibit the establishment of the new or relocated dealership within the relevant market area of the existing dealership. The court shall enjoin or prohibit the establishment of the new or relocated dealership within the relevant market area of the protesting dealership unless the franchisor shows by a preponderance of the evidence that the existing dealership is not providing adequate representation of the line-make motor vehicle and that the new or relocated dealership is necessary to provide the public with reliable and convenient sales and service within that area. The

burden of proof in establishing adequate representation is on the franchisor. In determining if the existing dealership is providing adequate representation and if the new or relocated dealership is necessary, the court may consider, but is not limited to, considering:

(1) the impact the establishment of the new or relocated dealership will have on consumers, the public interest, and the protesting dealership, except that financial impact may be considered only with respect to the protesting dealership;

(2) the size and permanency of investment reasonably made and the reasonable obligations incurred by the protesting dealership to perform its obligation pursuant to the dealership's franchise agreement;

(3) the reasonably expected market penetration of the line-make motor vehicle, after consideration of all factors which may affect the penetration including, but not limited to, demographic factors such as age, income, education, size class preference, product popularity, retail lease transactions, and other factors affecting sales to consumers;

(4) actions by the franchisor in denying its existing dealership of the same line make the opportunity for reasonable growth, market expansion, or relocation, including the availability of line-make motor vehicles in keeping with reasonable expectations of the franchisor in providing an adequate number of dealerships;

(5) attempts by the franchisor to coerce the protesting dealership into consenting to an additional or relocated dealership of the same line make within a ten-mile radius of the protesting dealership;

(6) distance, travel time, traffic patterns, and accessibility between the protesting dealership of the same line make and the location of the proposed new or relocated dealership;

(7) the likelihood of benefits to consumers from the establishment or relocation of the dealership, which benefits may not be obtained by other geographic or demographic changes or other expected changes within a ten-mile radius of the protesting dealership;

(8) if the protesting dealership is in substantial compliance with its franchise agreement;

(9) if there is adequate interbrand and intrabrand competition with respect to the line-make motor vehicles, including the adequacy of sales and service facilities;

(10) if the establishment or relocation of the proposed dealership appears to be warranted and justified based on economic and market conditions pertinent to dealerships competing within a ten-mile radius of the protesting dealership, including anticipated changes; and

(11) the volume of registrations and service business transacted by the protesting dealership.

(C) This section does not apply to the:

(1) relocation of an existing new motor vehicle dealer within two miles of the existing site of the new motor vehicle dealership if the franchise has been operating on a regular basis from the existing site for a minimum of three years immediately preceding the relocation; or

(2) relocation of an existing new motor vehicle dealer if the proposed site of the relocated new motor vehicle dealership is further away from all other new motor vehicle dealers of the same line make in that relevant market area."

Delivery and preparation obligations of dealers

SECTION 7. Section 56-15-50 of the 1976 Code is amended to read:

"Section 56-15-50. (A) Every manufacturer shall specify to the dealer the delivery and preparation obligations of its motor vehicle dealers prior to delivery of new motor vehicles to retail buyers. A copy of the delivery and preparation obligations of its motor vehicle dealers and a schedule or statement of the compensation to be paid or credited to its motor vehicle dealers for the work and services they shall be required to perform in connection with such delivery and preparation obligations shall be filed with the Department of Motor Vehicles by every motor vehicle manufacturer and shall constitute any such dealer's only responsibility for product liability as between such dealer and such manufacturer. The compensation as set forth on such schedule or statement shall be reasonable and paid or credited as set out in Section 56-15-60.

(B) Every manufacturer and franchisor shall indemnify and hold harmless its franchised dealers licensed in this State against any judgment for damages or settlements agreed to by the manufacturer or franchisor including, but not limited to, court costs and reasonable attorneys' fees of the motor vehicle dealer arising out of complaints, claims, or lawsuits including, but not limited to, strict liability, negligence, misrepresentation, express or implied warranty, or recision or revocation of acceptance of the sale of a motor vehicle to the extent that the judgment or settlement relates to the alleged defective negligent manufacture, assembly, or design of new motor vehicles, parts, or accessories or other functions by the manufacturer or franchisor, but excluding any judgment or settlement that is the result, in whole or in part, of the dealer's negligence or wrong doing."

Warranty agreements

SECTION 8. Section 56-15-60 of the 1976 Code is amended to read:

"Section 56-15-60. (A) It is unlawful for a new motor vehicle manufacturer to recover any portion of its costs for compensating dealers for recalls or warranty parts and service, either by reduction in the amount due to the dealer, or by separate charge, surcharge, or other imposition.

(B) A manufacturer or distributor shall specify in writing to each of its dealers operating in this State the dealer's obligations for preparation, delivery, and warranty services related to the manufacturer or distributor's products. The manufacturer or distributor shall compensate the dealer for the warranty services the manufacturer or distributor requires the dealer to provide, including warranty and recall obligations related to repairing and servicing motor vehicles of the manufacturer or distributor and all parts and components authorized by the manufacturer to be installed in or manufactured for installation in such motor vehicles.

(C)(1) The manufacturer or distributor shall provide to the dealer a schedule of compensation that specifies reasonable compensation the manufacturer or distributor will pay to the dealer for the warranty services, including for parts, labor, and diagnostics. For parts and labor warranty reimbursement, reasonable compensation shall not be less than the rate charged by the dealer for like services to nonwarranty customers for nonwarranty parts, service, and repairs if the dealer has submitted a request for retail reimbursement pursuant to item (4).

(2) If the dealer has requested retail reimbursement pursuant to item (4), the schedule of compensation for parts must be determined by multiplying the price paid by the dealer for warranty parts by the sum of one and the dealer's average percentage markup. The dealer's average percentage markup is calculated by subtracting one from the result of dividing the total amounts charged by the dealer for parts used in warranty-like repairs by the total cost to the dealer for the parts in the retail service orders submitted pursuant to item (4).

(3) If the dealer has requested retail reimbursement pursuant to item (4), the schedule of compensation for labor-related warranty services must be determined by dividing the total amount of retail sales attributable to labor for warranty-like services by the number of hours of labor spent to generate the retail sales in the retail service orders submitted pursuant to item (4).

(4)(a) The dealer may establish its retail average percentage markup for parts or its labor rate by submitting to the manufacturer copies of one hundred sequential retail service orders paid by the dealer's

customers, or all of the dealer's retail service orders paid by the dealer's customers in a ninety-day period, whichever is less, for services provided within the previous one hundred eighty-day period. The manufacturer or distributor may not consider retail service orders or portions of retail service orders attributable to the following types of repairs:

(i) repairs to motor vehicles owned by the dealer;

(ii) repairs made pursuant to manufacturer special events and manufacturer discounted service campaigns;

(iii) parts sold at wholesale or discounted by a dealer for repairs made to government vehicles or insurance work for which volume discounts have been negotiated;

(iv) tires;

(v) routine maintenance such as alignments, flushes, oil changes, brake pads or rotors, lightbulbs, fluids, filters, batteries, belts, and hoses;

(vi) nuts, bolts, fasteners, and similar items that do not have an individual part number.

(b) Within thirty days of receiving the dealer's submission, the manufacturer or distributor may request additional necessary documentation to support the submitted orders. If the manufacturer or distributor requests additional documentation to support the submission, then the time period in which the manufacturer or distributor must approve or deny the establishment of the franchise motor vehicle dealer's average percentage markup must be extended by thirty days. The manufacturer or distributor then shall approve or deny the establishment of the dealer's average percentage markup or labor rate. If the manufacturer or distributor approves the establishment of the dealer's average percentage markup or labor rate, the markup or rate calculated under this subitem goes into effect thirty days after the date of the manufacturer's or distributor's approval.

(c) A manufacturer or distributor may not require a dealer to establish an average percentage markup or labor rate by a methodology, or by requiring the submission of information, that is unduly burdensome or time-consuming to the dealer including, but not limited to, requiring part-by-part or transaction-by-transaction calculations.

(d) A dealer may not request a change in the dealer's average percentage markup or labor rate more than once in any twelve-month period.

(D)(1) If a manufacturer or distributor provides a part or component to a dealer at reduced or no cost for repairs completed because of a recall, campaign service action, or warranty repair, then the manufacturer or

distributor shall compensate the dealer for the part or component in the same manner as compensation for warranty parts based on the dealer's average markup less the cost for the part or component as listed in the manufacturer's or distributor's price schedule.

(2) A manufacturer may not take or threaten to take any adverse action against a dealer seeking to obtain compensation pursuant to this subsection including, but not limited to, creating or implementing an obstacle or process that is inconsistent with the manufacturer's obligations to the dealer.

(3) Within thirty days of receiving a manufacturer's notice of denial of the dealer's parts or labor submission, a new motor vehicle dealer may file a protest with the court of common pleas to protest a manufacturer's denial. If a protest is filed, then the manufacturer possesses the burden of proof to establish that the dealer's submission did not meet the respective submission requirements contained within this subsection or is inaccurate or unreasonable. If a dealer prevails in a protest filed under this subsection, then the dealer's increased parts or labor reimbursement must be provided retroactively as of the date the submission would have been effective but for the manufacturer's denial.

(E) It is a violation of this section for any new motor vehicle manufacturer to fail to:

(1) perform any warranty obligations; or

(2) compensate any new motor vehicle dealer for repairs effected by a recall.

(F)(1) All claims made by a new motor vehicle dealer pursuant to this section for labor and parts shall be paid within thirty days following approval; provided, however, that the manufacturer may audit claims for up to one year after payment and charge the dealer for fraudulent claims, work done unnecessarily, or work not properly performed. All claims must be approved or disapproved within thirty days after receipt on forms and in the manner specified by the manufacturer. Any claim not specifically disapproved in writing within thirty days after receipt shall be construed to be approved and payment must follow within thirty days.

(2) The manufacturer or distributor shall not disapprove a reimbursement claim if the dealer can substantiate the claim, in accordance with the manufacturer's reasonable policies and procedures. A claim may not be denied or charged back due to a dealer's unintentional administrative error if the claim meets the requirements of this subsection. The one-year limitation on the manufacturer's right to audit a claim shall not be in effect in the case of fraudulent claims.

(G)(1) Any audit for warranty or recall parts, service compensation, or compensation for a qualifying used motor vehicle in accordance with

subsection (I) only may be conducted once within any twelve-month period and only must be for the twelve-month period immediately following the date of the payment of the claim by the manufacturer, factory branch, distributor, or distributor branch.

(2) Any audit for sales incentives, service incentives, rebates, or other forms of incentive compensation only may be conducted once within any twelve-month period and only must be for the twelve-month period immediately following the date of the payment of the claim by the manufacturer, factory branch, distributor, or distributor branch pursuant to a sales incentives program, service incentives program, rebate program, or other form of incentive compensation program.

(3) The limitations of this subsection do not apply to fraudulent claims.

(H) A manufacturer or distributor shall not charge a dealer back for sales incentives, service incentives, rebates, or other forms of incentive compensation subsequent to the payment of the claim unless it can be shown that the claim was false, fraudulent, or that the dealer failed to reasonably substantiate the claim in accordance with the manufacturer's reasonable written procedures.

(I)(1) A manufacturer shall compensate its new motor vehicle dealers for all labor and parts required by the manufacturer to perform recall repairs. Compensation for recall repairs must be reasonable. If parts or a remedy are not reasonably available to perform a recall service or repair on a used vehicle held for sale by a dealer authorized to sell and service new vehicles of the same line make within thirty days of the manufacturer issuing the initial notice of recall, and the manufacturer has issued a Stop-Sale or Do-Not-Drive order on the vehicle, the manufacturer shall compensate the dealer at a prorated rate of at least one percent of the value of the vehicle each month beginning on the date that is thirty days after the date on which the Stop-Sale or Do-Not-Drive order was provided to the dealer until the earlier of either of the following:

(a) The date the recall or remedy parts are made available.

(b) The date the dealer sells, trades, or otherwise disposes of the affected used motor vehicle.

(2) The value of a used vehicle must be the average trade-in value for used vehicles as indicated in an independent third-party guide for the year, make, and model of the recalled vehicle.

(3) This subsection only applies to used vehicles subject to safety or emissions recalls pursuant to and recalled in accordance with federal law and regulations and where a Stop-Sale or Do-Not-Drive order has been issued and repair parts or remedy remain unavailable for thirty days

or longer. This subsection further applies only to new motor vehicle dealers holding an affected used vehicle for sale:

(a) in inventory at the time the Stop-Sale or Do-Not-Drive order was issued;

(b) which was taken in the used vehicle inventory of the dealer as a consumer trade in incident to the purchase of a new vehicle from the dealer after the Stop-Sale or Do-Not-Drive order was issued; and

(c) that is a line make that the dealer is franchised to sell or on which the dealer is authorized to perform recall repairs.

(4) Subject to the audit provisions of subsection (G)(1), it is a violation of this section for a manufacturer to reduce the amount of compensation otherwise owed to an individual new motor vehicle dealer, whether through a chargeback, removal of the individual dealer from an incentive program, or reduction in amount owed under an incentive program solely because the new motor vehicle dealer has submitted a claim for reimbursement under this section. This item does not apply to an action by a manufacturer that is applied uniformly among all dealers of the same line-make in the State.

(5) All reimbursement claims made by new motor vehicle dealers pursuant to this section for recall remedies or repairs, or for compensation where no part or repair is reasonably available and the vehicle is subject to a Stop-Sale or Do-Not-Drive order, is subject to the same limitations and requirements as a warranty reimbursement claim made under this section. In the alternative, a manufacturer may compensate its franchised dealers under a national recall compensation program, provided the compensation under the program is equal to or greater than that provided under this subsection; or as the manufacturer and dealer otherwise agree.

(6) A manufacturer may direct the manner and method in which a dealer shall demonstrate the inventory status of an affected used motor vehicle to determine eligibility under this section, provided that the manner and method may not be unduly burdensome and may not require information that is unduly burdensome to provide.

(7) Nothing in this section requires a manufacturer to provide total compensation to a dealer which would exceed the total average trade-in value of the affected used motor vehicle as originally determined under item (2).

(8) Any remedy provided to a dealer under this subsection is exclusive and may not be combined with any other state or federal recall compensation remedy."

Change of location or alteration of a dealership

SECTION 9. Section 56-15-65 of the 1976 Code is amended to read:

"Section 56-15-65. (A) It is unlawful for any manufacturer, distributor, factory representative, or distributor representative to require, coerce, or attempt to coerce any motor vehicle dealer to change the location of the motor vehicle dealership or to make any substantial alterations to the dealer's premises or facilities unless:

(1) the manufacturer demonstrates that such change or alteration is reasonable in light of the current market and economic conditions; and

(2) the motor vehicle dealer has been provided written assurance from the manufacturer or distributor of a sufficient supply of motor vehicles to justify such change or alteration.

(B)(1) It is unlawful for any manufacturer, distributor, factory representative, or distributor representative to require, coerce, or attempt to coerce any motor vehicle dealer to change the location of the dealership, or to make any substantial alterations to its dealership premises or facilities if:

(a) the dealer changed the location of the dealership or made substantial alterations to the same signs, franchisor image elements, or other improvements to its premises or facilities within the preceding ten years; and

(b) the change in location or alteration was made pursuing compliance with a facility initiative or program that was sponsored or supported by the manufacturer, factory branch, distributor, or distributor branch, with the approval of the manufacturer, factory branch, distributor, or distributor branch.

(2) This subsection does not apply if the required facility alteration or improvement is necessary to comply with health and safety requirements or are necessary in order to sell and service a motor vehicle offered for sale by the dealer."

Unreasonable restrictions on dealers or franchisees

SECTION 10. Section 56-15-70 of the 1976 Code is amended to read:

"Section 56-15-70. It is unlawful to directly or indirectly impose unreasonable restrictions on the motor vehicle dealer or franchisee relative to transfer, sale, relocation, right to renew, termination, discipline, noncompetition covenants, site-control (whether by sublease, collateral pledge of lease, or otherwise), or to exercise a right of first

refusal to purchase, option to purchase, or compliance with subjective standards and assertion of legal or equitable rights."

Reasonable compensation

SECTION 11. Section 56-15-90 of the 1976 Code is amended to read:

"Section 56-15-90. (A) It is unlawful for a manufacturer, wholesaler, distributor, or franchisor, without due cause, to fail to renew on terms then equally available to all its motor vehicle dealers of the same line-make, to terminate a franchise or to unreasonably restrict the transfer of a franchise. In the event of a termination for due cause, the dealer must receive fair and reasonable compensation for the value of the business and compensation for its dealership facilities or location as provided in subsection (C).

(B)(1) In determining the fair and reasonable compensation for a business, pursuant to subsection (A) or (D), the value of the business shall include, but not be limited to:

(a) the dealer cost for all new untitled, undamaged, and unaltered motor vehicles in the dealer's inventory with less than one thousand miles on the odometer, purchased from the manufacturer or from another same line-make dealer in the ordinary course of business within twenty-four months of termination;

(b) the dealer cost for all new, unused, and undamaged parts and motor vehicle supplies listed in the manufacturer's or distributor's current parts catalog and still in the original, resalable merchandising package and in unbroken lots, purchased from the manufacturer or distributor;

(c) the fair market value of equipment, furnishings, and signage bearing a trademark or trade name of the manufacturer or line make which are in useable and good condition, normal wear and tear excepted, that have not been substantially altered or damaged, required by the manufacturer or distributor and purchased from the manufacturer, distributor, or their approved sources, provided the manufacturer is entitled to an offset for any monetary compensation provided to the dealer at the original purchase of the items;

(d) the fair market value of special tools and automotive service equipment owned by the dealer that were designated as special tools or equipment required by and purchased from the manufacturer or distributor, if the tools and equipment are in useable and good condition, normal wear and tear excepted; and

(e) the reasonable cost of return shipping and handling charges incurred as a result of returning such items.

(2) Provided that a new motor vehicle dealer has clear title to the inventory and other items and is in a position to convey that title to the manufacturer, the payments required under this section shall be paid by the manufacturer, wholesaler, distributor, or franchisor within ninety days of the effective date of the termination, nonrenewal, or cancellation of a franchise. If the inventory or other items are subject to a security interest, the manufacturer, wholesaler, distributor, or franchisor may make payment jointly to the dealer and the holder of the security interest.

(C)(1) Within ninety days of the termination, cancellation, or nonrenewal of a franchise by a manufacturer, wholesaler, distributor, or franchisor, due to a dealer's poor sales and service performance, or due to the discontinuation of a line-make, the party shall pay the franchisee an amount equal to:

(a) the franchisee's reasonable cost to rent or lease its dealership facility or location for one year or the unexpired term of the lease or rental period, whichever is less; or

(b) the reasonable rental value of the facilities or location for one year if the franchisee owns the facility or location.

(2) If more than one franchise is being terminated, canceled, or not renewed, then the reimbursement shall be prorated equally among the different manufacturers, wholesalers, distributors, and franchisors. If the facility is used for the operations of more than one franchise and only one is being terminated, then the reasonable rent shall be paid based upon the prorated portion of new vehicle sales for the previous year attributable to the line make being terminated, canceled, or nonrenewed for the prior one-year period.

(D) In the event a franchisee terminates the franchise agreement with the manufacturer, wholesaler, distributor, or franchisor, it is unlawful for the manufacturer, wholesaler, distributor, or franchisor to not abide by the provisions included in subsection (B) in determining fair and reasonable compensation to the dealer. However, the requirements of subsection (B) do not apply to a termination, cancellation, or nonrenewal due to the sale of the assets or stock of a motor vehicle franchisee.

(E)(1) If a termination, cancellation, or nonrenewal occurs pursuant to item (2), then the manufacturer or distributor shall compensate the dealer in an amount at least equivalent to the fair market value of the franchise as of:

(a) the date the franchisor announces the action that results in termination, cancellation, or nonrenewal;

(b) the date the action that results in termination, cancellation, or nonrenewal first became general knowledge; or

(c) the day eighteen months before the date on which the notice of termination, cancellation, or nonrenewal is issued, whichever amount is higher.

(2) The provisions of this subsection apply if a termination, cancellation, or nonrenewal occurs as a result of:

(a) any change in ownership, operation, or control of all or any part of the business of the manufacturer or distributor, whether by sale or transfer of assets, corporate stock or other equity interest, assignment, merger, consolidation, combination, joint venture, redemption, operation of law or otherwise;

(b) the termination, suspension, or cessation of a part or all of the business operations of the manufacturer or distributor; or

(c) the discontinuance of the sale of the line make or brand, or a change in distribution system by the manufacturer, whether through a change in distributors or the manufacturer's decision to cease conducting business through a distributor altogether."

Venue

SECTION 12. Section 56-15-140 of the 1976 Code is amended to read:

"Section 56-15-140. In an action brought pursuant to this article, venue is in the state courts of South Carolina. A provision of a franchise or other agreement with contrary provisions is void and unenforceable."

Severability clause

SECTION 13. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, then such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 14. This act takes effect ninety days after approval by the Governor and applies to all current and future franchises and other agreements in existence between any franchisee located in this State and a franchisor as of the effective date of this act.

Ratified the 4th day of May, 2021.

Approved the 6th day of May, 2021.

No. 32

(R45, S607)

AN ACT TO AMEND SECTION 59-40-75, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REMOVAL OF CHARTER SCHOOL DISTRICT BOARD MEMBERS FOR CAUSE OR DUE TO INCAPACITY, SO AS TO REVISE THE GROUNDS FOR REMOVAL, TO PROVIDE RESULTING MEMBERSHIP VACANCIES MUST BE FILLED PURSUANT TO CERTAIN BYLAWS OF THE CHARTER SCHOOL, AND TO REMOVE THE SOUTH CAROLINA CHARTER SCHOOL DISTRICT FROM THESE PROVISIONS.

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

Removal grounds, vacancies

SECTION 1. Section 59-40-75(B) of the 1976 Code is amended to read:

"(B) Notwithstanding another provision of law to the contrary, members of a charter school board of directors who wilfully commit or engage in an act of malfeasance, misfeasance, absenteeism, conflicts of interest, misconduct, or persistent neglect of duty in office, or are deemed incompetent or incapacitated, may be removed from office by the Governor upon any of the forgoing causes being made to the satisfaction of the Governor. Before removing the officer, the Governor

shall inform him in writing of the specific charges brought against him and give him an opportunity on reasonable notice to be heard. Vacancies occurring in the membership of any board of directors as a result of removal pursuant to this subsection must be filled in the manner provided in the charter school's bylaws."

Time effective

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

Ratified the 4th day of May, 2021.

Approved the 6th day of May, 2021.

No. 33

(R46, S623)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-73-905 SO AS TO ALLOW FOR RATE INCREASES FOR CERTAIN TYPES OF INSURANCE WITHOUT PRIOR APPROVAL; AND TO AMEND SECTION 38-73-910, RELATING TO REQUIREMENTS FOR A PREMIUM RATE INCREASE, SO AS TO DIFFERENTIATE THE REQUIREMENTS FOR A PREMIUM RATE INCREASE FOR CERTAIN TYPES OF INSURANCE.

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

Prior approval not required for certain rate changes

SECTION 1. Article 9, Chapter 73, Title 38 of the 1976 Code is amended by adding:

"Section 38-73-905. (A) Overall average rate level increases or decreases, for all coverages combined, of seven percent above or below the insurer's current rates in effect may take effect without prior approval on a file and use basis with respect to rates for automobile insurance policies as set forth in this section. The seven percent cap does not apply on an individually insured basis. Insurers are limited to two rate

increases during any twelve-month period as set forth in subsections (B) and (C).

(B)(1) Notwithstanding any other provision of this chapter, for any policies governed by this section, filings that produce rate level changes based on the limitation specified in subsection (A) become effective without prior approval; provided, that no more than one rate increase of seven percent above or below the insurer's current rates in effect may be implemented during any twelve-month period on a file and use basis. Any other increase request is subject to prior approval. A rate increase may not be implemented until the onset of the new policy period.

(2) A rate increase or decrease falling within the limitation in subsection (A) may become effective no less than thirty days after the date of the filing with the director. The filing is considered to meet the requirements of this chapter unless the director or his designee notifies the insurer that the filing does not comply with this chapter within that thirty-day time period. If, after the filing becomes effective, the director finds the filing does not comply with the requirements of this chapter, the director shall issue a written order specifying in detail the provisions with which the insurer has not complied and state a reasonable period thereafter in which the filing is considered no longer effective. Any order by the director pursuant to this section that is issued more than thirty days from the date on which the director received the rate filing must be on a prospective basis only and may not affect any contract issued or made before the effective date of the order.

(C) Rate filings for automobile insurance also may be made outside the limitation specified in subsection (A), however those filings are subject to the prior approval of the director. The director shall approve or disapprove these filings in accordance with the provisions of Sections 38-73-960 and 38-73-990. No more than two rate increases may be implemented during a twelve-month period. If the two rate increases fall above or below seven percent as specified in subsection (B), the second rate increase request within a twelve-month period is subject to prior approval. The limitation provided in Section 38-73-920 relating to the number of permissible filings within a twelve-month period does not apply to automobile filings made pursuant to the provisions of this section.

(D) Individual automobile insurance companies and member companies of an affiliated group of automobile insurers may utilize different filed rates for automobile insurance coverages in accordance with rating plans filed with and approved by the director. These rating plans may provide for different rates, rating tiers, and rating plans among affiliated companies. For the purposes of this subsection, an affiliated

group of automobile insurers includes a group of automobile insurers under common ownership, management, or control.

(E) The Director of the Department of Insurance or his designee may promulgate regulations to implement the provisions of this section.

(F) This section does not apply to rate or rule filings of insurers who write only exempt commercial policies. Rate or rule filings for exempt commercial policies must comply with the requirements of S.C. Code Ann. Regs. Section 69-64, Section 38-73-920, and other applicable provisions of this title."

Notice of hearing as a prerequisite to granting rate increases for certain types of insurance

SECTION 2. Section 38-73-910 of the 1976 Code is amended to read:

"Section 38-73-910. (A) This section applies to all types of property and casualty insurance coverage except as set forth in this section. Overall rate level increases or decreases for all property and casualty insurance coverages except for property insurance filings governed by Sections 38-73-220 and 38-73-260 and automobile insurance filings governed by Section 38-73-905 are subject to prior approval as set forth in this section. Every filing must state the proposed effective date and must indicate the type of coverage to which it applies. The director shall approve or disapprove these filings in accordance with the applicable provisions of this chapter.

(B) An increase in the premium rates may not be granted for workers' compensation insurance, nor for any other line or type of insurance with respect to which the director or his designee has, by order, made a finding that (a) legal or other compulsion upon the part of the insured to purchase the insurance interferes with competition, or (b) under prevailing circumstances there does not exist substantial competition, unless notice is given in all newspapers of general, statewide circulation at least thirty days in advance of the insurer's proposed effective date of the increase in premium rates. The notice must state the amount of increase, the type and line of coverage, and the proposed effective date and must allow any insured or affected party to request within fifteen days a public hearing upon the propriety of the rate increase request before the Administrative Law Court. A copy of the notice must be sent to the Consumer Advocate.

(C) However, the requirements of public notices and public hearings in this section do not apply to applications for rate increases when the applicant insurer had earned premiums in this State in the previous

calendar year of less than two million dollars for the line or type of insurance for which the rate increase is sought or, if the rate increase is sought by a modeling organization, the earned premiums in this State for all members and subscribers of the organization for whom an increase is sought were less than two million dollars for the previous calendar year for the line or type of insurance for which the rate increase is sought. The two million dollars must be increased by a factor equal to the increase in the consumer price index, all items, every three years.

(D) If the director finds that a filing is not in compliance with this chapter, he shall issue a written notice of disapproval in accordance with the provisions of Section 38-73-990.

(E) The Director of the Department of Insurance or his designee may promulgate regulations to implement the provisions of this section.

(F) This section does not apply to rate or rule filings of insurers who write only exempt commercial policies. Rate or rule filings for exempt commercial policies must comply with the requirements of S.C. Code Ann. Regs. Section 69-64, Section 38-73-920, and other applicable provisions of this title."

Time effective

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

Ratified the 4th day of May, 2021.

Approved the 6th day of May, 2021.

No. 34

(R47, S667)

AN ACT TO AMEND SECTION 57-25-190, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RELOCATION AND ADJUSTMENT OF SIGNS BY THE DEPARTMENT OF TRANSPORTATION, SO AS TO PROVIDE OPTIONS AND PARAMETERS TO ADJUST OR RELOCATE OUTDOOR ADVERTISING SIGNS TO RESTORE VISIBILITY, AND PROVIDE FOR THE COSTS OF ADJUSTMENT OR RELOCATION.

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

Relocation and adjustment of outdoor advertising signs

SECTION 1. Section 57-25-190 of the 1976 Code is amended to read:

"Section 57-25-190. (A) The Department of Transportation may acquire by purchase, gift, or condemnation and shall pay just compensation upon the removal of the following outdoor advertising signs:

(1) those lawfully in existence on November 3, 1971;

(2) those lawfully erected after November 2, 1971.

(B) Compensation may be paid only for the taking from the owner of:

(1) a sign of all right, title, leasehold, and interest in it;

(2) the real property on which the sign is located of the right to erect and maintain a sign on it.

(C) No sign may be removed until the owner of the property on which it is located has been compensated fully for a loss which may be suffered by him as a result of the removal of the sign through the termination of a lease or other financial arrangement with the owner of the sign. The compensation must include damage to the landowner's property occasioned by the removal of the sign. The Department of Transportation is limited to an expenditure of five million dollars for the state's part of just compensation.

(D) Tourist oriented directional signs must be the last to be removed under the terms of this article.

(E) Notwithstanding a county or municipal zoning plan, ordinance, or resolution, the owner of an outdoor advertising sign conforming to Section 57-25-110, et seq., whose property interests are acquired by a state highway project shall have the option to relocate the sign to a position within five hundred feet of the original sign site or alter the sign so that no portion of the sign overhangs the right of way pursuant to the following conditions:

(1) The relocation and alteration shall be pursuant to the federal uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601, et seq.).

(2) The relocated site shall be in accordance with federal and state laws.

(3) If the relocated site meets federal and state laws, the relocation shall be allowed under the existing permit and no new local zoning or

state permit shall be required; provided, that the relocated site is within the same county as the original sign site.

(4) Permission from the property owner, if different, at the relocated site shall be required.

(F)(1) Notwithstanding a county or municipal zoning plan, ordinance, or resolution, the owner of an outdoor advertising sign conforming to Section 57-25-110, et seq., whose property interests in the sign are acquired by a local highway project shall have the option to relocate the sign to a position within five hundred feet of the original sign site or alter the sign so that no portion of the sign overhangs the right of way, pursuant to the following conditions:

(a) The relocated site shall be in accordance with federal and state laws.

(b) If the relocated site meets federal and state laws, the relocation shall be allowed under the existing permit and no new local zoning or state permit shall be required; provided, that the relocated site is within the same county as the original sign site.

(c) Permission from the property owner, if different, at the relocated site shall be required.

(2) Alteration or relocation costs, as determined by the South Carolina Department of Transportation Relocation Assistance Manual, for an outdoor advertising sign whose property interests in the sign are acquired by a local highway project pursuant to this section shall be paid by the political subdivision that is responsible for the local highway project, pursuant to the following conditions:

(a) If the owner of an outdoor advertising sign whose property interests in the sign are acquired by a local highway project cannot relocate or alter the sign as permitted in this section despite the owner's best efforts to do so, then the political subdivision requiring the outdoor advertising sign's removal shall compensate the owner.

(b) Compensation paid by the political subdivision requiring an outdoor advertising sign's removal shall be paid pursuant to Section 39-14-10, et seq. The political subdivision is limited to an expenditure of five million dollars for its part of just compensation pursuant to this section.

(G)(1) Notwithstanding a county or municipal zoning plan, ordinance, or resolution, the owner of an outdoor advertising sign conforming to Section 57-25-110, et seq., in which its visibility from the main-traveled way has been obscured by a state or local highway project shall have the option to:

(a) without relocating the sign, alter only the height and angle of the sign to a position to restore the visibility and readability of the sign

to the same or a comparable visibility and readability that existed prior to the state or local highway project; or

(b) if such alteration is not practical, or is more expensive than relocating, then relocate the sign within five hundred feet of the original sign site, pursuant to the following conditions:

(i) The relocated site shall be in accordance with federal and state laws.

(ii) If the relocated site meets federal and state laws, the relocation will be allowed under the existing permit and no new local zoning or state permit will be required; provided, that the relocated site is within the same county as the original sign site.

(iii) Permission from the property owner, if different, at the relocated site shall be required.

(2) The sign owner shall be responsible for all costs associated with the alteration and relocation of the sign under this subsection."

Time effective

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

Ratified the 4th day of May, 2021.

Approved the 6th day of May, 2021.

No. 35

(R48, S685)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 158 TO TITLE 59 SO AS TO PROVIDE FOR THE COMPENSATION OF INTERCOLLEGIATE ATHLETES FOR THE USE OF THEIR NAME, IMAGE, OR LIKENESS; TO AMEND SECTION 59-102-20, RELATING TO DEFINITIONS IN THE UNIFORM ATHLETE AGENTS ACT OF 2018, SO AS TO REVISE A DEFINITION; TO AMEND SECTION 59-102-70, RELATING TO MEASURES THE DEPARTMENT OF CONSUMER AFFAIRS MAY TAKE AGAINST REGISTERED ATHLETE AGENTS FOR CERTAIN CONDUCT, SO AS TO REQUIRE CERTAIN CONTINUING EDUCATION FOR ATHLETE AGENTS; BY

ADDING SECTION 59-102-85 SO AS TO PROVIDE THE DEPARTMENT SHALL MAINTAIN A PUBLIC DIRECTORY OF ALL REGISTERED ATHLETE AGENTS IN GOOD STANDING; TO AMEND SECTION 59-102-90, RELATING TO REGISTRATION AND RENEWAL APPLICATION FEES, SO AS TO REVISE THE FEES; TO AMEND SECTION 59-102-100, RELATING TO ATHLETE AGENCY CONTRACTS, SO AS TO PROVIDE LIMITS ON AGENCY COMPENSATION FOR INTERCOLLEGIATE ATHLETE NAME, IMAGE, OR LIKENESS COMPENSATION CONTRACTS; TO MAKE THE PROVISIONS OF THIS ACT EFFECTIVE FOR EACH INSTITUTION OF HIGHER LEARNING UPON THE EARLIER OF JULY 1, 2022, OR CERTIFICATION BY THE ATTORNEY GENERAL TO THE GOVERNOR OF THE ENACTMENT OF RULES CONSISTENT WITH THE PROVISIONS CONTAINED IN THIS ACT BY THE COLLEGIATE GOVERNING BODY OF THE INSTITUTION OF HIGHER LEARNING; AND TO PROVIDE UPON CERTIFICATION BY THE ATTORNEY GENERAL THE PROVISIONS OF THIS ACT ARE SUSPENDED UNTIL THE GENERAL ASSEMBLY TAKES FURTHER ACTION.

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

Compensation of intercollegiate athletes

SECTION 1. Title 59 of the 1976 Code is amended by adding:

"CHAPTER 158

Intercollegiate Athletes' Compensation for Name, Image, or Likeness

Section 59-158-10. For the purposes of this chapter:

(1) 'Athlete agent' means a person who is registered with the Department of Consumer Affairs pursuant to Section 59-102-60 or Section 59-102-80. If an athlete agent is an attorney, then he must also be a member in good standing of a state bar association.

(2) 'Athletic booster' means a person or entity that has participated in or has been a member of an organization promoting an institution of higher learning's intercollegiate athletics program.

(3) 'Compensation' means any remuneration, in cash or in kind, whether provided at the time or at any subsequent date, to a student

athlete. 'Compensation' does not mean any grant, scholarship, fellowship, tuition assistance, or other form of financial aid provided to a student for pursuing a post-secondary education.

(4) 'Institution of higher learning' means any post-secondary educational institution, including a technical or comprehensive educational institution.

(5) 'Intercollegiate athlete' means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in an intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, then the individual is not an intercollegiate athlete for the purposes of that sport.

(6) 'Intercollegiate sport' means a sport played at the collegiate level for which eligibility requirements for participation by an intercollegiate athlete are established by a national association that promotes or regulates collegiate athletics.

(7) 'Name, image, or likeness activities', 'name, image, or likeness contract', 'NIL activities', or 'NIL contract' means an agreement in which an intercollegiate athlete participating in intercollegiate sports authorizes a person to use his name, image, or likeness and, in return, receives consideration. This term shall include, but is not limited to, endorsement contracts.

(8) 'Recruit or solicit' means an attempt to influence the choice of an athlete agent by an intercollegiate athlete or, if the intercollegiate athlete is a minor, a parent or guardian of the intercollegiate athlete. 'Recruit or solicit' does not mean giving advice on the selection of a particular athlete agent in a family, coaching, or social situation unless the individual giving the advice does so because of the receipt or anticipated receipt of an economic benefit, directly or indirectly, from the athlete agent.

(9) 'Team contract' means any agreement between an intercollegiate athlete and an institution of higher learning that could impact the intercollegiate athlete's eligibility to participate in an intercollegiate sport, including, but not limited to, scholarship agreements or participation agreements.

(10) 'Third party' means, with respect to an intercollegiate athlete, any entity other than the institution of higher learning in which the intercollegiate athlete is enrolled.

(11) 'Third-party endorsement' means an intercollegiate athlete's public support for, approval of, or recommendation of a product or service, including, but not limited to, social media influencer marketing opportunities; personal appearances; and digital content creation, distribution, and promotion of athletic-related business activities.

'Third-party endorsement' does not mean the use of an intercollegiate athlete's name, image, or likeness in news reports, commentary, entertainment, or advertisements that is incidental to such uses; the broadcast of a sports contest; the rebroadcast of a sports contest; a brief video or audio clip of a sports contest; or anything that violates a registered or licensed copyright or trademark.

Section 59-158-20. (A)(1) An intercollegiate athlete at an institution of higher learning may earn compensation for the use of his name, image, or likeness as provided for in this chapter.

(2) Compensation earned by an intercollegiate athlete for the use of his name, image, or likeness must represent a genuine payment for the use of his name, image, or likeness, independent of, rather than as a payment for, his athletic participation or performance. Compensation may only be provided by a third party.

(3) Compensation may not be provided in exchange for an intercollegiate athlete's athletic performance or attendance at a particular institution of higher learning and may only be provided by a third party unaffiliated with the intercollegiate athlete's institution of higher learning.

(4) A name, image, or likeness contract in conflict with the provisions of this chapter is voidable.

(B) An intercollegiate athlete may receive compensation only for the use of his name, image, or likeness for third-party endorsements, the intercollegiate athlete's non-athletic work product, or activities related to a business that the intercollegiate athlete owns.

(C) An institution of higher learning or its athletic conference cannot directly or indirectly create or facilitate compensation opportunities for the use of an intercollegiate athlete's name, image, or likeness.

(D) An institution of higher learning may not use or allow boosters to directly or indirectly create or facilitate compensation opportunities for the use of an intercollegiate athlete's name, image, or likeness as a recruiting inducement or as a means of paying for athletics participation.

(E) An intercollegiate athlete at an institution of higher learning may not use the institution of higher learning's facilities, uniforms provided by the institution of higher learning, or the institution of higher learning's intellectual property, including, but not limited to, the unauthorized use of a registered trademark or product protected by copyright, in connection with the use of the intercollegiate athlete's name, image, or likeness activities.

(F) Activities related to an intercollegiate athlete's use of his name, image, or likeness for compensation are prohibited from taking place

during the intercollegiate athlete's participation in academic, athletic, or team-mandated activities as defined by the institution of higher learning.

(G) Activities related to an intercollegiate athlete's use of his name, image, or likeness for compensation cannot be contingent on a prospective intercollegiate athlete's enrollment at a particular institution of higher learning or its athletic conference and cannot otherwise be used as an inducement by an institution of higher learning or a booster.

(H) An institution of higher learning; an entity with a purpose that includes supporting or benefiting an institution of higher learning or its athletic programs; or an officer, director, or employee of an institution of higher learning or such an entity may not directly or indirectly compensate a current or prospective intercollegiate athlete for the use of the intercollegiate athlete's name, image, or likeness.

(I) A grant in aid, including the cost of attendance, awarded to an intercollegiate athlete by an institution of higher learning is not compensation for the purposes of this chapter and may not be revoked or reduced as a result of an intercollegiate athlete earning compensation or obtaining professional representation under this chapter. Name, image, or likeness compensation shall not be used to limit athletic grant in aid but may be used in the calculation for need-based financial aid available to the general student population.

Section 59-158-30. Earning compensation in compliance with the provisions contained in Section 59-158-40 does not affect an intercollegiate athlete's grant in aid or athletic eligibility.

Section 59-158-40. (A) Notwithstanding athletic conference or collegiate athletic association rules, bylaws, regulations, and policies to the contrary, an institution of higher learning is prohibited from adopting or maintaining a contract, rule, regulation, standard, or other requirement that prevents or unduly restricts an intercollegiate athlete from:

(1) earning compensation for the use of his name, image, or likeness; or

(2) obtaining an athlete agent for the purpose of securing compensation for the use of his name, image, or likeness.

(B)(1) An institution of higher learning may prohibit an intercollegiate athlete from using his name, image, or likeness for compensation if the proposed use of his name, image, or likeness conflicts with:

(a) existing institutional sponsorship agreements or other contracts; or

(b) institutional values as defined by the institution of higher learning.

(2) An intercollegiate athlete may not earn compensation for the use of his name, image, or likeness for the endorsement of tobacco, alcohol, illegal substances or activities, banned athletic substances, or gambling including, but not limited to, sports betting.

(C) An institution of higher learning must disclose known prohibitions for the use of an intercollegiate athlete's name, image, or likeness at the time that an intercollegiate athlete is admitted to the institution of higher learning or when the intercollegiate athlete signs a financial aid agreement or team contract.

Section 59-158-50. An intercollegiate athlete participating in name, image, or likeness activities must abide by his institution of higher learning and its athletic department's policies with respect to missed class time and good academic standing. Good academic standing includes meeting both grade point average and course hour requirements. An intercollegiate athlete must also meet all academic requirements of the athletic association and conference that his institution of higher learning is a member of in order to participate in name, image, or likeness activities.

Section 59-158-60. (A) A prospective intercollegiate athlete who enters into a name, image, or likeness contract shall disclose the name, image, or likeness contract to his institution of higher learning and its athletic department prior to enrollment or signing a financial aid agreement with the institution of higher learning or a team contract.

(B) A current intercollegiate athlete must disclose the terms of a name, image, or likeness contract prior to signing the name, image, or likeness contract, in a manner designated by the institution of higher learning.

(C) The disclosures required by this section must:

(1) describe the proposed use of the intercollegiate athlete's name, image, or likeness, compensation arrangements, the name of the athlete agent, and a list of all parties to the name, image, or likeness contract; and

(2) be made in the manner designated by the institution of higher learning.

(D) An institution of higher learning may fund, through its athletic department, an independent, third-party administrator to support education, monitoring, disclosures, and reporting concerning name, image, or likeness activities authorized pursuant to this chapter. A

third-party administrator cannot be a registered athlete agent. An athlete agent is prohibited from having any affiliation with a third-party administrator.

Section 59-158-70. (A) Name, image, or likeness contracts authorized by this chapter must have a prominent disclosure at the beginning and end of the name, image, or likeness contract that an intercollegiate athlete must acknowledge separately. The disclosure required pursuant to this section shall be worded to warn the intercollegiate athlete of potential eligibility issues that may exist under current rules and policies of athletic conferences or collegiate athletic associations concerning the use of the intercollegiate athlete's name, image, or likeness and shall clearly set forth the reporting requirements contained in Section 59-158-60.

(B) All name, image, or likeness contracts must provide for an unequivocal ten-day revocation period for the intercollegiate athlete.

(C) At least five days prior to the execution of a name, image, or likeness contract authorized by this chapter, the third party proposing to enter into the name, image, or likeness contract with the intercollegiate athlete must disclose, in writing, to the intercollegiate athlete any prior or existing association, either formally or informally, with any institution of higher learning or any prior or existing financial involvement with respect to athletics.

(D) A name, image, or likeness contract may not extend beyond an intercollegiate athlete's participation in an athletic program at an institution of higher learning.

(E) A name, image, or likeness contract shall be void if an intercollegiate athlete is convicted of a felony pursuant to Section 16-1-90.

Section 59-158-80. (A) If there is a conflict between the provisions contained in this chapter and those contained in Chapter 102, Title 59, then the provisions of this chapter shall govern. An athlete agent representing an intercollegiate athlete in a transaction authorized pursuant to this chapter must also comply with all provisions contained in Chapter 102, Title 59 that do not conflict with the provisions contained in this chapter.

(B) An athlete agent shall comply with the federal Sports Agent Responsibility and Trust Act, 15 U.S.C. Sections 7801-7807."

Uniform Athlete Agents Act, definitions

SECTION 2. Section 59-102-20(1) of the 1976 Code is amended to read:

"(1) 'Agency contract' means an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports services contract; an endorsement contract; or a name, image, or likeness contract, as defined in Chapter 158, Title 59."

Uniform Athlete Agents act, continuing education

SECTION 3. Section 59-102-70 of the 1976 Code is amended by adding:

"(C) The department may suspend, refuse to renew, or revoke a person's registration if that person fails to complete at least twenty hours of continuing athlete agent education coursework biennially. The department may promulgate regulations necessary for the approval of credit hours."

Uniform Athlete Agents Act, online registry

SECTION 4. Chapter 102, Title 59 of the 1976 Code is amended by adding:

"Section 59-102-85. The Department of Consumer Affairs shall maintain an online, public directory of all registered athlete agents in good standing. The directory shall include each athlete agent's registration application information that is required pursuant to this chapter."

Uniform Athlete Agents Act, registration fees

SECTION 5. Section 59-102-90 of the 1976 Code is amended to read:

"Section 59-102-90. An application for registration or renewal of registration must be accompanied by a fee of:

(1) one thousand five hundred dollars for an initial application for registration;

(2) two thousand five hundred dollars for registration based on a certificate of registration issued by another state;

(3) seven hundred dollars for an application for renewal of registration; or

(4) one thousand dollars for renewal of registration based on a renewal of registration in another state."

Uniform Athlete Agents Act, agent compensation limits

SECTION 6. Section 59-102-100 of the 1976 Code is amended by adding:

"(H) An agency contract for name, image, or likeness activities, as defined in Chapter 158, Title 59, may not provide for athlete agent compensation that exceeds ten percent of the name, image, or likeness contract."

Time effective

SECTION 7. This act takes effect for each institution of higher learning in this State upon the earlier of July 1, 2022, or certification by the Attorney General to the Governor of the enactment of rules consistent with the provisions contained in this act by the institution of higher learning's collegiate governing body. Upon certification by the Attorney General, the provisions of this act are suspended until the General Assembly takes further action.

Ratified the 4th day of May, 2021.

Approved the 6th day of May, 2021.

No. 36

(R49, H3017)

AN ACT TO AMEND SECTION 59-104-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ELIGIBILITY FOR PALMETTO FELLOWS SCHOLARSHIPS, SO AS TO INCLUDE TWO-YEAR INSTITUTIONS OF HIGHER LEARNING AND TECHNICAL COLLEGES AMONG INSTITUTIONS OF HIGHER LEARNING WHOSE STUDENTS MAY BE ELIGIBLE FOR THE SCHOLARSHIPS; AND TO AMEND SECTION

59-149-60, RELATING TO THE DURATION OF LIFE SCHOLARSHIPS, SO AS TO PROVIDE STUDENTS MAY NOT RECEIVE LIFE SCHOLARSHIPS FOR MORE THAN SIX SEMESTERS FOR THREE-YEAR DEGREE PROGRAMS.

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

Palmetto Fellows Scholarships, eligibility expanded

SECTION 1. Section 59-104-20(E), (F), and (H) of the 1976 Code is amended to read:

"(E) A Palmetto Fellows Scholarship is available to an eligible resident student who attends or will attend an eligible public or independent institution.

(F) For purposes of subsection (E):

(1) 'Public or independent institution' means a:

(a) South Carolina public institution defined in Section 59-103-5, and an independent institution as defined in Section 59-113-50; or

(b) public or independent bachelor's level institution chartered before 1962 whose major campus and headquarters are located within South Carolina.

(2) 'Resident student' means a:

(a) student who is either a member of a class graduating from a high school located in this State, a home school student who has successfully completed a high school home school program in this State in the manner required by law, or a student graduating from a preparatory high school outside this State, while a dependent of a parent or guardian who is a legal resident of this State and has custody of the dependent; and

(b) student classified as a resident of South Carolina for in-state tuition purposes under Chapter 112 of this title at the time of enrollment at the institution.

(H) Notwithstanding another provision of law, a student who met the initial eligibility requirements to receive a Palmetto Fellows Scholarship Award as a senior in high school and has met the continuing eligibility requirements shall receive the award. A student who received a Palmetto Fellows Scholarship Award as a senior in high school but declined the award is eligible to reapply for the annual scholarship, providing he meets all of the initial and continuing academic eligibility requirements

of the Palmetto Fellows program, if he transfers to a qualifying South Carolina institution of higher learning. The number of semesters or academic years a student attended an out-of-state institution are to be deducted from the number of semesters or academic years a student is eligible for the scholarship. All funding provided for Palmetto Fellows Scholarships regardless of its source or allocation must be used to implement the provisions of this subsection. A student who uses a Palmetto Fellows Scholarship to attend an eligible two-year institution shall receive a maximum of four continuous semesters, and may continue to use the scholarship to attend an eligible four-year institution, subject to maximum number of semesters for which the student may be eligible for the scholarship."

LIFE Scholarships, eligibility, duration

SECTION 2. Section 59-149-60 of the 1976 Code is amended to read:

"Section 59-149-60. The student may receive a LIFE Scholarship for not more than ten semesters for a five-year degree program, eight semesters for a four-year degree program, four semesters for a two-year degree program, or six semesters for a three-year degree program."

Time effective

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

Ratified the 4th day of May, 2021.

Approved the 6th day of May, 2021.

No. 37

(R50, H3689)

AN ACT TO AMEND SECTION 56-3-376, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ESTABLISHMENT OF A SYSTEM OF MOTOR VEHICLE REGISTRATION, SO AS TO REVISE THE WEIGHT LIMITATION FOR VEHICLES FOR WHICH THE BIENNIAL REGISTRATION FEE IS ONE HUNDRED SIXTY DOLLARS OR

MORE; TO AMEND SECTION 56-3-660, RELATING TO THE REGISTRATION OF SELF-PROPELLED PROPERTY CARRYING VEHICLES, SO AS TO PROVIDE A MOTOR CARRIER SELECTING SOUTH CAROLINA AS ITS BASE JURISDICTION FOR REGISTERING A VEHICLE UNDER THE INTERNATIONAL REGISTRATION PLAN MUST OWN OR LEASE REAL PROPERTY USED DIRECTLY IN THE TRANSPORTATION OF FREIGHT OR PERSONS WITHIN THE STATE, AND TO REVISE THE PROCESS FOR PAYMENT OF REGISTRATION FEES FOR LARGE COMMERCIAL MOTOR VEHICLES; TO AMEND SECTION 56-3-190, RELATING TO THE REGISTRATION AND LICENSING OF MOTOR VEHICLES, SO AS TO PROVIDE FOR THE REGISTRATION OF COMMERCIAL MOTOR VEHICLES THAT ARE REGISTERED THROUGH THE INTERNATIONAL REGISTRATION PLAN; TO AMEND SECTION 56-3-195, RELATING TO THE PROCESSING OF MOTOR VEHICLE REGISTRATIONS AND LICENSING RENEWALS BY COUNTIES, SO AS TO PROVIDE FOR THE PAYMENT OF REGISTRATION AND LICENSING RENEWAL FEES BY OWNERS OF LARGE COMMERCIAL MOTOR VEHICLES; TO AMEND SECTION 12-37-2650, RELATING TO THE ISSUANCE OF VEHICLE TAX NOTICES AND PAID RECEIPTS, SO AS TO LIMIT THE TYPES OF TAX NOTICES PREPARED BY A COUNTY AUDITOR, AND PROVIDE THE DEPARTMENT OF MOTOR VEHICLES SHALL MAIL A NOTICE TO REGISTRANTS OF LARGE COMMERCIAL MOTOR VEHICLES WHO DO NOT RECEIVE BILLS FROM COUNTIES CONTAINING CERTAIN INFORMATION; TO AMEND SECTION 12-37-2810, RELATING TO CERTAIN TERMS AND THEIR DEFINITIONS, SO AS TO REVISE THE DEFINITION OF THE TERM "MOTOR CARRIER"; TO AMEND SECTIONS 12-37-2840 AND 12-37-2850, BOTH RELATING TO ROAD USE FEES, SO AS TO PROVIDE A MOTOR CARRIER REGISTERING A LARGE COMMERCIAL MOTOR VEHICLE OR BUS MUST PAY THE ROAD USE FEE TO THE DEPARTMENT OF MOTOR VEHICLES, TO PROVIDE QUARTERLY INSTALLMENT PAYMENTS MUST BE MADE AVAILABLE TO CUSTOMERS, AND TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 12-37-2860, RELATING TO CERTAIN PROPERTY TAX EXEMPTIONS, SO AS TO MAKE TECHNICAL CHANGES AND TO REVISE THE AMOUNT OF

REGISTRATION FEES THAT MAY BE PAID ON AN INSTALLMENT BASIS; TO AMEND SECTION 12-37-2880, RELATING TO THE FAIR MARKET VALUE OF A LARGE COMMERCIAL MOTOR VEHICLE SUBJECT TO A ROAD USE FEE, SO AS TO DELETE REFERENCES TO THE INTERNATIONAL REGISTRATION PLAN AND SECTION 56-3-190, AND PROVIDE COUNTIES SHALL MAIL BILLS FOR ROAD USE FEES AND REGISTRATION TO CERTAIN LARGE COMMERCIAL MOTOR VEHICLES DURING A CERTAIN PERIOD OF TIME; TO AMEND SECTION 56-3-240, RELATING TO THE CONTENT OF AN APPLICATION FOR A VEHICLE REGISTRATION AND LICENSE, SO AS TO REVISE THE CONTENTS OF AN APPLICATION RELATING TO LARGE COMMERCIAL MOTOR VEHICLES; AND TO AMEND SECTION 56-3-355, RELATING TO THE SUSPENSION OR REVOCATION OF COMMERCIAL VEHICLE REGISTRATION CARDS AND LICENSE PLATES, SO AS TO PROVIDE ADDITIONAL CIRCUMSTANCES FOR WHICH THE DEPARTMENT OF MOTOR VEHICLES MUST SUSPEND OR REVOKE A REGISTRATION CARD OR LICENSE PLATE FOR CERTAIN COMMERCIAL MOTOR VEHICLES.

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

Vehicle classification

SECTION 1. Section 56-3-376(A)(1) of the 1976 Code is amended to read:

"(1) Classification (1). Vehicles for which the biennial registration fee is one hundred sixty dollars or more. The Department of Motor Vehicles may register and license a vehicle for which the biennial registration fee is one hundred sixty dollars or more or for a semiannual or one-half year upon application to the department by the owner and the payment of one-fourth of the specified biennial fee. Biennial registrations and licenses expire at midnight on the last day of the twenty-fourth month for the period for which they were issued. Semiannual or half-year registrations and licenses expire at midnight of the sixth month for the period for which they were issued and no person shall drive, move, or operate a vehicle upon a highway after the expiration of the registration and license until the vehicle is registered and licensed for the then current period. Trucks, truck tractors, or road tractors with an empty or unloaded

weight of five thousand pounds or less, or gross vehicle weight of eight thousand pounds or less also must be placed in this classification but may not be registered for less than a full biennial period."

Registration and licensing of vehicles

SECTION 2. Section 56-3-660(C) and (E) of the 1976 Code is amended to read:

"(C) Notwithstanding other provisions of this chapter, the department may enter into agreement with other states in a registration and license reciprocal agreement known as the International Registration Plan and the registration and license required in this section may be apportioned for vehicles which qualify and are licensed in accordance with the provisions of the plan. For the purpose of registering a vehicle under the International Registration Plan, a motor carrier selecting South Carolina as its base jurisdiction must own or lease real property used directly in the transportation of freight or persons within the State.

(E) The department may register a large commercial motor vehicle, as defined in Section 12-37-2810 pursuant to the payment provisions outlined in Section 12-37-2840. The department may require any information necessary to complete the transaction. A large commercial motor vehicle shall register annually rather than biennially."

Registration and licensing of vehicles

SECTION 3. Section 56-3-190 of the 1976 Code is amended to read:

"Section 56-3-190. (A) The Department of Motor Vehicles may register and license vehicles as required by this chapter upon application being made therefor by the owner and the required fees paid as provided in this chapter.

(B) If a commercial motor vehicle is registered through the International Registration Plan and is operated under a United States Department of Transportation (USDOT) number assigned to a person other than the vehicle's owner, then the person to whom the USDOT number is assigned may register the commercial motor vehicle by submitting the appropriate application and fees to the Department of Motor Vehicles."

Registration and licensing of vehicles

SECTION 4. A. Section 56-3-195(A) of the 1976 Code is amended to read:

"(A) Each county shall mail motor vehicle registration and licensing renewal notices to the owners of vehicles in the county as determined by the Department of Motor Vehicles no later than forty-five days before expiration of the registration. The renewal notices, including the fees upon completion, may be returned to that county which shall transmit the renewal notices to the department for processing and which shall transmit the fees to the appropriate state fund as provided by law within seven days of receipt. The owner of a large commercial motor vehicle, as defined in Section 12-37-2810(C), must establish an account with the Department of Motor Vehicles and must remit payment for all fees associated with registration and licensing renewal directly to the Department of Motor Vehicles."

B. This SECTION takes effect on the first day of the fiscal year that begins twenty-four months after the program is fully funded.

Vehicle tax notices

SECTION 5. A. Section 12-37-2650 of the 1976 Code is amended to read:

"Section 12-37-2650. (A) Each county auditor shall prepare a tax notice of all vehicles, except for vehicles described in Article 23, Chapter 37, Title 12, owned by the same person and licensed at the same time for each tax year within the two-year licensing period. A notice must describe the motor vehicle by name, model, and identification number. The notice must set forth the assessed value of the vehicle, the millage, the taxes due on each vehicle, and the license period or tax year. The notice must be delivered to the county treasurer who must collect or receive payment of the taxes. One copy of the notice must be in the form of a bill or statement for the taxes due on the motor vehicle and, when practical, the treasurer shall mail that copy to the owner or person having control of the vehicle. When the tax and all other charges included on the tax bill have been paid, the treasurer shall issue the taxpayer a paid receipt. The receipt or a copy may be delivered by the taxpayer to the Department of Motor Vehicles with the application for the motor vehicle registration. A record of the payment of the tax must be retained by the

treasurer. The auditor shall maintain a separate duplicate for motor vehicles. A registration may not be issued by the Department of Motor Vehicles unless the application is accompanied by the receipt, a copy of the notification required by Section 12-37-2610 or notice from the county treasurer, by other means satisfactory to the Department of Motor Vehicles, of payment of the tax. Large commercial motor vehicles and buses, as defined in Section 12-37-2810, must pay road use fees pursuant to Article 23, Chapter 37, Title 12 in lieu of ad valorem property taxes. The treasurer, tax collector, or other official charged with the collection of ad valorem property taxes in each county may delegate the collection of motor vehicle taxes to banks or banking institutions, if each institution assigns, hypothecates, or pledges to the county, as security for the collection, federal funds or federal, state, or municipal securities in an amount adequate to prevent any loss to the county from any cause. Each institution shall remit the taxes collected daily to the county official charged with the collections. The receipt given to the taxpayer, in addition to the information required in this section and by Section 12-45-70, must contain the name and office of the treasurer or tax collector of the county and must also show the name of the banking institution to which payment was made.

(B) The county official charged with the collection of taxes shall send a list of the institutions collecting the taxes to the Department of Motor Vehicles. Each institution shall certify to the Department of Motor Vehicles that the taxes have been paid, and the Department of Motor Vehicles is authorized to accept certification in lieu of the tax receipt given to the taxpayer if certification contains information required by this section.

(C) Tax bills (notices) for county assessed personal property valued in accordance with applicable Department of Revenue regulations must include notification of the taxpayer's appeal rights, to include a minimum amount of information of how the taxpayer should file his appeal, to whom, and within what time period.

(D) The Department of Motor Vehicles shall mail a notice to registrants of large commercial motor vehicles who no longer receive bills from counties that their road use fee will be due to the department at their next renewal cycle instead of paying taxes or fees to the county in which the vehicle is registered."

B. This SECTION takes effect on the first day of the fiscal year that begins twenty-four months after the program is fully funded.

Definition

SECTION 6. Section 12-37-2810(A) of the 1976 Code is amended to read:

"(A) 'Motor carrier' means a person or legal entity who owns, controls, operates, manages, or leases a commercial motor vehicle, or bus for the transportation of property or persons in intrastate or interstate commerce except for scheduled intercity bus service and farm vehicles using FM tags as allowed by the Department of Motor Vehicles."

Road use fees

SECTION 7. A. Sections 12-37-2840 and 12-37-2850 of the 1976 Code are amended to read:

"Section 12-37-2840. Notwithstanding another provision of law, a motor carrier registering a large commercial motor vehicle or bus must pay to the Department of Motor Vehicles the road use fee due on the vehicle at the time and in the manner the person pays the registration fees on the vehicle pursuant to Section 56-3-660. A person choosing to pay South Carolina registration fees on a large commercial motor vehicle or bus in quarterly installments pursuant to Section 56-3-660 also must pay the road use fee on the vehicle in the same quarterly installments. The Department of Motor Vehicles must make quarterly installment payments available to a customer upon the customer's request provided that each installment payment is made online.

Section 12-37-2850. The Department of Motor Vehicles shall assess annually the road use fee due on large commercial motor vehicles and buses based on the value determined in Section 12-37-2820 and an average millage for all purposes statewide for the preceding calendar year and shall publish the average millage for the preceding year by July first of each year. The Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee by June first of each year for the following calendar year. The road use fee assessed must be paid to the Department of Motor Vehicles, in addition to the registration fees required pursuant to Sections 56-3-660 and 56-3-670, at the time and in the manner that the registration fees on the vehicle are paid pursuant to Sections 56-3-660 and 56-3-670. Distribution of the fees paid must be made by

the Office of the State Treasurer based on the distribution formula provided in Sections 12-37-2865 and 12-37-2870."

B. This SECTION takes effect on the first day of the fiscal year that begins twenty-four months after the program is fully funded.

Registration fees

SECTION 8. A. Section 12-37-2860(F) of the 1976 Code is amended to read:

"(F) If the South Carolina registration fees of a large commercial motor vehicle or bus and the road use fees for large commercial motor vehicles required under this chapter are assessed, the fees may be remitted to the Department of Motor Vehicles quarterly in installments, provided that each installment is made online. A motor carrier who fails to make a quarterly installment payment on a timely basis may no longer make installment payments and must remit to the department the balance of the fees owed for any previous calendar year before the Department of Motor Vehicles will renew registration for the current calendar year. A motor carrier that opts out of installment payments must make full payment of fees at the time of registration."

B. This SECTION takes effect on the first day of the fiscal year that begins twenty-four months after the program is fully funded.

Property tax exemptions

SECTION 9. A. Section 12-37-2880 of the 1976 Code is amended to read:

"Section 12-37-2880. (A) In addition to the property tax exemptions allowed pursuant to Section 12-37-220, one hundred percent of the fair market value of all large commercial motor vehicles and buses registered for use in this State is exempt from property tax and is instead subject to the road use fee imposed pursuant to this article.

(B) The road use fee imposed by this article is in lieu of all ad valorem taxes upon large commercial motor vehicles or buses, and any road use or other vehicle-related fees imposed by a political subdivision of this State.

(C) Counties shall mail bills for road use fees and registration to large commercial motor vehicles operating intrastate until the effective date of Section 12-37-2860(F)."

B. This SECTION is effective the first day of the new fiscal year after approval by the Governor.

Application for a vehicle registration and license

SECTION 10. Section 56-3-240(5) of the 1976 Code is amended to read:

"(5) In addition to other registration requirements the department shall collect a federal employer identification number or social security number when a vehicle is registered with a gross vehicle weight of more than twenty-six thousand pounds or as a bus common carrier.

Additionally, for a commercial motor vehicle with a gross weight of more than twenty-six thousand pounds that operates with an apportioned license plate, the department may determine the manner, including the standard for measuring distance, such as miles or kilometers, application process, and filing deadlines for applications under the International Registration Plan, and must be provided:

(a) the United States Department of Transportation Number of the motor carrier responsible for safety, as defined by the Federal Motor Carrier Safety Administration; and

(b) a current MCS 150 form for the motor carrier responsible for safety, as defined by the Federal Motor Carrier Safety Administration. This form also must be on file with the Federal Motor Carrier Safety Administration. Except where the International Registration Plan permits an applicant to use average per-vehicle distance, an application may contain the actual distance that the fleet being registered was operated during the report period. In accordance with the International Registration Plan, if the fleet did not accrue any actual distance during the reporting period, an applicant may use average per-vehicle distance. The expiration date of apportioned registration for all apportioned vehicles in a fleet must be the same date."

Suspension and revocation of a registration card and license plate

SECTION 11. A. Section 56-3-355 of the 1976 Code is amended to read:

"Section 56-3-355. (A) The Department of Motor Vehicles must suspend, revoke, or not issue a registration card and license plate to a person for a commercial motor vehicle greater than twenty-six thousand pounds which operates with an apportioned license plate if the commercial motor carrier who is responsible for the safety of the vehicle has been prohibited from operating by a federal agency or if it is determined that the registrant has:

(1) made a material misrepresentation or false statement on the application or fails to disclose material information required pursuant to Section 56-3-240 or the International Registration Plan, if applicable;

(2) used or permitted the use of plates contrary to law;

(3) been found guilty of fraud, fraudulent practices, or subterfuge for the real party in interest who has been issued a federal out-of-service order;

(4) operated or owned a business managed, or otherwise controlled or affiliated, with a person who is ineligible for registration, including the registrant entity, a relative, family member, corporate officer, or shareholder; or

(5) failed to comply with any of the regulations of the department for the enforcement of this article.

(B) The registrant promptly must surrender to the department any item suspended or revoked under this section. If the registrant unlawfully refuses to surrender the suspended or revoked items as required under this section, the department, through its designated agents or by request to a county or municipal law enforcement agency, shall take possession of the suspended or revoked license plate and registration card. A registration card or license plate may not be reissued for that vehicle until the motor carrier has been allowed to operate by a federal agency or the vehicle is properly transferred to a motor carrier that is not prohibited from operating by a federal agency. Before a suspended vehicle registration card can be reinstated, the department shall receive a signed copy of any inspection report for each suspended registration card and a fee of fifty dollars for each registration card suspension which must be paid to the department. The fifty dollar fee must be placed in the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167 by the Comptroller General."

B. This SECTION takes effect at the start of the fiscal year immediately following approval by the Governor.

Time effective

SECTION 12. This act takes effect upon approval by the Governor unless otherwise indicated.

Ratified the 4th day of May, 2021.

Approved the 6th day of May, 2021.

No. 38

(R51, H3805)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 149 TO CHAPTER 3, TITLE 56 SO AS TO PROVIDE THE DEPARTMENT OF MOTOR VEHICLES MAY ISSUE VARIOUS MILITARY SPECIAL LICENSE PLATES; AND TO REPEAL ARTICLES 7, 8, 14, 15, 16, 33, 38, 43, 53, 55, 56, 63, 68, 74, 84, 88, 99, 101, 102, 103, 104, 106, 107, 110, 111, 112, 115, 116, 117, 129, 131, 132, 143, and 144 OF CHAPTER 3, TITLE 56, RELATING TO THE ISSUANCE OF "WARTIME DISABLED VETERAN SPECIAL LICENSE PLATES", FREE VEHICULAR REGISTRATION FOR FORMER PRISONERS OF WAR, THE ISSUANCE OF SPECIAL LICENSE PLATES FOR MEMBERS OF THE UNITED STATES MILITARY RESERVES AND NATIONAL GUARD, MEDAL OF HONOR RECIPIENTS, PURPLE HEART RECIPIENTS, MEMBERS OF THE AMERICAN LEGION, RETIRED MEMBERS OF THE UNITED STATES ARMED FORCES, NORMANDY INVASION, AND PEARL HARBOR SURVIVORS, THE ISSUANCE OF MEMBERS OF THE UNITED STATES ARMED SERVICES, SUPPORT OUR TROOPS, KOREAN WAR VETERANS, VIETNAM VETERANS, MARINE CORPS LEAGUE, WORLD WAR II VETERANS, GOLD STAR FAMILY OPERATION DESERT STORM-DESERT SHIELD, OPERATION ENDURING FREEDOM VETERAN, OPERATION IRAQI FREEDOM VETERAN, SILVER STAR, BRONZE STAR, UNITED STATES NAVY CHIEF PETTY OFFICER, UNITED STATES MARINE CORPS, DISTINGUISHED SERVICE MEDAL, DISTINGUISHED SERVICE CROSS, DEPARTMENT

OF THE NAVY, PARENTS AND SPOUSES OF ACTIVE-DUTY OVERSEAS VETERANS, ACTIVE DUTY MEMBERS OF THE UNITED STATES ARMED FORCES, COMBAT-RELATED DISABLED VETERAN, RECIPIENTS OF THE DISTINGUISHED FLYING CROSS, PALMETTO CROSS, AND LEGION OF MERIT SPECIAL LICENSE PLATES.

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

Military special license plates

SECTION 1. Chapter 3, Title 56 is the 1976 Code is amended by adding:

"Article 149

Military Special License Plates

Section 56-3-14910. (A) The department may issue the following special license plates reflective of valorous awards for private passenger vehicles and motorcycles to active or prior service members who received the following awards:

(1) Medal of Honor- Army
(2) Medal of Honor- Navy
(3) Medal of Honor- Air Force
(4) Distinguished Service Cross- Army
(5) Distinguished Service Cross- Navy
(6) Distinguished Service Cross- Air Force
(7) South Carolina Medal of Valor
(8) Silver Star
(9) Bronze Star (with valor)
(10) Soldier's Medal.

(B) The qualifying active or prior service members must be one of the registrants of the vehicle. No more than three license plates per award type may be issued to the award recipient. License plates for awards specified in subsection (A) are exempt from the regular motor vehicle registration fee contained in Article 5, Chapter 3, Title 56. These special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(C) The application for a special license plate must include official military documentation (a DD-214, NGB Form 22, or official orders)

demonstrating the applicant is the recipient of an award specified in subsection (A).

(D) A person issued a license plate under the provisions of subsection (A) may park in metered or timed parking places without being subject to parking fees or fines. This section has no application to areas or during times in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. As a condition to this privilege, a vehicle must display a distinguishing license plate issued by the department for vehicles registered to recipients of an award specified in subsection (A).

(E) License plates authorized under subsection (A) are exempt from the provisions contained in Section 56-3-8100.

Section 56-3-14920. (A) The department may issue the following special license plates reflective of distinguished service awards for private passenger vehicles and motorcycles to active or prior service members who received the following awards:

(1) Distinguished Service Medal- Army
(2) Distinguished Service Medal- Navy
(3) Distinguished Service Medal- Air Force
(4) Distinguished Service Medal- Marine Corps
(5) Distinguished Service Medal- Coast Guard
(6) Distinguished Flying Cross
(7) Legion of Merit
(8) Palmetto Cross.

(B) The qualifying active or prior service member must be one of the registrants of the vehicle. No more than three license plates per award type may be issued to the award recipient. License plates for awards specified in subsection (A) are exempt from the regular motor vehicle registration fee contained in Article 5, Chapter 3, Title 56. This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(C) The application for a special license plate must include official military documentation (a DD-214, NGB Form 22, or official orders) demonstrating the applicant is the recipient of an award specified in subsection (A).

(D) A person issued a license plate under the provisions of subsection (A) may park in metered or timed parking places without being subject to parking fees or fines. This section has no application to areas or during times in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. As a condition to this privilege, a vehicle must display a distinguishing license

plate which is issued by the department for vehicles registered to recipients of an award specified in subsection (A).

(E) License plates authorized under subsection (A) are exempt from the provisions contained in Section 56-3-8100.

Section 56-3-14930. (A) The department may issue the following special license plates reflective of exemplary service awards for private passenger vehicles and motorcycles to the individuals specified by the following license plate categories:

(1) Gold Star Family: available to immediate family members (spouse, parent, children, or siblings)

(2) Gold Star Family Personalized: available to immediate family members (spouse, parent, children, or siblings)

(3) Prisoner of War: available to the award recipient and spouse

(4) Purple Heart: available to the award recipient

(5) Purple Heart Wheelchair: available to the award recipient.

(B) The qualifying registrants are specified above in subsection (A). No more than three license plates per award type may be issued to the award recipient or qualifying family members. License plates for awards specified in subsection (A) are exempt from the regular motor vehicle registration fee contained in Article 5, Chapter 3, Title 56. These special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(C) The application for a special license plate must include official military documentation (a DD-214, NGB Form 22, or official orders) demonstrating the applicant is the recipient of an award specified in subsection (A).

(D) A person issued a license plate under the provisions of subsection (A) may park in metered or timed parking places without being subject to parking fees or fines. This section has no application to those areas or during those times in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. As a condition to this privilege, a vehicle must display a distinguishing license plate issued by the department for vehicles registered to recipients of an award specified in subsection (A).

(E) License plates authorized under subsection (A) are exempt from the provisions contained in Section 56-3-8100.

Section 56-3-14940. (A) The department may issue the following special license plates reflective of a service-connected disability for passenger vehicles and motorcycles registered to qualifying veterans:

(1) Disabled Veteran - the applicant must be considered totally and permanently disabled due to a service-connected disability as evidenced by official military documentation.

(2) Disabled Veteran (wheelchair) - the applicant must be considered totally and permanently disabled due to a service-connected disability as evidenced by official military documentation. The applicant also must qualify for handicapped parking privileges as specified in Section 56-3-1910 and follow the application process prescribed by Section 56-3-1910.

(3) Disabled Female Veteran - the applicant must be considered totally and permanently disabled due to a service-connected disability as evidenced by official military documentation.

(4) Disabled Female Veteran (wheelchair) - the applicant must be considered totally and permanently disabled due to a service-connected disability as evidenced by official military documentation. The applicant also must qualify for handicapped parking privileges as specified in Section 56-3-1910 and follow the application process prescribed by Section 56-3-1910.

(B) The qualifying service member or veteran must be one of the registrants of the vehicle. No more than three license plates may be issued to the award recipient. License plates for medals specified in subsection (A) are subject to the regular motor vehicle registration fee contained in Article 5, Chapter 3, Title 56 but no additional specialty plate fee. These special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(C) The application for a special license plate must include a letter indicating the appropriate disability rating from the Department of Veterans Affairs.

(D) License plates authorized under subsection (A) are exempt from the provisions contained in Section 56-3-8100.

Section 56-3-14950. (A) The department may issue the following special license plates reflective of campaign medals for private passenger vehicles and motorcycles to active service members or prior service members who participated in the following military campaigns:

(1) World War II Veteran
(2) Pearl Harbor Survivor
(3) Normandy Invasion Survivor
(4) Korean War
(5) Vietnam War
(6) Operation Desert Shield/Desert Storm

(7) Operation Iraqi Freedom
(8) Operation Enduring Freedom.

(B) The qualifying service member or veteran must be one of the registrants of the vehicle. No more than three license plates may be issued to the award recipient. License plates for medals specified in subsection (A), except for Korean War license plates pursuant to subsection (A)(4), are subject to the regular motor vehicle registration fee contained in Article 5, Chapter 3, Title 56. License plates for medals specified in subsection (A) are not subject to an additional specialty plate fee. These special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(C) The application for a special license plate must include official military documentation (a DD-214, NGB Form 22, or official orders) demonstrating the applicant was a participant in a campaign specified in subsection (A).

(D) License plates authorized under subsection (A) are exempt from the provisions contained in Section 56-3-8100.

Section 56-3-14960. (A) The department may issue the following special license plates reflective of meritorious service for private passenger vehicles and motorcycles to active or prior service members who received the following awards:

(1) Air Medal
(2) Bronze Star (service).

(B) The qualifying active or prior service member must be one of the registrants of the vehicle. No more than three license plates may be issued to the award recipient. License plates for medals specified in subsection (A) are subject to the regular motor vehicle registration fee contained in Article 5, Chapter 3, Title 56 but no additional specialty plate fee. These special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(C) The application for a special license plate must include official military documentation (a DD-214, NGB Form 22, or official orders) demonstrating the applicant is the recipient of an award specified in subsection (A).

(D) License plates authorized under subsection (A) are exempt from the provisions contained in Section 56-3-8100.

Section 56-3-14970. (A) The department may issue the following special license plates reflective of military service for private passenger

vehicles and motorcycles to active or prior service members associated with the following military components or designations:

(1) Veteran or Veteran wheelchair if the registrant qualifies for handicapped parking pursuant to Section 56-3-1910(H)

(2) Female Veteran or Female Veteran wheelchair if the registrant qualifies for handicapped parking pursuant to Section 56-3-1910(H)

(3) Combat-Related Disabled Veteran - the registrant must have a combat-related disability as evidenced by a letter from the U.S. Department of Veterans Affairs defining a combat and operations-related disability

(4) Army

(5) Marine Corps

(6) Navy

(7) Air Force

(8) Coast Guard

(9) National Guard- Army

(10) National Guard- Air

(11) National Guard- Retired

(12) US Military Reserve- Army

(13) US Military Reserve- Marine Corps

(14) US Military Reserve- Navy

(15) US Military Reserve- Air Force

(16) US Military Reserve- Coast Guard

(17) US Armed Forces Retired

(18) State Guard.

(B) The qualifying active or prior service member must be one of the registrants of the vehicle. No more than three license plates may be issued to the award recipient. License plates for designation specified in subsection (A) are subject to the regular motor vehicle registration fee contained in Article 5, Chapter 3, Title 56 but no additional specialty plate fee. These special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(C) The application for a special license plate reflective of a branch of service must include official military documentation (a DD-214, NGB Form 22, or official orders) that the registrant is an active or prior service member of that branch of service pursuant to the requirements in Section 56-1-140(B)(1-3). The application for a special license plate reflective of a veteran’s designation also must meet the specifications in Section 56-1-140(B)(1-3).

(D) License plates authorized under subsection (A) are exempt from the provisions contained in Section 56-3-8100.

Section 56-3-14980. (A) The department may issue the following types of special license plates showing support for military-related private organizations for private passenger vehicles and motorcycles to members of the general public that will financially benefit the following organizations:

(1) Blue Star Family
(2) Veterans of Foreign Wars
(3) American Legion
(4) Disabled American Veterans
(5) American Veterans
(6) Marine Corps League
(7) Chief Petty Officer.

(B) License plates for the organizations specified in subsection (A) are subject to the regular motor vehicle registration fee contained in Article 5, Chapter 3, Title 56 and a special motor vehicle license plate fee set by the sponsoring organization. These special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(C) License plates authorized under subsection (A) are subject to the provisions contained in Section 56-3-8100.

Section 56-3-14990. Upon the death of an award recipient, a surviving spouse may apply to the department for a license plate issued under the provisions of Sections 56-3-14710, 56-3-14720, or 56-3-14730(A)(3). The surviving spouse may apply to the department to transfer a license plate previously issued to the award recipient under the provisions of Section 56-3-14710, 56-3-14720, or 56-3-14730(A)(3) pursuant to Section 56-3-210(G). The surviving spouse must turn the plate into the department when the surviving spouse is no longer eligible for surviving spouse military benefits.

Section 56-3-15000. License plates first issued to registrants under previous award criteria are not subject to the revised award documentation requirements that a person must provide the department upon applying for a plate specified in this article.

Section 56-3-15010. Additional military special license plates added to this article must be listed in the most fitting category based on the definition of the award, conflict, service, or private organization."

Repeal

SECTION 2. Articles 7, 8, 14, 15, 16, 33, 38, 43, 53, 55, 56, 63, 68, 74, 84, 88, 99, 101, 102, 103, 104, 106, 107, 110, 111, 112, 115, 116, 117, 129, 131, 132, 143, and 144, Chapter 3, Title 56 are repealed.

Time effective

SECTION 3. This act takes effect one year after approval by the Governor.

Ratified the 4th day of May, 2021.

Approved the 6th day of May, 2021.

No. 39

(R52, H4064)

AN ACT TO AMEND SECTION 12-37-220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO CLARIFY THAT MANUFACTURING PROPERTY OWNED OR LEASED BY A PUBLIC UTILITY REGULATED BY THE PUBLIC SERVICE COMMISSION DOES NOT QUALIFY FOR A 14.2857 PERCENT EXEMPTION REGARDLESS OF WHETHER THE PROPERTY IS USED FOR MANUFACTURING; AND TO APPROPRIATE FUNDS FROM THE FISCAL YEAR 2019-2020 CONTINGENCY RESERVE FUND TO THE TRUST FUND FOR TAX RELIEF.

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

SECTION 1. Section 12-37-220(B)(52)(a) of the 1976 Code is amended to read:

"(a)(i) 14.2857 percent of the property tax value of manufacturing property assessed for property tax purposes pursuant to Section 12-43-220(a)(1). The exemption allowed by this item does not apply to property owned or leased by a public utility, as defined in Section 58-3-5, that is regulated by the Public Service Commission, regardless

of whether the property is used for manufacturing. For purposes of this item, if the exemption is applied to real property, then it must be applied to the property tax value as it may be adjusted downward to reflect the limit imposed pursuant to Section 6, Article X of the South Carolina Constitution, 1895;

(ii) To the extent any such monies are refunded or otherwise credited under this item to a public utility that is regulated by the Public Service Commission, regardless of whether the property is used for manufacturing, any such refund or credits must be flowed through to customers as a reduction in rates, as appropriate."

SECTION 2. There is appropriated sixty-seven million fifty-five thousand dollars from the Fiscal Year 2019-2020 Contingency Reserve Fund to the Trust Fund for Tax Relief. The Board of Economic Advisors is directed to make any necessary adjustments among its forecasts for recurring and nonrecurring revenue resulting from the appropriation contained herein.

SECTION 3. This act takes effect upon approval by the Governor and first applies to property tax years beginning after 2020.

Ratified the 4th day of May, 2021.

Approved the 6th day of May, 2021.

No. 40

(R53, S36)

AN ACT TO AMEND SECTION 50-13-640, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE POSSESSION OF BLUE CATFISH, SO AS TO PROHIBIT THE POSSESSION OF MORE THAN TWO BLUE CATFISH GREATER THAN THIRTY-TWO INCHES IN LENGTH IN CERTAIN WATERS OF THIS STATE AND TO PROVIDE A DAILY LIMIT FOR CERTAIN WATERS OF THIS STATE; TO AMEND SECTION 50-9-1120, AS AMENDED, RELATING TO THE POINT SYSTEM FOR FISHING VIOLATIONS, SO AS TO PROVIDE THAT A VIOLATION OF THE BLUE CATFISH CATCH LIMIT IS FOURTEEN POINTS; AND TO REQUIRE THAT THE

DEPARTMENT OF NATURAL RESOURCES CONDUCT A STUDY OF THE BLUE CATFISH FISHERY IN THE SANTEE AND COOPER RIVER SYSTEMS.

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

Blue catfish

SECTION 1. Section 50-13-640 of the 1976 Code is amended to read:

"Section 50-13-640. (A) It is unlawful to possess more than two blue catfish (Ictalurus furcatus) greater than thirty-two inches in length in any one day in Lake Marion, Lake Moultrie, or the upper reach of the Santee River, the Congaree and Wateree rivers, and all other state waterways.

(B) It is unlawful to take more than twenty-five blue catfish (Ictalurus furcatus) a day in Lake Marion, Lake Moultrie, the upper reach of the Santee River, and all other state waterways.

(C) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than three hundred dollars or imprisoned not more than thirty days, or both."

Fishing violations

SECTION 2. Section 50-9-1120(3) of the 1976 Code is amended by adding an appropriately lettered subitem to read:

"( ) taking or possessing more than the legal creel or size limit of blue catfish:14."

Blue catfish fishery study

SECTION 3. The Department of Natural Resources shall conduct a study of the blue catfish fishery in the Santee and Cooper river systems and make recommendations to the General Assembly concerning the fishery on or before January 1, 2025.

Time effective

SECTION 4. This act takes effect thirty days after approval by the Governor.

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 41

(R54, S107)

AN ACT TO AMEND SECTION 48-39-280, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE'S BEACH PRESERVATION POLICY, SO AS TO APPLY CERTAIN EXCEPTIONS TO THE ESTABLISHMENT OF A BASELINE FOR COASTAL EROSION ZONES AND TO REMOVE THE STUDY REQUIREMENT IN CASES WHERE PRIMARY OCEANFRONT SAND DUNES DO NOT EXIST.

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

Standard erosion zone baseline

SECTION 1. Section 48-39-280(A)(1) of the 1976 Code, as last amended by Act 173 of 2018, is further amended to read:

"(1) The baseline for each standard erosion zone is established at the location of the crest of the primary oceanfront sand dune in that zone.

(a) If the primary ocean front sand dune is more than two hundred feet landward of the current line of stable vegetation, then the baseline must be established seaward of the primary oceanfront sand dune at a distance equal to thirty percent of the measured distance from the primary oceanfront sand dune to the current line of stable vegetation.

(b) If there is no primary oceanfront sand dune, then the baseline must be established at whichever is further landward of the following:

(i) the most seaward of the locations specified in item (4); or

(ii) the landward edge of the active beach.

(c) If the shoreline has been altered naturally or artificially by the construction of erosion control devices, then the baseline must be established by the department using the best scientific and historical data, as where the crest of the primary oceanfront sand dune for that zone would be located if the shoreline had not been altered."

Shoreline study requirement removed

SECTION 2. Section 48-39-280(E)(2) of the 1976 Code, as last amended by Act 173 of 2018, is further amended to read:

"(2) Surveyed topographical data typically must be gathered at two thousand foot intervals. However, in areas subject to significant near-term development and in areas currently developed, the interval, at the discretion of the department, may be more frequent. The resulting surveys must locate the crest of the primary oceanfront sand dune to be used as the baseline for computing the forty-year erosion rate."

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 42

(R55, S131)

AN ACT TO AMEND SECTION 10-11-310, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF "CAPITOL GROUNDS", SO AS TO DEFINE "CAPITOL GROUNDS" AS THAT AREA INWARD FROM THE VEHICULAR TRAVELED SURFACES OF GERVAIS, SUMTER, PENDLETON, AND ASSEMBLY STREETS IN THE CITY OF COLUMBIA; TO AMEND SECTION 10-11-330, RELATING TO UNAUTHORIZED ENTRY INTO A CAPITOL BUILDING AND RELATED PROVISIONS, SO AS TO PROVIDE THAT CERTAIN ACTS ARE UNLAWFUL IN ANY BUILDING ON THE CAPITOL

GROUNDS; TO AMEND SECTION 10-1-30, RELATING TO THE USE OF AREAS OF THE STATE HOUSE, SO AS TO PROVIDE THAT ACCESS TO THE STATE HOUSE MAY NOT BE RESTRICTED OR PROHIBITED, AND TO PROVIDE EXCEPTIONS; AND TO AMEND SECTION 2-3-100, RELATING TO THE DUTIES OF THE SERGEANTS AT ARMS, SO AS TO PROVIDE FOR THE POWERS OF THE SERGEANT AT ARMS OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, AND TO PROVIDE FOR THE EMPLOYMENT OF THEIR DEPUTIES.

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

Definition

SECTION 1. Section 10-11-310 of the 1976 Code is amended to read:

"Section 10-11-310. As used in this article, 'capitol grounds' or 'grounds' shall be that area inward from the vehicular traveled surfaces of Gervais, Sumter, Pendleton, and Assembly streets in the City of Columbia."

Capital Grounds

SECTION 2. Section 10-11-330 of the 1976 Code is amended to read:

"Section 10-11-330. It shall be unlawful for any person or group of persons wilfully and knowingly:

(1) to enter or to remain within a building on the capitol grounds unless such person is authorized by law or by rules of the House or Senate, or the Department of Administration regulations, respectively, when such entry is done for the purpose of uttering loud, threatening, and abusive language or to engage in any disorderly or disruptive conduct with the intent to impede, disrupt, or disturb the orderly conduct of any session of the legislature or the orderly conduct within a building or of any hearing before or any deliberation of any committee or subcommittee of the legislature;

(2) to obstruct or to impede passage within the capitol grounds or a building on the capitol grounds;

(3) to engage in any act of physical violence upon the capitol grounds or within a building on the capitol grounds; or

(4) to parade, demonstrate, or picket within the capitol building."

State House access

SECTION 3. Section 10-1-30 of the 1976 Code is amended by adding an appropriately lettered new subsection to read:

"( ) On the days that the General Assembly meets in statewide session, access to the State House by the general public or the press may not be restricted or prohibited without prior approval of the Senate Sergeant At Arms and the House of Representatives Sergeant At Arms. On the days that the General Assembly does not meet in statewide session, access to the State House by the general public or the press may not be restricted or prohibited without prior consultation with the Senate Sergeant At Arms and the House of Representatives Sergeant At Arms. The provisions contained in this section do not apply in exigent circumstances; however, if access to the State House is restricted or prohibited due to exigent circumstances, then access must be restored as soon as practicable."

Sergeant At Arms

SECTION 4. Section 2-3-100 of the 1976 Code is amended to read:

"Section 2-3-100. (A) The Sergeant At Arms of the Senate and the Sergeant At Arms of the House of Representatives shall take exclusive care and charge of the Senate chamber and the hall of the House of Representatives and the committee rooms, respectively, and be held responsible for their keeping and the keeping and protection of the furniture and furnishings belonging to them, packing such as may need packing and inspecting and caring for them during the recess of the General Assembly. The Sergeant At Arms of both houses shall employ such laborers and help as may be necessary to carry out the provisions of this section.

(B) The Sergeant At Arms of the Senate and the Sergeant At Arms of the House of Representatives are each the head of a law enforcement agency and are the primary law enforcement agency for the scope of duties of their respective offices. The Sergeant At Arms of the Senate and the Sergeant At Arms of the House of Representatives may request temporary assistance from state, local, or federal law enforcement agencies on matters within the scope of duties of their respective offices.

(C) The Sergeant At Arms of the Senate and the Sergeant At Arms of the House of Representatives shall employ deputies who shall be

commissioned as constables. The Sergeant At Arms of the Senate, the Sergeant At Arms of the House of Representatives, and their respective deputies shall be entitled to enforce the laws of this State and exercise the duties of their offices throughout the State."

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 43

(R56, S200)

AN ACT TO AMEND SECTION 24-3-530, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEATH BY ELECTROCUTION OR LETHAL INJECTION, SO AS TO PROVIDE THAT A PERSON SENTENCED TO DEATH SHALL SUFFER THE PENALTY BY ELECTROCUTION OR BY FIRING SQUAD OR LETHAL INJECTION, IF LETHAL INJECTION IS AVAILABLE AT THE TIME OF ELECTION, TO PROVIDE THAT AN ELECTION EXPIRES AND MUST BE RENEWED IN WRITING IF THE CONVICTED PERSON RECEIVES A STAY OF EXECUTION OR THE EXECUTION DATE HAS PASSED, TO PROVIDE THAT A PENALTY MUST BE ADMINISTERED BY ELECTROCUTION FOR A PERSON WHO WAIVES HIS RIGHT OF ELECTION, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS SHALL DETERMINE AND CERTIFY TO THE SUPREME COURT WHETHER THE METHOD SELECTED IS AVAILABLE, AND TO PROVIDE THAT THE MANNER OF INFLICTING A DEATH SENTENCE MUST BE ELECTROCUTION, UNLESS THE PERSON ELECTS DEATH BY FIRING SQUAD, IF EXECUTION BY LETHAL INJECTION IS UNAVAILABLE OR IS HELD TO BE UNCONSTITUTIONAL BY AN APPELLATE COURT OF COMPETENT JURISDICTION.

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

Death penalty, methods of execution

SECTION 1. Section 24-3-530 of the 1976 Code is amended to read:

"Section 24-3-530. (A) A person convicted of a capital crime and having imposed upon him the sentence of death shall suffer the penalty by electrocution or, at the election of the convicted person, by firing squad or lethal injection, if it is available at the time of election, under the direction of the Director of the Department of Corrections. The election for death by electrocution, firing squad, or lethal injection must be made in writing fourteen days before each execution date or it is waived. If the convicted person receives a stay of execution or the execution date has passed for any reason, then the election expires and must be renewed in writing fourteen days before a new execution date. If the convicted person waives the right of election, then the penalty must be administered by electrocution.

(B) Upon receipt of the notice of execution, the Director of the Department of Corrections shall determine and certify by affidavit under penalty of perjury to the Supreme Court whether the methods provided in subsection (A) are available.

(C) A person convicted of a capital crime and sentenced to death by electrocution prior to the effective date of this section must be administered death by electrocution unless the person elects death by firing squad or lethal injection, if it is available, in writing fourteen days before the execution date.

(D) If execution by lethal injection under this section is determined and certified pursuant to subsection (B) to be unavailable by the Director of the Department of Corrections or is held to be unconstitutional by an appellate court of competent jurisdiction, then the manner of inflicting a death sentence must be by electrocution, unless the convicted person elects death by firing squad.

(E) The Department of Corrections must provide written notice to a convicted person of his right to election under this section and the available methods.

(F) The Department of Corrections shall establish protocols and procedures for carrying out executions pursuant to this section."

Severability clause

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

Time effective

SECTION 3. This act takes effect upon approval by the Governor and applies to persons sentenced to death as provided by law prior to and after the effective date of this act.

Ratified the 13th day of May, 2021.

Approved the 14th day of May, 2021.

No. 44

(R57, S201)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 16 TO CHAPTER 18, TITLE 59 SO AS TO PROVIDE REVISED ACCOUNTABILITY MEASURES FOR PUBLIC SCHOOLS AND PUBLIC SCHOOL DISTRICTS; AND TO REPEAL ARTICLE 15 OF CHAPTER 18, TITLE 59 RELATING TO INTERVENTION AND ASSISTANCE UNDER THE EDUCATION ACCOUNTABILITY ACT.

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

Assistance and intervention

SECTION 1. Chapter 18, Title 59 of the 1976 Code is amended by adding:

"Article 16

Assistance and Intervention

Section 59-18-1615. As used in this article:

(1) 'Chronically underperforming school' means:

(a) a school that receives an overall rating of unsatisfactory for three consecutive years on its annual school report card, as provided in Section 59-18-900; or

(b) in the absence of the annual school report card, the Department of Education shall apply the same metrics as established in the state and federal combined accountability model, as defined in the Every Student Succeeds Act to identify 'chronically underperforming schools'.

(2) 'School district' or 'district' is defined pursuant to Section 59-1-160.

(3) 'Turnaround plan' means a plan outlining goals for a school or district's educational improvement that includes specific strategies designed to increase student achievement and measures to evaluate the success of the implementation of the plan so that the school or district is no longer underperforming or chronically underperforming. The department is required to provide schools and districts with a template to complete the turnaround plan.

(4) 'Underperforming district' means a district in which sixty-five percent or more of the schools in the district have an overall rating of unsatisfactory or below average on their annual school report cards, as provided in Section 59-18-900, or as defined in item (5).

(5) 'Underperforming school' means:

(a) a school that receives an overall rating of unsatisfactory or below average on its annual school report card, as provided in Section 59-18-900; or

(b) in the absence of the annual school report card, the Department of Education shall apply the same metrics as established in the state and federal combined accountability model, as defined in the Every Students Succeed Act to identify 'underperforming schools'.

Section 59-18-1620. (A) The department shall implement a tiered system for providing technical and other assistance, professional development, and monitoring for schools and districts. By December thirty-first of each year, the State Superintendent of Education shall report to the General Assembly on the tiered system's progress relating to assistance provided to schools and school districts. The report shall include data documenting the impact of the assistance on student

academic achievement, college and career readiness, and high school graduation rates.

(B) As a component of determining if and where assistance and changes are necessary, the department shall:

(1) monitor the professional development of teachers, staff, and administrators provided by or approved through districts and schools;

(2) monitor local school board operations for efficient and effective management; and

(3) identify and provide a summary of improvements and changes to the school districts, district school boards, and other involved parties.

Section 59-18-1625. (A) Upon a school's or district's designation as an underperforming school or district, the department shall immediately place the school or district into a tiered status to provide technical assistance. The department shall notify the underperforming school or district and the district superintendent of the tiered status.

(B)(1) Upon receiving notification from the department, the district superintendent, in consultation with school and community stakeholders, must review and revise the school and district's strategic plan with the assistance of the School Improvement Council, as established in Section 59-20-60, to include a turnaround plan component for any underperforming school or district.

(2) The turnaround plan component of the revised strategic plan must:

(a) be based on data or needs assessments to identify specific improvement strategies related to underperforming school turnaround;

(b) include, at a minimum, specific and measurable goals, actions, activities, resource needs, student achievement goals, professional development plans, and academic interventions that are reasonable and necessary to improve student progress toward achieving the Profile of the Graduate for each school;

(c) include broad-based community input including, but not limited to, input from parents, teachers, principals, local school board members, businesses, community leaders, health providers, social services agencies, school improvement councils, or early childhood providers; and

(d) be submitted by the district superintendent to the local board of trustees for approval.

(C) Upon approval by the local board of trustees, the turnaround plan component of the revised strategic plan must be submitted to the department for review and approval. Thereafter, the district superintendent and the local board of trustees annually shall submit

updates to the department regarding the implementation of the turnaround and revised strategic plan, including metrics assessing the impact of the activities included in the plan.

(D) Once approved by the department, the revised strategic plan must be prominently posted on the respective websites of the department, district, and school. The department shall monitor the district's implementation of the revised strategic plan and evaluation of students' academic progress, as provided for in the plan, and shall apprise the State Board of Education of the district's progress once a quarter.

(E) For a school receiving an underperforming rating, the district and local board of trustees must work with the school principal to inform the parents of students of the rating. The notification must outline the steps in the revised strategic plan to improve performance, including the support that the local district board of trustees has agreed to give the plan.

Section 59-18-1630. Upon the release of the annual report card issued pursuant to Section 59-18-900, the department shall notify the appropriate legislative delegation of any school receiving an overall unsatisfactory rating. The local school board and district superintendent with jurisdiction over the unsatisfactory school shall:

(1) notify parents of students in writing and electronically;

(2) schedule, prominently publicize, and hold a public meeting to explain the school's rating, its implications, how it must develop and implement a revised strategic plan for improvement, and how it will involve and engage the community in its plans, within thirty days of receiving the rating;

(3) immediately review and revise its strategic plan, which must incorporate and focus on turnaround plan components for each school designated as unsatisfactory in accordance with the template and guidelines provided by the department; and

(4) upon department approval, immediately list the revised strategic plan as a topic on the local district board meeting agenda at least once a quarter.

Section 59-18-1635. (A) The State Superintendent of Education may seek a state-of-education emergency declaration for a school that he has the capacity to serve under the following circumstances:

(1) the school is chronically underperforming;

(2) the school's accreditation is denied; or

(3) the State Superintendent of Education determines that a school's turnaround plan results are insufficient.

(B) If the State Superintendent of Education determines that a school state-of-education emergency declaration is justified, then he must request that the State Board of Education meet to approve or disapprove the declaration. The State Board of Education must meet within ten days of the request to approve or disapprove the declaration.

(C) Upon the approval of a state-of-education emergency declaration, the State Superintendent of Education shall:

(1) notify the appropriate district superintendent, local school board, and local legislative delegation and the Governor; and

(2) assume management of the school.

(D) The local district board may, upon a majority vote, appeal the State Board of Education's approval of the declaration to the Administrative Law Court within ten business days of receipt of the notice of the declaration. A request for a hearing must be made in accordance with the court's rules; provided, however, that a request for a contested case hearing for an emergency declaration does not stay the declaration.

(E) Once a school subject to subsection (C) has met annual targets identified in the revised strategic plan for sustained improvement for a minimum of three consecutive years, the State Superintendent of Education shall submit to the State Board of Education documentation of such. Upon an affirmative vote by the State Board of Education to end the state-of-education emergency, the department, in consultation with the district and local board of trustees, shall develop a transition plan and timeline for returning management of the school to the district.

(F) After a school has been in a state-of-education emergency for three consecutive years, the State Superintendent of Education may extend the state-of-education emergency for an additional three-year period only upon the approval of the State Board of Education. The State Superintendent of Education may make requests every three years, which must be approved or disapproved by the board. If the State Superintendent of Education does not request additional time, or if the State Board of Education disapproves a request, then the school shall revert back to the control of the local school board.

Section 59-18-1640. (A) The State Superintendent of Education may seek a state-of-education emergency declaration for a district that he has the capacity to serve under the following circumstances:

(1) the district is identified as underperforming for three consecutive years;

(2) the district's accreditation is denied;

(3) the Superintendent of Education determines that a district's turnaround plan results are insufficient; or

(4) the district is classified as being in a fiscal emergency status pursuant to Section 59-20-90, or financial mismanagement resulting in a deficit has occurred.

(B) If the State Superintendent of Education determines that a district state-of-education emergency declaration is justified, then he must request that the State Board of Education meet to approve or disapprove the declaration and cite the circumstances justifying that the district has failed to satisfactorily address circumstances. The State Board of Education must meet within ten days of the request to approve or disapprove the declaration.

(C) Upon the approval of a state-of-education emergency, the State Superintendent of Education shall:

(1) notify the Governor and the appropriate district superintendent, local school board, and local legislative delegation; and

(2) assume management of the district and all schools in the district.

(D) The local district board may, upon a majority vote, appeal the State Board of Education's approval of the declaration to the Administrative Law Court within ten business days of receipt of the notice of the declaration. A request for a hearing must be made in accordance with the court's rules; provided, however, that a request for a contested case hearing for an emergency declaration does not stay the declaration.

(E)(1) The local district board of trustees shall be dissolved upon the State Board of Education's approval of the state-of-education emergency declaration and upon the expiration of the ten-business-day appeal window as provided in subsection (D).

(2)(a) Once a district subject to subsection (C) has met annual targets identified in the district's revised strategic plan for sustained improvement for a minimum of three consecutive years, the State Superintendent of Education shall submit to the State Board of Education documentation of such. The State Board of Education shall approve that an interim local district board of trustees be appointed. The interim local district board of trustees shall consist of five members appointed in the following manner with a chairman elected by the appointees:

(i) one member appointed by the Governor;

(ii) one member appointed by the local legislative delegation; and

(iii) three members appointed by the State Superintendent of Education in consultation with the local legislative delegation.

(b) All appointees must be residents of the school district for which the interim appointments are being made. In making appointments to the interim local district board of trustees, the appointing authority shall consider knowledge and experience in the field of education and also shall take into account race, gender, and other demographic factors, such as residence in a rural or urban area, so as to represent, to the greatest extent possible, all segments of the population of the affected district. However, consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed. The members of the interim local district board of trustees shall represent the educational needs of the district.

(c) The interim local district board shall be appointed to begin serving within forty-five days of the State Board of Education's approval of the appointments of the interim local district board and shall serve for a minimum of three years.

(d) Any vacancy shall be filled in the original manner of appointment.

(3) For a minimum of three years and until the State Board of Education votes to end the state-of-education emergency, the interim local district board shall remain in place, and its appointed members shall continue to serve.

(F)(1) Upon an affirmative vote by the State Board of Education to end the state-of-education emergency, the department, in consultation with the district and interim board, shall develop a transition plan and timeline for returning management of the district to a local board of trustees. Beginning with the next regularly scheduled election, members for the local district board of trustees will be elected or appointed pursuant to statutory requirements.

(2) Upon the swearing in of a new local district board of trustees, the declaration of a state-of-education emergency shall expire, and the powers and duties of the district superintendent and local district school board of trustees are restored.

(G) Notwithstanding any other provision of law, a district in a state-of-education emergency pursuant to this section shall have its fiscal authority relating to taxing authority and levying millage transferred to its county council until the state-of-education emergency is lifted. The county council may not exceed millage limitations established pursuant to Section 6-1-320 or otherwise established prior to the state-of-education emergency declaration."

Repeal

SECTION 2. Article 15, Chapter 18, Title 59 of the 1976 Code is repealed.

Time effective

SECTION 3. This act takes effect on July 1, 2022, upon approval by the Governor.

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 45

(R58, S231)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "STUDENT IDENTIFICATION CARD SUICIDE PREVENTION ACT" BY ADDING SECTION 59-1-375 SO AS TO PROVIDE STUDENT IDENTIFICATION CARDS ISSUED BY PUBLIC SCHOOLS AND PUBLIC AND PRIVATE INSTITUTIONS OF HIGHER LEARNING MUST INCLUDE CERTAIN CONTACT INFORMATION CONCERNING THE NATIONAL SUICIDE PREVENTION LIFELINE AND CERTAIN OTHER CRISIS RESOURCES, TO MAKE THESE PROVISIONS APPLICABLE TO CARDS ISSUED OR REPLACED AFTER THE EFFECTIVE DATE OF THIS ACT, AND TO PROVIDE SCHOOLS AND INSTITUTIONS OF HIGHER LEARNING ANNUALLY SHALL CERTIFY TO THEIR GOVERNING BODIES THAT CONTACT INFORMATION REQUIRED BY THIS ACT HAS BEEN REVIEWED AND UPDATED AS NECESSARY; TO ALLOW THE DEPLETION OF EXISTING SUPPLIES OF NONCONFORMING, UNISSUED CARDS; AND TO MAKE THE PROVISIONS OF THIS ACT EFFECTIVE JULY 1, 2022.

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

Citation

SECTION 1. This act must be known and may be cited as the "Student Identification Card Suicide Prevention Act".

Student identification cards

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

"Section 59-1-375. (A) A public school, including a charter school, that serves any students in the seventh through twelfth grades that issues student identification cards must print on either side of the cards the telephone number for the National Suicide Prevention Lifeline. The school must also print on either side of the cards the social media platform, telephone number, or text number for at least one additional crisis resource selected by the school district or charter school sponsor pursuant to the available data regarding local school or community needs, including, but not limited to:

(1) the Crisis Text Line;

(2) a local suicide prevention hotline, if available; or

(3) the National Teen Dating Abuse Helpline.

(B) Public and private institutions of higher learning that issue student identification cards must print on either side of the cards the telephone number for the National Suicide Prevention Lifeline. The public or private institution of higher learning must also print on either side of the cards the social media platform, telephone number, or text number for at least one additional crisis resource selected by the public or private institution of higher learning pursuant to the available data regarding local school or community needs including, but not limited to:

(1) the Crisis Text Line;

(2) campus police or security or, if the campus does not have a campus police or security telephone number, the local law enforcement authority;

(3) a local suicide prevention hotline; or

(4) the National Teen Dating Abuse Helpline.

(C) This section applies to any student identification card issued for the first time or for replacements to a damaged or lost student identification card.

(D) Public schools, charter schools, and institutions of higher learning issuing student identification cards pursuant to this section shall

annually and prior to the start of each school year certify to their respective governing bodies that the contact information being printed on student identification cards is up to date and reflects the current contact information for crisis resources posted on the South Carolina Department of Mental Health's website."

Existing supplies of nonconforming, unissued cards

SECTION 3. If a public school or institution of higher learning subject to the provisions of this act has a supply of unissued student identification cards that do not comply with the requirements of this act, then the school or institution may issue those student identification cards until the supply is depleted.

Time effective

SECTION 4. This act takes effect on July 1, 2022.

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 46

(R59, S304)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 58-27-1060 SO AS TO PROVIDE WHEN A PERSON OR CORPORATION USING AN ELECTRIC VEHICLE CHARGING STATION IS NOT AN ELECTRIC UTILITY AND TO FURTHER PROVIDE THAT ANY INCREASE IN CUSTOMER DEMAND OR ENERGY CONSUMPTION ASSOCIATED WITH TRANSPORTATION ELECTRIFICATION SHALL NOT CONSTITUTE REVENUES FOR AN ELECTRICAL UTILITY; BY ADDING SECTION 58-27-260 SO AS TO ESTABLISH THE JOINT COMMITTEE ON THE ELECTRIFICATION OF TRANSPORTATION AND TO PROVIDE FOR THE COMMITTEE'S COMPOSITION, DUTIES, AND RESPONSIBILITIES; BY ADDING SECTION 58-27-265 SO AS TO REQUIRE THE PUBLIC SERVICE COMMISSION TO

OPEN A DOCKET FOR THE PURPOSE OF IDENTIFYING THE REGULATORY CHALLENGES AND OPPORTUNITIES ASSOCIATED WITH THE ELECTRIFICATION OF THE TRANSPORTATION SECTOR; AND BY ADDING SECTION 58-27-270 SO AS TO REQUIRE THE SOUTH CAROLINA OFFICE OF REGULATORY STAFF TO COMPLETE A STAKEHOLDER PROCESS TO EXPLORE OPPORTUNITIES TO ADVANCE THE ELECTRIFICATION OF THE TRANSPORTATION SECTOR AND TO IDENTIFY CHALLENGES.

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

Electric vehicle charging stations

SECTION 1. Article 7, Chapter 27, Title 58 of the 1976 Code is amended by adding:

"Section 58-27-1060. (A) A person or corporation who uses an electric vehicle charging station to resell electricity to the public for compensation is not an electric utility if:

(1) the person or corporation has procured the electricity from an electrical utility, municipality, consolidated political subdivision, the Public Service Authority, or an electric cooperative that is authorized to engage in the retail sale of electricity within the territory in which the electric vehicle charging service is provided;

(2) the person or corporation furnishes electricity exclusively for the charging of plug-in electric vehicles; and

(3) the charging station is immobile.

(B) Nothing in this section shall be construed to limit the ability of an electrical utility, municipality, consolidated political subdivision, the Public Service Authority, or an electric cooperative to use electric vehicle charging stations to furnish electricity for charging electric vehicles. Any increases in customer demand or energy consumption associated with transportation electrification shall not constitute found revenues for an electrical utility."

Joint Committee on the Electrification of Transportation

SECTION 2. Article 1, Chapter 27, Title 58 of the 1976 Code is amended by adding:

"Section 58-27-260. (A) There is established the Joint Committee on the Electrification of Transportation. The committee is comprised of four members of the Senate, two of whom are appointed by the Chairman of Senate Finance and two of whom are appointed by the Chairman of Senate Judiciary, and four members of the House of Representatives, two of whom are appointed by the Chairman of the Ways and Means Committee and two of whom are appointed by the Chairman of the Labor, Commerce and Industry Committee. The members of the committee shall elect one co-chairman from the Senate appointees and one co-chairman from the House appointees.

(B)(1) The committee shall study the challenges and opportunities associated with the electrification of the transportation sector and make recommendations to the General Assembly to enable a fair, efficient, and cost-effective transition to electric transportation.

At a minimum, the committee shall study the following issues:

(a) environmental, economic, and customer challenges and benefits associated with the advancement of electric vehicles;

(b) the potential value of advancing the development and deployment of electric vehicles and associated infrastructure and address issues that impede development and deployment;

(c) explore and evaluate the impacts of electric vehicles on roads, bridges, and other infrastructure, including the potential loss of revenue due to the current and projected future use of electric vehicles in this State;

(d) explore and evaluate the impacts of electric vehicles on customers, utilities, and the grid; and

(e) any other issues associated with the electrification of the transportation sector.

(2) The committee shall receive reports from:

(a) the Office of Regulatory Staff's stakeholder initiative to advance the electrification of transportation sector;

(b) the South Carolina Public Service Commission pursuant Section 58-27-265; and

(c) by September first of each year, the South Carolina Department of Revenue shall provide an annual report to the committee that details the prior fiscal year's revenue collections, from whatever source derived, designated for the repair, maintenance, or improvements to the South Carolina transportation system.

(C) The committee shall receive clerical and related assistance from the staff of the Senate and the staff of the House of Representatives, as approved and designated by the President of the Senate and the Speaker of the House, respectively.

Section 58-27-265. (A) No earlier than April 1, 2023, the Public Service Commission shall open a docket for the purpose of identifying the regulatory challenges and opportunities associated with the electrification of the transportation sector.

At a minimum, the commission shall study the following issues:

(1) grid integration and resource planning to facilitate electrified transportation;

(2) the interaction between transportation electrification and the electric power grid;

(3) regulatory policies to support efficient and cost-effective transition to electric transportation;

(4) the need for data management and coordination among a number of energy system participants;

(5) grid investments that support electric vehicle deployments as a part of planned modernization efforts to enable an efficient and cost-effective transition to electric transportation;

(6) increased electric vehicle adoption and the development of their charging infrastructure and how those advancements align with grid modernization efforts;

(7) whether rate designs and other load management strategies are appropriate to mitigate potential negative grid impacts and maximize potential grid benefits of transportation electrification;

(8) other critical issues related to transportation electrification, such as service reliability, privacy, affordability, and security; and

(9) and any other issues the commission determines relevant.

(B) The commission shall issue a report to the Joint Committee on the Electrification of Transportation. Upon submitting the report, the commission shall open a docket at least every three years thereafter to study the regulatory issues related to the electrification of the transportation sector and report back to the Joint Committee on the Electrification of Transportation and the General Assembly.

(C) To the extent necessary to carry out commission responsibilities, the commission is authorized to employ third-party consultants and experts, by contract or otherwise, as the commission may consider necessary to assist the commission in the proper discharge of its duties and responsibilities as provided by this section. The expenses for the employment of any third-party consultant or expert as authorized by this subsection must be paid from the assessments collected pursuant to Section 58-3-100. The commission shall provide an accounting of compensation and expenses incurred for third-party consultants and experts in a report provided annually to the review committee. The

commission is exempt from the State Procurement Code in the selection and hiring of third-party consultants and experts as authorized by this subsection.

Section 58-27-270. (A) The South Carolina Office of Regulatory Staff through any existing electric vehicle stakeholder initiatives launched by the regulatory staff, shall complete a stakeholder process to facilitate a broad, collaborative statewide discussion among stakeholders to explore the opportunities to advance electrification of the transportation sector along with identifying challenges associated with the advancement of electrification of the transportation sector.

(B) Components of this initiative shall include, but not be limited to:

(1) working with stakeholders in the private and public sector, including the South Carolina Department of Transportation, the South Carolina Department of Commerce, the South Carolina Department of Revenue, and other relevant stakeholders;

(2) examining the legislative and regulatory environmental, economic, and customer challenges and opportunities;

(3) identifying challenges and opportunities in electrified vehicle technologies, such as power conversion and energy storage, the grid integration of electrified transportation and transportation policies, that pave the way for electrified transportation; and

(4) identifying efforts to enable a more efficient and cost-effective transition to electric transportation.

(C) To the extent necessary to carry out its responsibilities, the Office of Regulatory Staff is authorized to employ third-party consultants and experts, by contract or otherwise, as the Office of Regulatory Staff may consider necessary to assist regulatory staff in the proper discharge of its duties and responsibilities as provided by this section. The expenses for the employment of any third-party consultant or expert authorized by this subsection must be paid from the assessments collected pursuant to Section 58-4-60. The Office of Regulatory Staff shall provide an accounting of compensation and expenses incurred for third-party consultants and experts in a report provided annually to the review committee. The Office of Regulatory Staff is exempt from the State Procurement Code in the selection and hiring of third-party consultants and experts as authorized by this subsection.

(D) The Office of Regulatory Staff shall make initial recommendations to the Joint Committee on the Electrification of Transportation no earlier than July 1, 2022. Upon submitting the report, the Office of Regulatory staff shall convene additional stakeholder

initiatives and report recommendations to the Joint Committee at least every two years thereafter."

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 47

(R60, S421)

AN ACT TO AMEND SECTION 41-35-320, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PAYMENT OF EXTENDED UNEMPLOYMENT SECURITY BENEFITS WHEN FEDERALLY FUNDED, SO AS TO REDUCE THE LOOKBACK PERIOD FROM THREE YEARS TO TWO YEARS FOR DETERMINING WHETHER THERE IS AN "ON" INDICATOR FOR THIS STATE.

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

"On" indicator, lookback period decreased

SECTION 1. Section 41-35-320(2) of the 1976 Code is amended to read:

"(2) There is a state 'on' indicator for this State for a week in which the United States Secretary of Labor determines that for the period consisting of the most recent three months, the rate of total unemployment, seasonally adjusted, equaled or exceeded six and a half percent, and the average rate of total unemployment for the State, seasonally adjusted, as determined by the United States Secretary of Labor for this period equals or exceeds one hundred ten percent of the average unemployment for the State in one or more of the corresponding three-month periods ending in the two preceding calendar years."

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 48

(R61, S427)

AN ACT TO AMEND SECTION 40-43-75, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROVISIONS IN THE PHARMACY PRACTICE ACT REGARDING RENAL DIALYSIS FACILITIES, SO AS TO PROVIDE RENAL DRUG MANUFACTURERS OR THEIR AGENTS MAY DELIVER CERTAIN LEGEND DIALYSATE DRUGS OR DEVICES TO RENAL DIALYSIS FACILITY PATIENTS IF CERTAIN CRITERIA ARE MET, AND TO DEFINE NECESSARY TERMS; AND TO AMEND SECTION 40-43-130, RELATING TO CONTINUING EDUCATION REQUIREMENTS IN THE PHARMACY PRACTICE ACT, SO AS TO REMOVE MINIMUM IN-PERSON CONTINUING EDUCATION REQUIREMENTS FOR PHARMACISTS AND PHARMACY TECHNICIANS.

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

Renal dialysis facilities, drug and device delivery by manufacturers

SECTION 1. Section 40-43-75 of the 1976 Code is amended to read:

"Section 40-43-75. (A) For purposes of this section:

(1) 'Renal dialysis facility' or 'RDF' means an outpatient facility that treats and offers staff-assisted dialysis or training and support services for self-dialysis patients to end-stage renal disease patients, as defined by Centers for Medicare and Medicaid Services. An RDF may be composed of one or more fixed buildings, mobile units, or a combination of them, as defined in R. 61-97. An RDF must be certified by Medicare to provide dialysis-related services to ESRD patients and

must have a medical director licensed as a physician, pursuant to Chapter 47, Title 40, on staff.

(2) 'End-stage renal disease' or 'ESRD' means the disease state, and associated conditions, defined under 42 C.F.R. 406.13 and the United States Social Security Act.

(3) 'Renal drug manufacturer' means a manufacturer of legend drugs or devices for self-dialysis by RDF patients.

(B) An RDF may deliver a legend drug or device to a patient of an RDF if:

(1) the drug or device is for home use by the patient or for administration in the facility as required by the prescriber's order or prescription;

(2) the drug or device is dispensed to the RDF by a properly licensed resident or nonresident pharmacy licensed by the board or administered by a properly licensed health care practitioner;

(3) the drug or device is dispensed by the pharmacy pursuant to a valid prescription issued by a licensed practitioner, as defined in Section 40-43-30(72);

(4) the drug or device delivered by the RDF is properly labeled in accordance with state and federal law;

(5) the drug or device is held by the RDF in a secure location in an area not accessible to the public, and packages containing drugs or devices are delivered by RDF staff, unopened, to the patient;

(6) the patient is given a choice of receiving the drug or device from the RDF, at their home, or from another agent;

(7) the drugs exclude controlled substances; and

(8) the RDF maintains policies and procedures concerning how it will receive, store, maintain, and return any drugs or devices that are not picked up by the patient and returned to the dispensing pharmacy.

(C) A renal drug manufacturer may deliver a legend dialysate drug comprised of dextrose or icodextrin or a device to a patient of an RDF if the following criteria are met:

(1) the dialysate drugs or devices are approved by the United States Food and Drug Administration as required by federal law;

(2) the dialysate drugs or devices are lawfully held by a renal drug manufacturer or a renal drug manufacturer's agent that is properly registered with the board as a manufacturer or wholesale drug distributor;

(3) the dialysate drugs or devices are held and delivered in their original sealed and labeled packaging from the renal drug manufacturing facility;

(4) the dialysate drugs or devices are delivered only by the renal drug manufacturer or the renal drug manufacturer's agent and only upon receipt of a physician's order; and

(5) the renal drug manufacturer or the renal drug manufacturer's agent delivers dialysate drugs or devices directly to a patient with end-stage renal disease, or his designee, for the patient's self-administration of dialysis therapy, or to a health care provider or institution for administration or delivery of dialysis therapy to a patient with end-stage renal disease.

(D) The provisions of this section do not waive any other requirements to obtain licensure, permits, or certification as required by law to possess legend drug products. A facility engaged in an activity related to the delivery or distribution of legend drugs still shall hold the requisite licensure or drug permits required by law."

Continuing education requirements, pharmacists

SECTION 2. Section 40-43-130(B) of the 1976 Code is amended to read:

"(B) Each licensed pharmacist, as a condition of an active status license renewal, shall complete fifteen hours (1.5 CEU's) of American Council on Pharmaceutical Education (ACPE) accredited continuing pharmacy education or continuing medical education (CME), Category I, or both, each license year. At least fifty percent of the total number of hours required must be in drug therapy or patient management and at least one hour must be related to approved procedures for monitoring controlled substances listed in Schedules II, III, and IV of the schedules provided for in Sections 44-53-210, 44-53-230, and 44-53-250."

Continuing education requirements, pharmacy technicians

SECTION 3. Section 40-43-130(G)(1) of the 1976 Code is amended to read:

"(1) As a condition of registration renewal, a registered pharmacy technician shall complete ten hours of American Council on Pharmaceutical Education or CME I approved continuing education each year, beginning with the next renewal period after June 30, 2003."

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 49

(R62, S431)

AN ACT TO AMEND SECTION 44-21-80, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REGIONAL TERTIARY LEVEL DEVELOPMENTAL EVALUATION CENTERS, SO AS TO UPDATE THE NAMES OF THOSE AUTHORIZED TO FULFILL THE ROLE OF REGIONAL TERTIARY LEVEL DEVELOPMENTAL EVALUATION CENTERS.

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

Regional Tertiary Level Developmental Evaluation Centers

SECTION 1. Section 44-21-80(A) of the 1976 Code is amended to read:

"(A) The Medical University of South Carolina, the Prisma Health - University of South Carolina Medical Group, and the Prisma Health - University Medical Group are each hereby authorized, as agents of the State of South Carolina, to fulfill the role of Regional Tertiary Level Developmental Evaluation Centers providing comprehensive developmental assessment and treatment services for children with developmental disabilities, significant developmental delays, or behavioral or learning disorders."

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 50

(R63, S435)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-43-25 SO AS TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE TO ISSUE A LIMITED LINES TRAVEL INSURANCE PRODUCER LICENSE; TO AMEND SECTION 38-1-20, AS AMENDED, RELATING TO DEFINITIONS APPLICABLE TO TITLE 38, SO AS TO DELETE THE DEFINITION OF "TRAVEL INSURANCE" AND TO ADD TRAVEL INSURANCE TO THE DEFINITION OF "MARINE INSURANCE"; AND TO AMEND ARTICLE 6 OF CHAPTER 43, TITLE 38, RELATING TO LIMITED LINES TRAVEL INSURANCE, SO AS TO DEFINE NECESSARY TERMS, TO PROVIDE THAT TRAVEL INSURANCE MUST BE CLASSIFIED AND FILED AS INLAND MARINE INSURANCE SUBJECT TO CERTAIN EXCEPTIONS, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE TO ESTABLISH A TRAVEL INSURANCE PRODUCER LICENSE AND ESTABLISH CERTAIN REQUIREMENTS FOR AN APPLICANT, TO ASSESS A PREMIUM TAX ON TRAVEL INSURANCE PREMIUMS AND ESTABLISH CERTAIN REPORTING REQUIREMENTS, TO ESTABLISH CERTAIN REQUIREMENTS FOR TRAVEL PROTECTION PLANS, TO PROVIDE CERTAIN SALES PRACTICES FOR TRAVEL INSURERS, TO ESTABLISH CERTAIN LICENSING REQUIREMENTS FOR TRAVEL ADMINISTRATORS FOR TRAVEL INSURANCE, AND TO AUTHORIZE THE DIRECTOR TO PROMULGATE REGULATIONS.

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

Travel insurance producer licensing

SECTION 1. Article 1, Chapter 43, Title 38 of the 1976 Code is amended by adding:

"Section 38-43-25. (A) The director may issue a limited lines travel insurance producer license to an individual that has filed with the director an application for a limited lines travel insurance producer license in a form and manner prescribed by the director. A limited lines travel insurance producer must be licensed to sell, solicit, or negotiate travel insurance through a licensed insurer. A person may not act as a limited lines travel insurance producer or travel insurance retailer unless properly licensed or registered, respectively.

(B) A person licensed in a major line of authority as an insurance producer is authorized to sell, solicit, and negotiate travel insurance. A property and casualty insurance producer must be appointed by an insurer in order to sell, solicit, or negotiate travel insurance."

Definitions

SECTION 2. Section 38-1-20(40) and (60) of the 1976 Code is amended to read:

"(40) 'Marine insurance' means each insurance against loss or destruction of or damage to aircraft, vessels, or watercraft and their cargoes; insurance covering the risks or perils of navigation, transit, or transportation of all forms of property, including the liability of a carrier for hire for the loss of property of shippers delivered for transporting; marine builder's risks; bridges, tunnels, piers, wharves, docks and slips, dry docks, marine railways, and other aids to navigation and transportation, precious stones, precious metals, and jewelry, whether in the course of transportation or otherwise; coverage of personal property by all risk forms known as the 'Personal Property Floater'; and coverage of mobile machinery and equipment. Inland marine insurance includes 'travel insurance' as defined in Section 38-43-720(14).

(60) Reserved."

Limited Lines Travel Insurance Act

SECTION 3. Article 6, Chapter 43, Title 38 of the 1976 Code is amended to read:

"Article 6

Limited Lines Travel Insurance Act

Section 38-43-710. This article must be known and may be cited as the 'Limited Lines Travel Insurance Act'.

Section 38-43-715. (A) This article applies to travel insurance sold, solicited, negotiated, or offered in this State that covers a resident in this State and is delivered or issued for delivery in this State. It does not apply to cancellation fee waivers and travel assistance services except as expressly provided herein.

(B) All other applicable provisions of this title continue to apply to travel insurance. In the event of a conflict between a provision of this article and any other applicable provisions of this title, the provision of this article controls.

Section 38-43-720. For the purposes of this article:

(1) 'Aggregator site' means a website that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in purchasing an insurance product.

(2) 'Blanket travel insurance' means a policy of travel insurance issued to an eligible group providing coverage for specific classes of persons defined in the policy with coverage provided to all members of the eligible group without a separate charge to each individual member of the eligible group.

(3) 'Cancellation fee waiver' means a contractual agreement between a supplier of travel services and its customer to waive some or all of the nonrefundable cancellation fee provisions of the supplier's underlying travel contract with or without regard to the reason for the cancellation or form of reimbursement. A cancellation fee waiver is not insurance.

(4) 'Director' means the Director of the Department of Insurance or his designee as set forth in Section 38-1-20(19).

(5) 'Eligible group' means two or more persons who are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship including, but not limited to:

(a) an entity engaged in the business of providing travel or travel services including, but not limited to, tour operators, lodging providers, vacation property owners, hotels and resorts, travel clubs, travel agencies, property managers, cultural exchange programs, and common carriers or the operator, owner, or lessor of a means of transportation of

passengers such as airlines, cruise lines, railroads, steamship companies, and public bus carriers, wherein with regard to any particular travel or type of travel or travelers, all members or customers of the group must have a common exposure to risk attendant to such travel;

(b) a college, school, or other institution of learning covering students, teachers, employees, or volunteers;

(c) an employer covering a group of employees, volunteers, contractors, board of directors, dependents, or guests;

(d) a sports team, camp, or sponsor covering participants, members, campers, employees, officials, supervisors, or volunteers;

(e) a religious, charitable, recreational, educational, or civic organization or branch thereof covering a group of members, participants, or volunteers;

(f) a financial institution or financial institution vendor, parent holding company, trustee, or agent of or designated by one or more financial institutions or vendors, including accountholders, credit card holders, debtors, guarantors, or purchasers;

(g) an incorporated or unincorporated association, including labor unions, having a common interest, constitution, and bylaws, and organized and maintained in good faith for purposes other than obtaining insurance for members or participants of such association covering its members;

(h) a trust or the trustees of a fund established, created, or maintained for the benefit of and covering members, employees, or customers, subject to the director's permitting the use of a trust and this state's premium tax provisions in Section 38-7-20 of one or more associations meeting the requirements of subitem (g);

(i) an entertainment production company covering any group of participants, volunteers, audience members, contestants, or workers;

(j) a volunteer fire department, ambulance, rescue, police, court, or any first aid, civil defense, or other such volunteer group;

(k) a preschool, daycare institution for children or adults, and senior citizen club;

(l) an automobile or truck rental or leasing company covering a group of individuals who may become renters, lessees, or passengers defined by their travel status on the rented or leased vehicles. The common carrier, operator, owner, or lessor of a means of transportation, or the automobile or truck rental or leasing company, is the policyholder under a policy to which this section applies; or

(m) any other group where the director has determined that the members are engaged in a common enterprise, or have an economic,

educational, or social affinity or relationship, and that issuance of the policy would not be contrary to the public interest.

(6) 'Fulfillment materials' means documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan's coverage and travel assistance service details.

(7) 'Group travel insurance' means travel insurance issued to any eligible group.

(8) 'Inland marine' means property coverage for products, materials, and equipment transported over land, including travel insurance coverage as well as coverage for equipment, fine art, precious stones, precious metals, jewelry, and personal watercraft, whether in the course of transportation or otherwise; coverage of personal property by all risk forms known as the 'Personal Property Floater'; and coverage of mobile machinery and equipment.

(9) 'Limited lines travel insurance producer' means one of the following when designated by an insurer as the travel insurance supervising entity:

(a) a licensed managing general underwriter;

(b) a licensed managing general agent or third-party administrator; or

(c) a licensed insurance producer.

(10) 'Offer and disseminate' means providing general information, including a description of the coverage and price, as well as processing the application, collecting premiums, and performing other nonlicensable activities permitted by the State.

(11) 'Primary certificate holder' means, concerning premium taxes, an individual who elects and purchases travel insurance under a group policy.

(12) 'Primary policyholder' means, concerning premium taxes, an individual who elects and purchases individual travel insurance.

(13) 'Travel administrator' means a person who, directly or indirectly, underwrites, collects charges, collateral, or premiums from, or adjusts or settles claims on residents of this State, in connection with travel insurance, except that a person may not be considered a travel administrator if that person's only actions that would otherwise cause it to be considered a travel administrator are:

(a) a person working for a travel administrator to the extent that the person's activities are subject to the supervision and control of the travel administrator;

(b) an insurance producer selling insurance or engaged in administrative and claims-related activities within the scope of the producer's license;

(c) a travel retailer offering and disseminating travel insurance and registered under the license of a limited lines travel insurance producer;

(d) an individual adjusting or settling claims in the normal course of that individual's practice or employment as an attorney and who does not collect charges or premiums in connection with insurance coverage; or

(e) a business entity that is affiliated with a licensed insurer while acting as a travel administrator for the direct and assumed insurance business of an affiliated insurer.

(14) 'Travel assistance services' means noninsurance services for which the consumer is not indemnified based on a fortuitous event, and where providing the service does not result in the transfer or shifting of risk that would constitute the business of insurance. Travel assistance services include, but are not limited to, security advisories, destination information, vaccination and immunization information services, travel reservation services, entertainment, activity and event planning, translation assistance, emergency messaging, international legal and medical referrals, medical case monitoring, coordination of transportation arrangements, emergency cash transfer assistance, medical prescription replacement assistance, passport and travel document replacement assistance, lost luggage assistance, concierge services, and any similar service that is furnished in connection with planned travel. Travel assistance services are not insurance and are not related to insurance.

(15) 'Travel insurance' means insurance coverage for personal risks incident to planned travel including, but not limited to:

(a) interruption or cancellation of trip or event;

(b) loss of baggage or personal effects;

(c) damages to accommodations or rental vehicles;

(d) sickness, accident, disability, or death occurring during travel;

(e) emergency evacuation;

(f) repatriation of remains; or

(g) any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the director.

Travel insurance does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting longer than six months, including those working or residing overseas as an

expatriate, or any other insurance that requires a specific insurance producer license.

(16) 'Travel protection plan' means a plan that provides one or more of the following:

(a) travel insurance;

(b) travel assistance services; and

(c) cancellation fee waivers.

(17) 'Travel retailer' means a business entity that makes, arranges, or offers travel services and may offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a limited lines travel insurance producer.

Section 38-43-725. (A) Notwithstanding any other provision of this title, travel insurance must be classified and filed for purposes of rates and forms as inland marine insurance; provided, however, that travel insurance that provides coverage for sickness, accident, disability, or death occurring during travel, either exclusively or in conjunction with related coverages of emergency evacuation or repatriation of remains, or incidental limited property and casualty benefits such as baggage or trip cancellation, may be filed by an authorized insurer under either an accident and health line of insurance or an inland marine line of insurance.

(B) Travel insurance may be in the form of an individual, group, or blanket policy.

(C) Eligibility and underwriting standards for travel insurance may be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels, provided those standards also meet this state's underwriting standards for inland marine insurance.

Section 38-43-730. (A) A travel retailer only may offer and disseminate travel insurance under a limited lines travel insurance producer license if:

(1) the limited lines travel insurance producer or travel retailer provides purchasers of travel insurance the following information on a form prescribed by the director:

(a) a description of the material terms or the actual material terms of the insurance coverage;

(b) a description of the process for filing a claim;

(c) a description of the review or cancellation process for the travel insurance policy; and

(d) the identity and contact information of the insurer and limited lines travel insurance producer;

(2) the limited lines travel insurance producer, at the time of licensure, establishes and subsequently maintains and updates a register of each travel retailer that offers insurance on its behalf, including the name, address, and contact information of the travel retailer and an officer or person who directs or controls the operations of the travel retailer, and the federal employment identification number of the travel retailer;

(3) the limited lines travel insurance producer submits the register to the department upon reasonable request;

(4) the limited lines travel insurance producer certifies that the travel retailers registered comply with 18 U.S.C. Section 1033;

(5) the limited lines travel insurance producer designates one of its employees, who is a licensed individual producer, as the 'Designated Responsible Producer' or 'DRP' who is responsible for compliance of the limited lines travel insurance producer with the travel insurance laws, rules, and regulations of the State;

(6) the DRP, president, secretary, treasurer, and another officer or person who directs or controls the insurance operations of the limited lines travel insurance producer each comply with the fingerprinting requirements applicable to insurance producers in the resident state of the limited lines travel insurance producer;

(7) the limited lines travel insurance producer has paid all applicable insurance producer licensing fees; and

(8) the limited lines travel insurance producer requires each employee of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, subject to review by the director, and which shall contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers, among other things.

(B) A travel retailer who offers or disseminates travel insurance shall make brochures or other written materials available to prospective purchasers, and these brochures or other written materials must:

(1) provide the identity and contact information of the insurer and the limited lines travel insurance producer;

(2) explain that the purchase of travel insurance is not required in order to purchase another product or service from the travel retailer; and

(3) explain that an unlicensed travel retailer is permitted to provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions

of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

(C) A travel retailer who is not licensed as an insurance producer may not:

(1) evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage;

(2) evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or

(3) hold himself or itself out as a licensed insurer, licensed producer, or insurance expert.

Section 38-43-740. A travel retailer, whose insurance-related activities are limited to offering and disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer, may receive compensation for these activities upon registration by the limited lines travel insurance producer as provided in Section 38-43-730(A)(2).

Section 38-43-750. Reserved.

Section 38-43-760. As the insurer designee, the limited lines travel insurance producer is responsible for the acts of the travel retailer and shall use reasonable means to ensure compliance by the travel retailer with this article.

Section 38-43-770. The director may, after notice and opportunity for a hearing, respond to a violation of a provision of this article by a limited lines travel insurance producer or by the travel retailer offering and disseminating travel insurance under the provisions of Section 38-2-10 by:

(1) revoking or suspending the license of the limited lines travel insurance producer; or

(2) imposing other penalties, including directing the suspension or termination of authority of the involved travel retailer to offer and disseminate travel insurance, as the director considers necessary or convenient to carry out the purposes of this article.

Section 38-43-780. (A) A travel insurer shall pay premium tax pursuant to Section 38-7-20 on travel insurance premiums paid by:

(1) an individual primary policyholder who is a resident of this State;

(2) a primary certificate holder who is a resident of this State who elects coverage under a group travel insurance policy; or

(3) a blanket travel insurance policyholder that is a resident in, or has its principal place of business or the principal place of business of an affiliate or subsidiary that has purchased blanket travel insurance in, this State for eligible blanket group members, subject to any apportionment rules which apply to the insurer across multiple taxing jurisdictions or that permits the insurer to allocate premiums on an apportioned basis in a reasonable and equitable manner in those jurisdictions.

(B) A travel insurer shall:

(1) document the state of residence or principal place of business of the policyholder or certificate holder, as required in subsection (A); and

(2) report as premium only the amount allocable to travel insurance and not any amounts received for travel assistance services or cancellation fee waivers.

Section 38-43-790. Travel protection plans may be offered for one price for the combined features that the travel protection plan offers in this State if:

(1) the travel protection plan clearly discloses to the consumer at or prior to the time of purchase that it includes travel insurance, travel assistance services, and cancellation fee waivers, as applicable, and provides information and an opportunity at or prior to the time of purchase for the consumer to obtain additional information regarding the features and pricing of each; and

(2) the fulfillment materials:

(a) describe and delineate the travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plan; and

(b) include the travel insurance disclosures and the contact information for persons providing travel assistance services and cancellation fee waivers, as applicable.

Section 38-43-800. (A) A person offering travel insurance to residents of this State is subject to the provisions of Chapter 57 of this title, except as otherwise provided in this article. In the event of a conflict between this article and other provisions of this title regarding the sale and marketing of travel insurance and travel protection plans, the provisions of this article control.

(B) Offering or selling a travel insurance policy that could never result in payment of any claims for any insured under the policy is deemed an unfair trade practice.

(C)(1) All documents provided to consumers prior to the purchase of travel insurance including, but not limited to, sales materials, advertising materials, and marketing materials must be consistent with the travel insurance policy itself including, but not limited to, forms, endorsements, policies, rate filings, and certificates of insurance.

(2) For travel insurance policies or certificates that contain preexisting condition exclusions, information and an opportunity to learn more about the preexisting condition exclusions must be provided any time prior to the time of purchase and in the coverage's fulfillment materials.

(3) The fulfillment materials and the information described in Section 38-43-730(A)(1) must be provided to a policyholder or certificate holder as soon as practicable following the purchase of a travel protection plan. Unless the insured has either started a covered trip or filed a claim under the travel insurance coverage, a policyholder or certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of a travel protection plan until at least:

(a) fifteen days following the date of delivery of the travel protection plan's fulfillment materials by postal mail; or

(b) ten days following the date of delivery of the travel protection plan's fulfillment materials by means other than postal mail.

For the purposes of this section, 'delivery' means handing fulfillment materials to the policyholder or certificate holder or sending fulfillment materials by postal mail or electronic means to the policyholder or certificate holder.

(4) The company must disclose in the policy documentation and fulfillment materials whether the travel insurance is primary or secondary to other applicable coverage.

(5) Where travel insurance is marketed directly to a consumer through an insurer's website or by others through an aggregator site, it shall not be an unfair trade practice or other violation of law where an accurate summary or short description of coverage is provided on the web page, so long as the consumer has access to the full provisions of the policy through electronic means.

(D) No person offering, soliciting, or negotiating travel insurance or travel protection plans on an individual or group basis may do so by using negative option or opt out, which would require a consumer to take an affirmative action to deselect coverage such as unchecking a box on an electronic form when the consumer purchases a trip.

(E) It is an unfair trade practice to market blanket travel insurance coverage as free.

(F) Where a consumer's destination jurisdiction requires insurance coverage, it shall not be an unfair trade practice to require that a consumer choose between the following options as a condition of purchasing a trip or travel package:

(1) purchasing the coverage required by the destination jurisdiction through the travel retailer or limited lines travel insurance producer supplying the trip or travel package; or

(2) agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements prior to departure.

Section 38-43-810. (A) Notwithstanding any other provisions of this title, no person may act or represent himself as a travel administrator for travel insurance in this State unless that person:

(1) is a licensed property and casualty insurance producer in this State for activities permitted under that producer license;

(2) holds a valid managing general agent license in this State;

(3) holds a valid third-party administrator license in this State; or

(4) holds a valid managing general underwriter license in this State.

(B) A travel administrator and its employees are exempt from the licensing requirements of Section 38-47-10 for the travel insurance it administers.

(C) An insurer is responsible for the acts of a travel administrator administering travel insurance underwritten by the insurer and is responsible for ensuring that the travel administrator maintains all books and records relevant to the insurer to be made available by the travel administrator to the director upon request.

Section 38-43-820. The department may promulgate regulations to implement the provisions of this article."

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

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No. 51

(R64, S455)

AN ACT TO AMEND SECTION 40-33-36, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TEMPORARY LICENSURE OF NURSES, SO AS TO CREATE AN ADDITIONAL CATEGORY OF TEMPORARY LICENSURE FOR GRADUATE NURSES, TO PROVIDE CRITERIA FOR OBTAINING TEMPORARY LICENSURE AS A GRADUATE NURSE, TO PROVIDE FOR SITUATIONS IN WHICH THE BOARD IMMEDIATELY SHALL REVOKE TEMPORARY LICENSURE AS A GRADUATE NURSE, AND TO DEFINE NECESSARY TERMS.

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

Revocation grounds

SECTION 1. A. Section 40-33-36(D) of the 1976 Code is amended to read:

"(D)(1) The board may issue a temporary or limited license to practice nursing, in accordance with this subsection, or as may be provided for in regulation, to an applicant:

(a) for licensure as an advanced practice registered nurse, a registered nurse, or as a licensed practical nurse, if the applicant's preliminary credentials have been approved and whose fee has been paid;

(b) for licensure by endorsement as an advanced practice registered nurse, a registered nurse, or as a licensed practical nurse, for up to sixty days, unless further authorized by the administrator or designee, pending completion and approval of the application, if the applicant has filed an application, paid the fee, and has produced a valid license to practice in another jurisdiction;

(c) while participating in a refresher course for up to ninety days, unless further authorized by the administrator or designee, when the applicant is seeking reinstatement of a lapsed or an inactive license or licensure by endorsement and must submit evidence of nursing competence before returning to nursing practice; or

(d) for licensure as a graduate nurse to work in South Carolina, provided that:

(i) the graduate nurse must function under the supervision of a currently licensed registered nurse; and

(ii) the board may establish other requirements for the supervision and employment of graduate nurses as necessary.

(2) An applicant who has failed the licensing examination is not eligible for a temporary permit to practice nursing.

(3) The board or department may immediately cancel a temporary permit or license that was issued based upon false, fraudulent, or misleading information provided by an applicant.

(4) In addition to the provisions of items (2) and (3), a graduate nurse's temporary license shall be immediately revoked if:

(a) the board issues a permanent license to the graduate nurse;

(b) the board denies a permanent license for the graduate nurse;

(c) a complaint is filed against the graduate nurse alleging a violation of Chapter 33, Title 40 during the graduate nurse's temporary licensure period;

(d) the graduate nurse has not taken the NCLEX within ninety days of receiving a temporary license, except that the board may extend this time period if circumstances prevent the NCLEX from being offered during the period for which temporary licensure has been granted;

(e) the graduate nurse misrepresents being a registered nurse or a licensed practical nurse; or

(f) the graduate nurse is charged with a felony or misdemeanor, other than a minor traffic violation, while authorized to practice as a graduate nurse. For the purposes of this subitem, a minor traffic violation does not include instances related in any way to driving under the influence of alcohol or other drugs, or instances that result in the revocation or suspension of a graduate nurse's driver's license."

B. Section 40-33-36 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

"( )(1) For the purposes of this section, a 'graduate nurse' means an unlicensed graduate who completes an accredited basic nursing education program, in either registered nursing or practical nursing, within the United States, its territories, or dependencies within one year of seeking licensure.

(2) In order to obtain licensure as a graduate nurse, a candidate must:

(a) file a completed initial application for licensure by examination with the board and pay the associated fee;

(b) have never taken and failed the NCLEX;

(c) have registered to take the NCLEX with the examination administration service;

(d) have no prior felony convictions and have no criminal charges pending; and

(e) comply with Section 40-33-32 if the candidate is a foreign-educated graduate."

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 52

(R65, S461)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 60 TO TITLE 11 SO AS TO ENACT THE "SOUTH CAROLINA PAY-FOR-SUCCESS PERFORMANCE ACCOUNTABILITY ACT", TO ESTABLISH THE TRUST FUND FOR PERFORMANCE ACCOUNTABILITY TO FUND PAY-FOR-SUCCESS CONTRACTS, WHEREBY THE STATE CONTRACTS WITH A PRIVATE-SECTOR ORGANIZATION TO ACHIEVE SPECIFICALLY DEFINED MEASUREABLE OUTCOMES IN WHICH THE STATE PAYS ONLY TO THE EXTENT THAT THE DESIRED OUTCOMES ARE ACHIEVED.

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

Citation

SECTION 1. This act must be known and may be cited as the "South Carolina Pay-for-Success Performance Accountability Act".

Pay-for-Success Performance Accountability

SECTION 2. Title 11 of the 1976 Code is amended by adding:

"CHAPTER 60

Pay-for-Success Performance Accountability

Section 11-60-10. For the purposes of this chapter:

(1) 'Authority' means the State Fiscal Accountability Authority.

(2) 'Independent evaluator' means a qualified person or entity selected by a state agency, and with whom a state agency contracts, to provide independent evaluation services to determine if performance measures have been achieved within a stated period under a pay-for-success contract. An independent evaluator must be identified prior to submitting a pay-for-success proposal to the authority, as required by Section 11-60-30.

(3)(a) 'Pay-for-success contract' means a written agreement between a state agency and a private-sector organization under which:

(i) the private-sector organization provides a program or service, including a related project management service;

(ii) the parties set forth performance measures for a given population over a certain period of time that the private-sector organization intends to achieve;

(iii) the parties agree to an amount that the private-sector organization earns if the performance measures are achieved within the stated time period and agree that the success payment is due to the private-sector organization only if it achieves these performance measures within the stated period; and

(iv) any other provisions are included as required by Section 11-60-40.

(b) 'Pay-for-success contract' does not mean a guaranteed energy, water, or wastewater savings contract or a contract subject to Article 9, Chapter 35, Title 11.

(4) 'Performance measures' means specific, measurable, time-based goals, the completion of which predicates payment under a pay-for-success contract.

(5) 'Private-sector organization' means a firm or nonprofit organization that contracts with a state agency in a pay-for-success contract.

(6) 'Success payment' means the money paid when a pay-for-success contract performance measure is met.

Section 11-60-20. Subject to Section 11-60-30, a state agency may enter into a pay-for-success contract only if the state agency head explains in writing how the contract will produce a quantifiable public benefit or financial savings to the State, by achieving meaningful impact outcomes and not simply short-term unsustainable outcomes, and outlines any risks associated with the proposed project.

Section 11-60-30. All pay-for-success contracts require approval by the authority prior to competitive solicitation or contract formation, whichever is earlier. The authority may exempt a state agency from this requirement. The authority must consider, at a minimum, the availability and source of funds to make success payments, the qualifications and independence of the independent evaluator, the proposed performance measures, and the stated public benefit or financial savings to the State, including the state agency head's written explanation as required by Section 11-60-20. If the authority exempts a state agency from obtaining authority approval, then the state agency must keep the state agency head's written explanation of benefits and savings in its records. Nothing herein exempts a pay-for-success contract from Chapter 35, Title 11.

Section 11-60-40. Each pay-for-success contract must include the following:

(1) a full and thorough description of the objectives of the pay-for-success contract; a clear description of the program, service, or project management services to be performed by the private-sector organization; a clear statement of the outcomes sought to be achieved for a certain population; the time period under which the outcomes must be achieved; a clear statement of the performance measures used to measure the outcomes; an analysis of how the defined performance measures will demonstrate progress in addressing the objectives; and how achieving the objectives should provide a significant public benefit;

(2) a requirement that the state agency will transfer funds to fully cover the success payment under the pay-for-success contract to the trust account that is specifically established for pay-for-success contracts provided in Section 11-60-50;

(3) a requirement that any success payment is conditioned on achieving specific outcomes based on the defined performance measures, as evaluated by an independent evaluator;

(4) a requirement that the private-sector organization provide evidence that the private-sector organization has secured all of the necessary financing before service delivery begins;

(5) a description of the data each state agency involved in developing the pay-for-success contract will provide to the private-sector organization. Data will be provided by the state agency only to the extent permissible by law;

(6) the objective process that an independent evaluator, procured by the state agency, will use to monitor program progress and determine if a performance measure is achieved;

(7) the reporting requirements the private-sector organization must provide to the state agency regarding the private-sector organization's progress in meeting the performance measures;

(8) the method that will be used to calculate the amount and timing of success payments to the private-sector organization during the pay-for-success contract if the independent evaluator determines that the private-sector organization achieves a performance measure;

(9) the terms under which a pay-for-success contract may be terminated.

Section 11-60-50. (A) There is established in the State Treasury a trust fund for the purpose of making success payments under pay-for-success contracts. Each agency entering into a pay-for-success contract shall provide funding into the trust to cover one hundred percent of the potential success payment upon entering into the contract. The State Treasurer is the trustee and administrator of the trust fund, which must be maintained separately from the General Fund of the State and all other funds. Funds held in the trust are not subject to reversion to the general fund during the term of any pay-for-success contract.

(B) The State Treasurer on behalf of the trust fund established for success payment is authorized to receive funds from other governmental entities and nonprofits if they are subject to a valid pay-for-success contract. Upon written authorization by the state agency head whose state agency has entered a pay-for-success contract, the State Treasurer shall make payments from the trust fund.

Section 11-60-60. (A) Annually, on or before February first, every state agency that has entered into a pay-for-success contract shall provide a written status report for any outstanding pay-for-success contracts.

(B) The status report shall include progress toward meeting objectives and outcomes; sources of private and other funding supporting the contract, to include whether any matching funds are being used; sources of funds for success payments made into the trust fund; and success payments made to date.

(C) Status reports pursuant to subsection (A) must be provided to the authority and the State Auditor, who shall maintain a central repository for these reports and for pay-for-success contracts and who shall publish such documents on its website. Any organization receiving funding pursuant to this chapter is subject to audit by the Office of the State Auditor.

(D) In status reports to the authority pursuant to subsection (A), the Board of Economic Advisors shall account for trust fund revenue separately from general fund revenues.

(E) Any private-sector organization receiving funding pursuant to this chapter is considered a 'public body' under Section 30-4-20(a) and is subject to records production requirements of the Freedom of Information Act, Section 30-4-10, et seq., with regard to any records related to a pay-for-success contract."

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 53

(R66, S463)

AN ACT TO EXTEND THE TAX CREDITS FOR THE PURCHASE AND INSTALLATION OF GEOTHERMAL MACHINERY AND EQUIPMENT UNTIL JANUARY 1, 2032.

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

Geothermal tax credit extension

SECTION 1. SECTION 2.B. of Act 134 of 2016, as amended by Act 47 of 2019, is amended to read:

B. The provisions contained in this section related to geothermal machinery and equipment are repealed January 1, 2032.

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 54

(R68, S500)

AN ACT TO AMEND SECTION 40-3-290, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERSONS AND ACTIVITIES EXEMPT FROM LICENSURE OR REGULATION BY THE BOARD OF ARCHITECTURAL EXAMINERS, SO AS TO REVISE AN EXEMPTION FOR THE PREPARATION OF PLANS AND SPECIFICATIONS FOR CERTAIN FAMILY DWELLINGS.

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

Exemption revised

SECTION 1. Section 40-3-290(C)(3) of the 1976 Code is amended to read:

"(3) one-family and two-family dwellings, including townhouses, in compliance with the prescriptive requirements of the South Carolina Residential Code. All other buildings and structures classified for residential occupancies or uses in the South Carolina Building Code that are beyond the scope of the South Carolina Residential Code are not exempt from the provisions of this chapter;"

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 55

(R69, S503)

AN ACT TO AMEND SECTION 40-33-34, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MEDICAL ACTS THAT ADVANCED PRACTICE REGISTERED NURSES MAY PERFORM, SO AS TO INCLUDE ISSUING ORDERS FOR CERTAIN HOME HEALTH SERVICES; TO AMEND SECTION 40-47-935, AS AMENDED, RELATING TO MEDICAL ACTS THAT PHYSICIAN ASSISTANTS MAY PERFORM, SO AS TO INCLUDE ISSUING ORDERS FOR CERTAIN HOME HEALTH SERVICES; TO AMEND SECTION 44-69-20, RELATING TO DEFINITIONS IN THE LICENSURE OF HOME HEALTH AGENCIES ACT, SO AS TO INCLUDE ORDERS FOR PART-TIME OR INTERMITTENT SKILLED NURSING CARE ISSUED BY ADVANCED PRACTICE REGISTERED NURSES AND PHYSICIAN ASSISTANTS PURSUANT TO THE PROVISIONS OF THIS ACT; AND TO MAKE THE PROVISIONS OF THIS ACT EFFECTIVE SIXTY DAYS AFTER APPROVAL BY THE GOVERNOR.

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

Advanced Practice Registered Nurses, permitted medical acts

SECTION 1. Section 40-33-34(D)(2) of the 1976 Code, as last amended by Act 87 of 2019, is further amended to read:

"(2) Notwithstanding any provisions of state law other than this chapter and Chapter 47, and to the extent permitted by federal law, an

APRN may perform the following medical acts unless otherwise provided in the practice agreement:

(a) provide noncontrolled prescription drugs at an entity that provides free medical care for indigent patients;

(b) certify that a student is unable to attend school but may benefit from receiving instruction given in his home or hospital;

(c) refer a patient to physical therapy for treatment;

(d) pronounce death, certify the manner and cause of death, and sign death certificates pursuant to the provisions of Chapter 63, Title 44 and Chapter 8, Title 32;

(e) issue an order for a patient to receive appropriate services from a licensed hospice as defined in Chapter 71, Title 44;

(f) certify that an individual is handicapped and declare that the handicap is temporary or permanent for purposes of the individual's application for a placard;

(g) execute a do not resuscitate order pursuant to the provisions of Chapter 78, Title 44; and

(h) issue an order for home health services pursuant to the provisions of Chapter 69, Title 44."

Physician Assistants, advanced medical acts

SECTION 2. Section 40-47-935(B) of the 1976 Code, as last amended by Act 32 of 2019, is further amended to read:

"(B) Notwithstanding any provisions of state law other than this chapter, and to the extent permitted by federal law, a PA may perform the following medical acts unless otherwise provided in the scope of practice guidelines:

(1) provide noncontrolled prescription drugs at an entity that provides free medical care for indigent patients;

(2) certify that a student is unable to attend school but may benefit from receiving instruction given in his home or hospital;

(3) refer a patient to physical therapy for treatment;

(4) pronounce death, certify the manner and cause of death, and sign death certificates pursuant to the provisions of Chapter 63, Title 44 and Chapter 8, Title 32;

(5) issue an order for a patient to receive appropriate services from a licensed hospice as defined in Chapter 71, Title 44;

(6) certify that an individual is handicapped and declare that the handicap is temporary or permanent for the purposes of the individual's application for a placard;

(7) execute a do not resuscitate order pursuant to the provisions of Chapter 78, Title 44; and

(8) issue an order for home health services pursuant to the provisions of Chapter 69, Title 44."

Licensure of Home Health Services Act, definition revised

SECTION 3. Section 44-69-20(5)(a) of the 1976 Code is amended to read:

"(a) Part-time or intermittent skilled nursing care as ordered by a physician, an APRN pursuant to Section 40-33-34(D)(2)(h), or a PA pursuant to Section 40-47-935(B)(8) and as provided by or under the supervision of a registered nurse and at least one other service listed below;"

Time effective

SECTION 4. This act takes effect sixty days after the approval of the Governor.

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 56

(R70, S527)

AN ACT TO AMEND SECTION 12-43-220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CLASSIFICATION OF PROPERTY AND THE APPLICABLE ASSESSMENT RATIOS FOR THE VARIOUS CLASSES OF PROPERTY, SO AS TO PROVIDE THAT CERTAIN SEPARATED SPOUSES ARE NOT CONSIDERED MEMBERS OF THE SAME HOUSEHOLD FOR PURPOSES OF APPLICABILITY FOR THE SPECIAL FOUR-PERCENT ASSESSMENT RATIO FOR OWNER-OCCUPIED RESIDENTIAL PROPERTY, AND TO REQUIRE ANNUAL REAPPLICATION AND RECERTIFICATION TO MAINTAIN

THE SPECIAL FOUR PERCENT ASSESSMENT RATIO FOR CERTAIN SEPARATED SPOUSES.

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

Special assessment ratio applicability

SECTION 1. A. Section 12-43-220(c)(2)(iii) of the 1976 Code is amended to read:

"(iii) For purposes of subitem (ii):

(A) 'Member of my household' means:

(a) the owner-occupant's spouse, except when that spouse has filed a complaint for separate support and maintenance with the appropriate family court, lives separate and apart in a different residence, and no longer cohabitates as husband and wife with the owner-occupant; and

(b) any child under the age of eighteen years of the owner-occupant claimed or eligible to be claimed as a dependent on the owner-occupant's federal income tax return.

(B) Regarding the circumstances in which a spouse has filed a complaint for separate support and maintenance with the appropriate family court, lives separate and apart in a different residence, and no longer cohabitates as husband and wife with the owner-occupant:

(a) if either party to a complaint for separate support and maintenance receives the special four-percent assessment ratio on a residence while the couple lives separate and apart in different residences and no longer cohabitates as husband and wife and the couple subsequently reconciles, then the spouse vacating a residence receiving the special four-percent assessment shall notify the county assessor in writing within six months of vacating that residence that the residence is no longer eligible for the special four-percent assessment ratio. A failure to provide timely notice to the assessor subjects the owner to the provisions of subitem (vii); and

(b) to prove that a person is divorced or has filed a complaint for separate support and maintenance with the appropriate family court and lives separate and apart in different residences and no longer cohabitates as husband and wife, the applicant shall provide a filed and stamped copy of the caption page of the action, a filed and stamped copy of the first page of the pleadings, or a filed and stamped copy of the order. The assessor may not require the submission of a financial declaration. Language in the order related to the disposition of the legal

residence of the couple, or other owner-occupied real property owned by either party, whether independently or jointly, prior to any action must be provided to the assessor in order to claim the special assessment ratio allowed by subsection (c)."

SECTION 1.B. Section 12-43-220(c)(2) of the 1976 Code, as last amended by Act 145 of 2020, is further amended by adding at the end:

"(x) An applicant for the special four-percent assessment ratio allowed pursuant to item (c) who has filed a complaint for separate support and maintenance with the appropriate family court, who lives separate and apart in different residences, and no longer cohabitates as husband and wife with his spouse, and who is eligible pursuant to subitem (iii) must reapply and recertify annually to maintain the special four-percent assessment ratio on his independent, owner-occupied property until the applicant has been granted a divorce by a court of competent jurisdiction or the applicant has reconciled with his spouse, and the applicant can recover only one special four-percent ratio for his legal residence."

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 57

(R71, S545)

AN ACT TO AMEND SECTION 50-13-675, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO NONGAME FISHING DEVICES PERMITTED IN CERTAIN BODIES OF WATER, SO AS TO ALLOW FOR THE USE OF SET HOOKS WITHIN A CERTAIN PORTION OF THE SANTEE RIVER, TO ESTABLISH A LIMIT FOR THE NUMBER OF HOOP NETS A COMMERCIAL FISHING LICENSEE MAY USE ON THE

WATEREE RIVER, AND TO PROHIBIT THE USE OF HOOP NETS ON THE CONGAREE RIVER.

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

Set hooks allowed on Santee River

SECTION 1. Section 50-13-675(46) of the 1976 Code is amended to read:

"(46) Santee River, from USGS gauging station 1715 about 2.4 miles below Santee Dam downstream to the saltwater/freshwater dividing line including the North and South Santee Rivers:

(a) eel pots:

(i) recreational license—two;

(ii) commercial license—seventy-five;

(b) skimbow nets:

(i) recreational license only—one;

(c) traps:

(i) recreational license—two;

(ii) commercial license—fifty;

(d) trotlines:

(i) recreational license—one line with fifty hooks maximum;

(ii) commercial license—five lines with two hundred fifty hooks maximum;

(e) set hooks:

(i) recreational license—fifty;

(ii) commercial license—fifty;"

Hoop nets on Wateree River, commercial license limit

SECTION 2. Section 50-13-675(55)(a) of the 1976 Code is amended by adding:

"(i) commercial license only—ten;"

Hoop nets prohibited on Congaree River

SECTION 3. Section 50-13-675(9) of the 1976 Code is amended to read:

"(9) Congaree River:

(a) set hooks:

(i) recreational license—fifty;
(ii) commercial license—fifty;
(b) traps:
(i) recreational license—two;
(ii) commercial license—ten;
(c) trotlines:
(i) recreational license—one line with fifty hooks maximum;
(ii) commercial license—three lines with one hundred fifty hooks maximum;"

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 58

(R72, S587)

AN ACT TO AMEND SECTION 11-41-75, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ECONOMIC DEVELOPMENT BONDS FOR CONVENTIONS AND TRADE SHOWS, SO AS TO PROVIDE THAT THE PROVISIONS REQUIRING THE REIMBURSEMENT OF BOND PROCEEDS, PLUS INTEREST, UPON THE SALE OF A MEETING AND EXHIBIT SPACE ARE NOT APPLICABLE IF THE SALE PROCEEDS ARE USED IN THEIR ENTIRETY FOR A NEW MEETING AND EXHIBIT SPACE OF NOT LESS THAN FIFTY THOUSAND SQUARE FEET, OR TO REIMBURSE A STATE AGENCY, INSTRUMENTALITY, OR POLITICAL SUBDIVISION FOR THE ACQUISITION OR CONSTRUCTION OF A NEW MEETING AND EXHIBIT SPACE OF NOT LESS THAN FIFTY THOUSAND SQUARE FEET IF CONSTRUCTION OCCURRED PRIOR TO THE SALE OF THE ORIGINAL MEETING AND EXHIBIT SPACE, AND TO PROVIDE CONDITIONS UNDER WHICH THE EXEMPTION APPLIES.

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

Economic Development Bond reimbursements

SECTION 1. Section 11-41-75(A) and (B) of the 1976 Code is amended to read:

"Section 11-41-75. (A) Notwithstanding the provisions of Section 11-41-70(2)(d), the provisions requiring the reimbursement of bond proceeds, plus interest, upon the sale of the meeting and exhibit space, are not applicable if:

(1) the proceeds of the sale of meeting and exhibit space is for its true value as described in Section 12-37-930;

(2) the sale proceeds are used in their entirety:

(a) for a new meeting and exhibit space of no less than fifty thousand square feet; or

(b) to reimburse a state agency, instrumentality, or political subdivision for the acquisition or construction of a new meeting and exhibit space of not less than fifty thousand square feet if the construction occurred prior to the sale of the original meeting and exhibit space; and

(3) if there are outstanding bonds on the existing meeting and exhibit space, the state agency, instrumentality, or political subdivision provides to the State Treasurer a tax opinion from a nationally recognized bond counsel that the sale and proposed new qualifying purpose or use will not adversely affect the federal income tax treatment of the interest on the bonds issued by the State to finance the meeting and exhibit space.

(B)(1) The exemption from the reimbursement requirements only applies so long as:

(a) the land for the new meeting and exhibit space is owned by the state agency, instrumentality, or political subdivision, or any entity created by any of the foregoing for the purpose of ownership, at the time of the sale or is purchased within eighteen months of the sale;

(b) construction of the new meeting and exhibit space begins within five years before or after the sale; and

(c) the project is completed within ten years of the sale.

(2) If a state agency, instrumentality, or political subdivision avails itself of the provisions of subsection (A), but then fails to meet the requirements of this subsection, then the reimbursement requirements of Section 11-41-70(2)(d) apply as of the day of the sale."

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 59

(R73, S609)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-2-140 SO AS TO AUTHORIZE STATE AGENCIES AND POLITICAL SUBDIVISIONS THAT HAVE ACCESS TO FEDERAL TAX INFORMATION TO CONDUCT CRIMINAL BACKGROUND CHECKS ON ITS EMPLOYEES AND CONTRACTORS.

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

Federal tax information, background checks

SECTION 1. Chapter 2, Title 12 of the 1976 Code is amended by adding:

"Section 12-2-140. (A) Each state agency and each political subdivision of the State, is authorized, as necessary to comply with Internal Revenue Service Publication 1075, including amendments thereto and publications replacing Publication 1075, to obtain state and national criminal history background checks and investigations performed by the State Law Enforcement Division and the Federal Bureau of Investigation on all employees and contractors with access to federal tax information. The State Law Enforcement Division is authorized to conduct fingerprint-based state and national background checks for state agencies, state institutions, and political subdivisions of the State which have access to federal tax information in order to comply with Publication 1075.

(B) An employee or contractor of a state agency or a political subdivision of the State with access to or that uses federal tax information must:

(1) agree to a national background check and the release of all investigative records to the applicable state agency or political subdivision for the purpose of verifying criminal history information for noncriminal justice purposes; and

(2) supply a fingerprint sample and submit to a state criminal history background check and investigation to be conducted by the State Law Enforcement Division, and then submit to a national criminal history background check to be conducted by the Federal Bureau of Investigation.

(C) Except as otherwise provided in this section, a state agency or political subdivision shall pay any costs incurred to conduct background checks and investigations requested by the state agency or political subdivision. The state agency or political subdivision may require a person or entity contracting with the agency or political subdivision to pay the costs associated with the background investigations for all employees of the contractor. The requirement may be a condition of the contract with the state agency or political subdivision.

(D) Each state agency or political subdivision required to conduct background checks and investigations pursuant to this section shall establish written policies concerning the implementation and use of the background checks and investigations conducted pursuant to this section.

(E) For purposes of this section, ‘state agency’ includes state departments and state institutions.”

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

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No. 60

(R74, S619)

AN ACT TO AMEND SECTION 61-4-720, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SALE OF WINE BY A WINERY LOCATED IN THIS STATE, SO AS TO ESTABLISH CERTAIN REQUIREMENTS AND LIMITATIONS; BY ADDING SECTION 61-4-748 SO AS TO ALLOW CERTAIN WINERIES TO OBTAIN SATELLITE LOCATION CERTIFICATES; TO AMEND SECTION 61-4-770, RELATING TO LIMITATIONS ON THE SALE OF WINES ABOVE A CERTAIN PERCENTAGE OF ALCOHOL, SO AS TO INCREASE THE LIMIT; TO AMEND SECTION 61-6-1035, RELATING TO THE SAMPLING OF WINES, SO AS TO INCREASE THE ALLOWED ALCOHOL PERCENTAGE BY VOLUME; TO AMEND SECTIONS 61-6-1640 AND 61-6-1650, BOTH RELATING TO THE SAMPLING OF WINE, SO AS TO INCREASE THE ALLOWED ALCOHOL PERCENTAGE BY VOLUME; TO AMEND SECTION 61-6-1540, RELATING TO THE SALE OF WINES BY A RETAIL DEALER, SO AS TO INCREASE THE ALLOWED ALCOHOL PERCENTAGE BY VOLUME; BY ADDING SECTION 61-6-1155 SO AS TO AUTHORIZE AN ALCOHOLIC LIQUOR PRODUCER, MANUFACTURER, OR MICRO-DISTILLER TO SELL LIQUORS DISTILLED AT THEIR LICENSED PREMISES FOR ON-PREMISES CONSUMPTION; AND TO AMEND SECTIONS 61-6-1140 AND 61-6-1150, BOTH RELATING TASTING AND RETAIL SALES AT THE LICENSED PREMISES OF A MICRO-DISTILLERY, SO AS TO PROVIDE CERTAIN LIMITATIONS AND REQUIREMENTS FOR THE PRICING OF TASTINGS AND TO PROVIDE AN EXCEPTION FOR CERTAIN MICRO-DISTILLERIES.

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

Findings and purpose

SECTION 1. The General Assembly finds and declares that:

(A) The State has a substantial interest in regulating alcoholic liquors and other beverages containing alcohol; the activities of manufacturers,

importers, wholesalers, and retailers; and the influences that affect the consumption levels of alcoholic liquors and other beverages containing alcohol by the people of the State.

(B) The State has a substantial interest in exercising its police power to promote the public health, safety, and welfare of the State by regulating the business of manufacturing, distributing, and retail sales of alcoholic liquors and other beverages containing alcohol in the manner and to the extent allowed by law to promote and preserve public health and safety through legitimate, nonprotectionist measures, which include regulating and controlling alcoholic beverage transactions in this State and the means and manner in which licensed micro-distilleries and alcoholic liquor manufacturers may sell alcoholic beverages to the state's qualifying consumers.

(C) Selling alcoholic liquors from manufacturers outside the State directly to residents of this State poses a serious threat to the state's efforts to prevent underage drinking, to state revenue collections, and to the public health and safety of the state's residents.

(D) By this act, the General Assembly intends to promote the public health, safety, and welfare of residents of this State with laws intended to strictly regulate alcoholic liquors and other beverages containing alcohol by preserving and promoting a robust, stable system of distribution of beverages containing alcohol to the public that does not provide for economic protectionism. Excessive use of alcoholic liquors and other beverages containing alcohol has wide-ranging deleterious health effects, including death. The General Assembly acknowledges that, according to the United States Centers for Disease Control, during the period from 2011 to 2015, an average of one thousand six hundred seventy-nine of this state's residents suffered alcohol attributed deaths due to excessive alcohol use and the rate of binge drinking in this State is ranked among the highest in the nation. The General Assembly acknowledges that, according to the National Highway Traffic Safety Administration, this State had two hundred eighty-five alcohol-impaired driving fatalities in 2019, which accounted for twenty-eight percent of the total traffic fatalities in the State. Attributed deaths due to alcohol-impaired driving in this State is ranked among the highest in the nation.

(E) This act has been enacted pursuant to the authority granted to the State by the Twenty-first Amendment to the Constitution of the United States, the powers reserved to the states under the Tenth Amendment to the United States Constitution, and the inherent powers of the State under the Constitution of the State of South Carolina, 1895, and the

statutes promulgated thereunder. It is the intent of the General Assembly that this act do all of the following:

(1) further regulate and control transactions in this State as to beverages containing alcohol under the control and supervision of the Department of Revenue;

(2) strictly regulate alcoholic beverage transactions by fostering moderation and responsibility in the use and consumption of beverages containing alcohol;

(3) promote and assure the public's interest in fair and efficient distribution and quality control of alcoholic beverages in this State;

(4) promote orderly marketing of alcoholic beverages;

(5) prevent unfair business practices, discrimination, and undue control of one segment of the alcoholic beverage industry by any other segment;

(6) foster vigorous and healthy competition in the alcoholic beverage industry and protect the interests of consumers against fraud and misleading practices in the sale of alcoholic beverages, and avoid problems associated with indiscriminate price cutting and excessive advertising of alcoholic beverages;

(7) provide for an orderly system of public revenues by facilitating the collection and accountability of this State and local excise taxes;

(8) facilitate the collection of state and local revenue;

(9) maintain trade stability and provide for the continuation of control and orderly processing by the State over the regulation of alcoholic beverage manufacturing locations and the process of selling alcoholic beverages to the state's consumers;

(10) ensure that the Department of Revenue and State Law Enforcement Division are able to monitor licensed operations through on-site inspections to confirm compliance with state law and that any alcoholic beverages shipped into, distributed, and sold throughout this State:

(a) have been registered for sale in this State with the Department of Revenue, as prescribed by law;

(b) are not subject to a government-mandated or supplier-initiated recall;

(c) are not counterfeit;

(d) are labeled in conformance with applicable laws, rules, and regulations;

(e) can be inspected and tested by the Department of Revenue or the State Law Enforcement Division; and

(f) are not prohibited by this State;

(11) promote and maintain a sound, stable, and viable three-tier system of distribution of beverages containing alcohol to the public; and

(12) ensure that statutes and regulations relating to alcoholic beverages exist to serve the interests of the State of South Carolina and its citizens rather than to serve or protect the interests of market participants by adopting protectionist measures with no demonstrable connection to the state's legitimate interests in regulating alcoholic beverages.

Winery authorized to sell wine in state, requirements and limitations

SECTION 2. Section 61-4-720 of the 1976 Code is amended to read:

"Section 61-4-720. (A) Notwithstanding another provision of law, a licensed winery located in this State is authorized to sell wine with an alcohol content of sixteen and one-half percent, or less, on the winery premises and deliver or ship this wine to consumer homes in or outside the State so long as:

(1) the licensed winery is the primary American source of supply for the wine sold; or

(2) the wine is produced on its licensed premises.

(B) For wine that is not produced on its licensed premises in the State pursuant to subsection (A)(2), but for which the winery is the primary American source of supply under subsection (A)(1), the winery may not sell more than twenty-four bottles of wine each month directly to a resident of this State for such resident's personal use and not for resale.

(C) These wineries are authorized to provide, with or without cost, wine tasting samples to prospective customers."

Certain wineries eligible for satellite location certificates

SECTION 3. Chapter 4, Title 61 of the 1976 Code is amended by adding:

"Section 61-4-748. (A) Notwithstanding any other provision of law, rule, or regulation to the contrary, the holder of a valid winery license that, on or after January 1, 2021, invests four hundred million dollars in this State in a Tier III or Tier IV county, as designated by the Department of Revenue pursuant to Section 12-6-3360(B), at the time of the public announcement of the project or upon reaching such investment and job requirement thresholds, and creates at least three hundred new jobs in this State, is eligible for a manufacturer's satellite certificate to establish

up to three wholly owned satellite locations for tasting and sale of wine produced or imported as the primary American source of supply, provided that:

(1) before commencing operations at any wholly owned satellite location, the holder of a valid winery license must first have satisfied all applicable investment and job requirement thresholds;

(2) a winery producing or bottling at least ten million gallons of wine and alcoholic beverages per calendar year in this State may operate one tasting-room premises;

(3) a winery producing or bottling at least twenty million gallons of wine and alcoholic beverages per calendar year in this State may operate two tasting-room premises;

(4) a winery producing or bottling at least thirty million gallons of wine and alcoholic beverages per calendar year in this State may operate three tasting-room premises;

(5) the winery submits, and the department approves, separate applications for each tasting-room premises to be issued a permit, as provided by Sections 61-2-90 and 61-2-140(C);

(6) the winery must pay a biennial tasting-room permit fee of five thousand dollars per tasting-room premises;

(7) no more than one tasting-room premises shall be permitted in any one county of this State;

(8) the winery may conduct tastings of or sell only wine that is (a) produced or bottled by the winery within or outside of this State, (b) produced for or produced and packaged for the winery within or outside of this State and sold under a brand name owned by the winery, or (c) wine for which the winery is the exclusive agent in the United States of an out-of-state vintner;

(9) the winery must sell wine for off-premises consumption at a tasting-room premises at a price approximating retail prices generally charged for identical wine in the county where the tasting-room premises is located;

(10) the winery must charge a consumer a tasting fee to participate in a tasting or the consumer may not purchase any wine for off-premises consumption;

(11) the winery shall remit applicable sales, use, and other state taxes and local taxes for each tasting-room premises. The winery shall maintain adequate records for each tasting-room premises to ensure the collection of these taxes;

(12) all wine to be handled, tasted, or sold at a tasting-room premises must be purchased from licensed wholesalers and transported

and delivered to the licensed tasting-room premises only by licensed South Carolina wholesalers;

(13) the winery must maintain all liability insurance required pursuant to Section 61-2-145; and

(14) tastings and sales shall not be offered or made to, or allowed to be offered, made to, or consumed by an intoxicated person or a person who is under the age of twenty-one.

(B) In addition to the provisions set forth in subsection (A), a winery holding one or more tasting-room permits must not provide or sell to an individual consumer at a tasting-room premises:

(1) more than ten ounces of wine in one day for on-premises consumption, including any samples offered and consumed; or

(2) more than the equivalent of six 750-milliliter bottles of wine each calendar month to an individual consumer for off-premises consumption and not for resale.

(C) Tasting rooms authorized in this section must close to the public at 5:30 p.m. and may not open to the public until 8:00 a.m.

(D) Each tasting-room permit application is subject to protest, as provided for in Section 61-4-525 for beer and wine permit applications.

(E) The holder of a tasting-room permit who violates a provision of this section is subject to the penalties specified in Section 61-4-250.

(F) Nothing in this section shall be construed so as to prohibit or restrict a winery that also holds a brewery, micro-distillery, or liquor manufacturer's license from applying for or holding any license or permit that is available to other licensed breweries, micro-distilleries, or liquor manufacturers in this State and that allows the tasting or sales of beer or alcoholic liquors.

(G) Authorization by this section of sales and tastings at a tasting-room premises is expressly intended for the promotion of education regarding production of wine in the State and not to create competition between producers and retailers."

Alcohol content limitations on sale of wines

SECTION 4. Section 61-4-770 of the 1976 Code is amended to read:

"Section 61-4-770. Wines containing more than sixteen and one-half percent of alcohol by volume may be sold only in licensed alcoholic liquor stores or in establishments licensed to sell and permit consumption of alcoholic liquors by the drink."

Alcohol content limitations of wine sampling in retail alcoholic liquor stores

SECTION 5. Section 61-6-1035 of the 1976 Code is amended to read:

"Section 61-6-1035. Notwithstanding the provisions of Section 61-6-1500, the sampling of wines containing over sixteen and one-half percent by volume of alcohol, cordials, and other distilled spirits sold in a retail alcoholic liquor store is authorized if the sampling is conducted as follows:

(1) No sample may be offered from more than four products at one time.

(2) The sample is limited to products from no more than one wholesaler at one time.

(3) No more than one bottle of each of the four products to be sampled may be opened.

(4) The sampling must be held in a designated tasting area of the retail liquor store and all open bottles must be visible at all times. All open bottles must be removed at the conclusion of the tasting.

(5) Samples must be less than one-half ounce for each product sampled.

(6) No person may be served more than one sample of each product.

(7) No sampling may be offered for longer than four hours.

(8) At least ten days before the sampling, a letter detailing the specific date and hours of the sampling must be mailed first class to the South Carolina Law Enforcement Division. The letter must include a copy of a certificate of liability insurance for the manufacturer, the retail establishment, or its agent, conducting the tastings.

(9) No sample may be offered to, or allowed to be consumed by, an intoxicated person or a person under the age of twenty-one years. This person must not be allowed to loiter on the store premises.

(10) The tastings must be conducted by the manufacturer, retailer, or an agent of the manufacturer or retailer, and must not be conducted by a wholesaler, an employee of a wholesaler, or an agent of a wholesaler.

(11) No retail alcoholic liquor store may offer more than one sampling per day.

(12) All product samples used for tastings must be purchased by the retailer from a South Carolina Licensed Wholesaler as required by Section 61-6-100(3).

(13) All associated costs for the tasting must be paid for by the manufacturer, the retailer, or its agent, conducting the tasting.

(14) Mixers, which must be nonalcoholic and carry zero percent of alcohol by weight, may be provided in conjunction with the tasting, but the mixers must be provided free of charge.

(15) Store mixers used, but not sold, in conjunction with tastings."

Alcohol content limitations of wine samplings in certain locations

SECTION 6. Section 61-6-1640 of the 1976 Code is amended to read:

"Section 61-6-1640. Notwithstanding the provisions of this subarticle or any other provision of law, an establishment licensed pursuant to Article 5 of this chapter is authorized to conduct samplings of wines in excess of sixteen and one-half percent alcohol, cordials, and distilled spirits, if the sampling is conducted as follows:

(1) the establishment must have a permanent seating capacity of fifty or more persons;

(2) samples may not be offered from more than four products at any one time;

(3) the sampling must be held in the bar area of a licensed establishment and all open bottles must be visible at all times. All open bottles must be removed at the conclusion of the tasting;

(4) samples must be less than one-half ounce for each product sampled;

(5) a person may not be served more than one sample of each product;

(6) sampling may not be offered for more than four hours;

(7) at least five days before the sampling, a letter detailing the specific date and hours of the sampling must be mailed first class to the South Carolina Law Enforcement Division;

(8) a sample may not be offered to, or allowed to be consumed by, an intoxicated person or a person under the age of twenty-one years;

(9) a licensed establishment may not offer more than one sampling each day; and

(10) the sampling must be conducted by the manufacturer or wholesaler or an agent of the manufacturer or wholesaler."

Alcohol content limitations of wine samplings by a producer or wholesaler

SECTION 7. Section 61-6-1650 of the 1976 Code, as added by Act 161 of 2020, is amended to read:

"Section 61-6-1650. Notwithstanding any other provision of law, a producer or wholesaler may furnish or give a sample of wine in excess of sixteen and one-half percent alcohol, cordial, or distilled spirit to a retailer who has not purchased the brand from a producer or wholesaler in the past three hundred sixty-five days. For each retail establishment, a producer or wholesaler may not give more than three liters of any brand of wine in excess of sixteen and one-half percent alcohol, cordial, or distilled spirit annually. If a particular product is not available in a size within the quantity limitations of this section, a producer or wholesaler may furnish to a retailer the next larger size. Samples of each bottle or other container must be clearly marked 'Sample—Not for resale'. Nothing in this section allows for any sample to be sold or provided to any employees under the age of twenty-one or to a retailer's customers. The producer or wholesaler shall remove all bottles at the conclusion of the sampling. For purposes of this section, the term 'brand' is defined as provided under 27 C.F.R. Section 6.11."

Alcohol content limitations on wine sold by retail dealers

SECTION 8. Section 61-6-1540 of the 1976 Code is amended to read:

"Section 61-6-1540. (A) Except as provided in subsection (B), no other goods, wares, or merchandise may be kept or stored in or sold in or from a retail alcoholic liquor store or place of business, and no place of amusement may be maintained in or in connection with the store. However, retail dealers may sell:

(1) drinking glassware packaged together with alcoholic liquors if the glassware and alcoholic liquors are packaged together by the wholesaler or producer in packaging provided by the producer;

(2) nonalcoholic items, other than beer or wine, packaged together with alcoholic liquors if the nonalcoholic items and alcoholic liquors are in sealed packages and are packaged together by the alcoholic liquor producer at its place of business; and

(3) lottery tickets under the provisions of Chapter 150 of Title 59.

(B) Retail dealers licensed pursuant to the provisions of this article may sell all wines in the stores or places of business covered by their respective licenses, whether declared alcoholic or nonalcoholic or nonintoxicating by the laws of this State.

Wines containing more than sixteen and one-half percent of alcohol by volume may be sold only in licensed alcoholic liquor stores or in establishments licensed to sell and permit consumption of alcoholic liquors by the drink. The provisions of this section do not amend, alter,

or modify the taxes imposed on wines or the collection and enforcement of these taxes."

Micro-distilleries, on-premises consumption of liquors

SECTION 9. Subarticle 11, Article 3, Chapter 6, Title 61 of the 1976 Code is amended by adding:

"Section 61-6-1155. (A)(1) In addition to alcoholic liquor production or manufacturing and sales authorized by this subarticle, a holder of a valid micro-distillery or manufacturer license issued by the State is authorized to sell the alcoholic liquors distilled at the licensed premises to consumers for on-premises consumption within an area of its licensed premises physically partitioned from the distilling and manufacturing operation and bona fide engaged primarily and substantially in the preparation and serving of meals, as required by Section 61-6-1610.

(2) These establishments also may apply for separate beer and wine licenses for on-premises consumption and alcoholic liquor by the drink, and local option permits authorizing the purchase for resale of beer, wine, and alcoholic liquors from wholesalers through the three-tier distribution chain and as required by Section 61-6-1636.

(3) The micro-distillery or manufacturer must:

(a) not sell or allow the consumption of alcoholic liquor by the drink on that part of the micro-distillery or manufacturer's premises designated and permitted for the distilling and manufacturing operations;

(b) maintain the books, records, and bank accounts of the restaurant operation separately from the books, records, and bank accounts of the distilling and manufacturing operations, and allocate expenses common to both operations in a manner the micro-distillery or manufacturer considers reasonable, when applicable; and

(c) maintain a physical partition between the distilling and manufacturing operations and the food establishment operations. The physical partition may be a permanent wall or a divider permanently affixed to the premises in a manner that the general public may not freely enter the distilling and manufacturing operations area, and may contain a door or doors which remain locked during hours when the micro-distillery or manufacturer is not in operation.

(B) The department shall terminate and a micro-distillery or manufacturer shall surrender each permit and license issued to the micro-distillery or manufacturer pursuant to subsection (A) immediately following inspection, determination, and report by the division to the

department that distilling and manufacturing operations have ceased on the micro-distillery or manufacturer's permitted premises. This includes liquor by the drink authorization and licenses. Following reinstitution of distilling and manufacturing operations on the formerly permitted premises, a micro-distillery or manufacturer may reapply for the applicable permits and licenses authorized by subsection (A).

(C) A micro-distillery or manufacturer selling beer, wine, or liquor at its licensed premises pursuant to authorization set forth in subsection (A) must:

(1) establish appropriate protocols to ensure that a consumer sold or served alcoholic liquors pursuant to this section is not intoxicated and is not under twenty-one years of age;

(2) sell the alcoholic liquors distilled on the licensed premises at a price approximating retail prices generally charged for identical beverages in the county where the permitted premises are located;

(3) remit appropriate taxes to the department for alcoholic liquor distilled and sold at retail on the licensed premises in an amount equal to and in a manner required for excise taxes assessed by the department. The micro-distillery or manufacturer also must remit appropriate sales, use, and other state and local taxes applicable to retail sale of beer, wine, and liquor;

(4) post information that states the alcoholic content by volume of the various types of alcoholic liquors available in the micro-distillery or manufacturer and the penalties for convictions for:

(a) driving under the influence;

(b) unlawful transport of an alcoholic container; and

(c) unlawful transfer of alcohol to minors.

And, the information shall be in signage that must be posted at each entrance, each exit, and in places in a micro-distillery or manufacturer seen during a tour;

(5) provide department- or DAODAS-approved alcohol enforcement training for the employees who serve alcoholic liquors on the permitted premises to consumers for on-premises consumption, so as to prevent and prohibit unlawful sales, transfer, transport, or consumption of alcoholic liquors by persons who are under the age of twenty-one or who are intoxicated;

(6) maintain all liability insurance required pursuant to Section 61-2-145;

(7) comply with all state and local laws concerning the hours of operation applicable to eating and drinking establishments and other food service establishments holding permits to sell alcoholic liquors by the drink; and

(8) comply with the discount pricing provisions of Sections 61-4-160 and 61-6-4550, as applicable.

(D) The establishment licensed pursuant to subsection (A) may sell the bottles of alcoholic liquor produced on its licensed premises as provided in and subject to the restrictions set forth in Sections 61-6-1140 and 61-6-1150. These bottles may not be considered in determining whether the establishment is bona fide engaged primarily and substantially in the preparation and serving of meals, as required by Section 61-6-1610."

Micro-distilleries, tour and tasting prices

SECTION 10. Sections 61-6-1140 and 61-6-1150 of the 1976 Code are amended to read:

"Section 61-6-1140. A holder of a valid micro-distillery or manufacturer license issued by the State may permit tastings and retail sales of the alcoholic liquors produced at the licensed premises subject to the following limitations and any other limitations provided in this subarticle:

(1) tastings by and sales to consumers must be held in conjunction with a tour by the consumer of the on-site licensed premises and the micro-distillery or manufacturer may charge an amount in its discretion for the tour. The amount consumers are charged must be on a scale that accords with the amount of alcoholic liquors for on-premises consumption that is dispensed to consumers;

(2) the micro-distillery or manufacturer shall establish appropriate protocols to ensure that a consumer sold or served alcoholic liquors pursuant to this section is not under twenty-one years of age and that a consumer shall not attend more than one tasting in a day;

(3) the amount charged by micro-distilleries and manufacturers for tours must increase incrementally and accord with the amount of alcoholic liquors provided for on-premises consumption by one-half ounce, beginning with a base tour price corresponding with the provision of one ounce of alcoholic liquor;

(4) the micro-distillery or manufacturer may not dispense more than four and one-half ounces to an individual consumer in one day;

(5) tastings and sales may occur only between the hours of nine a.m. and seven p.m., Monday through Saturday;

(6) the micro-distillery or manufacturer may not charge for alcoholic liquors consumed at a tasting;

(7) the micro-distillery or manufacturer may provide mixers, which must be nonalcoholic and carry zero percent of alcohol by weight, in conjunction with the tasting, but the micro-distillery or manufacturer may not charge for the mixers;

(8) only brands of alcoholic liquors actually manufactured, distilled, or fermented at and distributed to wholesalers from the licensed premises may be sold or offered for tasting; and

(9) a micro-distillery or a manufacturer licensed pursuant to Section 61-6-1155 must comply with the discount pricing provisions of Section 61-6-4550, as applicable, and may not dispense alcoholic liquors for free at a tasting in subsection (6) of this section.

Section 61-6-1150. Authorization by this section of sales and tastings at licensed premises of a micro-distillery or manufacturer is expressly intended for the promotion of education regarding production of alcoholic liquors in the State and not to create competition between producers and retailers. A holder of a valid micro-distillery or manufacturer license issued by the State may:

(1) sell in any quantities the alcoholic liquors produced at the licensed premises to a wholesaler licensed by the State;

(2) transport in any quantities the alcoholic liquors produced at the licensed premises out of state for sale outside of the State;

(3) sell at retail at the licensed premises the alcoholic liquors produced at the licensed premises, but only if the labels for the bottles are marked ‘not for resale’;

(4) sell at retail no more than the equivalent of six 750-milliliter bottles of alcoholic liquors to a consumer in one business day;

(5) not allow consumption on the licensed premises of alcoholic liquors sold by the bottle at the licensed premises;

(6) maintain pricing of the alcoholic liquors sold at the licensed premises at a price approximating retail prices generally charged for identical alcoholic liquors in the county where the on-site premises is located;

(7) in addition to the sale of alcoholic liquors as authorized by this section, sell items promoting the brand or brands of alcoholic liquors produced at that location in a room on the licensed premises separate from the locations of the tastings;

(8) not sell or store goods, wares, or merchandise in or from the room in which alcoholic liquors are sold or tasted;

(9) store mixers used, but not sold, in conjunction with tastings; and

(10) not allow minors into the portion of the facility where tastings are occurring, unless accompanied by an adult.

A micro-distillery or a manufacturer licensed pursuant to Section 61-6-1155 is not subject to subsections (7) through (10) of this section."

Alcohol content regulations required

SECTION 11. A state agency with regulations specifying alcohol content percentages different from the percentages passed in this act must promulgate revised regulations to conform to the changes in this act. Until such time as the regulations are conformed, the percentages in the statutory provisions passed in this act supersede any differing percentages in the regulations.

Severability Clause

SECTION 12. If any provision of this act, or its application to any person or circumstance, is determined by a court or other authority of competent jurisdiction to be invalid or unconstitutional, that provision must be stricken and the remaining provisions must be construed in accordance with the intent of the General Assembly to further limit rather than expand commerce in beverages containing alcohol, and with respect to such beverages, the remaining provisions must be construed to enhance strict regulatory control over the taxation, importation, production, distribution, sale, and delivery of beverages containing alcohol through the three-tier regulatory system and the licensing laws imposed by this act.

Time effective

SECTION 13. This act takes effect upon approval by the Governor.

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

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No. 61

(R75, S627)

AN ACT TO AMEND SECTION 12-6-545, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INCOME TAX RATES FOR PASS-THROUGH TRADE AND BUSINESS INCOME, SO AS TO CREATE AN ELECTION TO TAX CERTAIN PARTNERSHIPS AND "S" CORPORATIONS AT THE ENTITY LEVEL.

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

Income tax for pass-through entities

SECTION 1. Section 12-6-545 of the 1976 Code is amended by adding a new subsection at the end to read:

"(G)(1)(a) 'Qualified entity' means a partnership or 'S' Corporation including a limited liability company taxed as a partnership or 'S' Corporation, where all of its owners are qualified owners or partnerships, and, where those partnerships are owned directly or through other partnerships by qualified owners.

(b) 'Qualified owner' means a partner or shareholder of a qualified entity that is an individual, estate, trust, or any other entity except those taxed or exempted from tax pursuant to Sections 12-6-530 through 12-6-540 and 12-6-550 and except for any other entity exempt from South Carolina income tax.

(2) A qualified entity may elect annually under this subsection to have its income taxed on its active trade or business income at the rate provided in subsection (B)(2) imposed on the qualified entity itself. Such elections must be made no later than the due date for filing the applicable income tax return, including any extensions.

(3) In computing South Carolina taxable income, a qualified owner shall exclude active trade or business income from an electing qualified entity provided that the qualified entity properly filed an income tax return and paid the taxes pursuant to this subsection that included the active trade or business income or loss.

(4) Active trade or business losses of the qualified owner from other pass-through entities that are reported directly by such owner may not reduce tax at a rate higher than the rate provided in subsection (B)(2).

(5) Active trade or business income for which this subsection is elected shall be apportioned by the pass-through entity pursuant to Section 12-6-2240, and none of it shall be treated as income from personal services that is allocated pursuant to Section 12-6-2220(6).

(6) Section 12-8-590, dealing with tax withholding on distributions to nonresident shareholders of 'S' Corporations and nonresident partners, does not apply to electing qualified entities to the extent of the tax the electing entities pay on their active trade or business income.

(7) For tax years beginning after 2021, an electing qualified entity shall submit estimated tax payments pursuant to Section 12-6-3910.

(8) If the electing entity fails to pay the amount owed to the department with respect to income as a result of the election, the department may collect the amount from the electing entity or its direct or indirect owners based upon their proportionate share of the income, or both.

(9) The basis of both resident and nonresident shareholders of a qualified 'S' Corporation in their stock of the qualified 'S' Corporation shall be determined as if the election under subsection (G)(2) had not been made and each of the shareholders of the qualified 'S' Corporation had properly taken into account each shareholder's pro rata share of the qualified 'S' Corporation's items of income, loss, and deduction in the manner required with respect to an 'S' Corporation for which no such election is in effect. The basis of a qualified partnership, including a limited liability company taxed as a partnership, shall be determined in the same manner."

Time effective

SECTION 2. This act takes effect upon approval by the Governor and first applies to tax years beginning after 2020.

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 62

(R76, S658)

AN ACT TO AMEND SECTION 1-11-710, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE BOARD OF DIRECTORS OF THE SOUTH CAROLINA PUBLIC EMPLOYEE BENEFIT AUTHORITY MAKING INSURANCE AVAILABLE TO ACTIVE AND RETIRED EMPLOYEES, SO AS TO PROVIDE THAT THE PUBLIC EMPLOYEE BENEFIT AUTHORITY MAY ESTABLISH RULES FOR ELIGIBILITY AND ENROLLMENT FOR FULLY INSURED INSURANCE PRODUCTS FOR WHICH IT IS THE PLAN SPONSOR AND TO PROVIDE THAT MEDICAL EVIDENCE OF INSURABILITY SHALL NOT BE REQUIRED SOONER THAN THIRTY DAYS FROM THE DATE A PERSON IS FIRST ELIGIBLE TO ENROLL IN A FULLY INSURED INSURANCE PRODUCT; TO AMEND SECTION 9-1-1650, AS AMENDED, RELATING TO AMOUNTS PAID UPON THE TERMINATION OF EMPLOYMENT UNDER THE SOUTH CAROLINA RETIREMENT SYSTEM, SO AS TO PROVIDE THAT A MEMBER WHO IS NOT RETIRED MAY NAME CONTINGENT BENEFICIARIES IN THE SAME MANNER AS PRIMARY BENEFICIARIES, TO PROVIDE THAT A CONTINGENT BENEFICIARY DOES NOT HAVE CERTAIN RIGHTS UNLESS ALL PRIMARY BENEFICIARIES HAVE PREDECEASED THE MEMBER AND THE MEMBER'S DEATH OCCURS BEFORE RETIREMENT, AND TO PROVIDE THAT A MEMBER MAY NOT NAME A CONTINGENT BENEFICIARY FOR DEATH BENEFITS UNDER A PRERETIREMENT DEATH BENEFIT PROGRAM; TO AMEND SECTION 9-8-110, RELATING TO PAYMENTS ON THE DEATH OF A MEMBER OR BENEFICIARY UNDER THE RETIREMENT SYSTEM FOR JUDGES AND SOLICITORS, SO AS TO PROVIDE THAT A MEMBER WHO IS NOT RETIRED MAY NAME SECONDARY BENEFICIARIES IN THE SAME MANNER AS PRIMARY BENEFICIARIES, TO PROVIDE THAT A SECONDARY BENEFICIARY DOES NOT HAVE CERTAIN RIGHTS UNLESS ALL PRIMARY BENEFICIARIES HAVE PREDECEASED THE MEMBER AND THE MEMBER'S DEATH OCCURS BEFORE RETIREMENT, AND TO PROVIDE THAT A MEMBER MAY NOT NAME A SECONDARY BENEFICIARY FOR DEATH

BENEFITS UNDER A PRERETIREMENT DEATH BENEFIT PROGRAM; TO AMEND SECTION 9-9-100, AS AMENDED, RELATING TO PAYMENTS ON THE DEATH OF A MEMBER OR BENEFICIARY UNDER THE RETIREMENT SYSTEM FOR MEMBERS OF THE GENERAL ASSEMBLY, SO AS TO PROVIDE THAT A MEMBER WHO IS NOT RETIRED MAY NAME CONTINGENT BENEFICIARIES IN THE SAME MANNER AS PRIMARY BENEFICIARIES, TO PROVIDE THAT A CONTINGENT BENEFICIARY DOES NOT HAVE CERTAIN RIGHTS UNLESS ALL PRIMARY BENEFICIARIES HAVE PREDECEASED THE MEMBER AND THE MEMBER'S DEATH OCCURS BEFORE RETIREMENT, AND TO PROVIDE THAT A MEMBER MAY NOT NAME A CONTINGENT BENEFICIARY FOR DEATH BENEFITS UNDER A PRERETIREMENT DEATH BENEFIT PROGRAM; TO AMEND SECTION 9-11-110, AS AMENDED, RELATING TO THE LUMP SUM PAID IN THE EVENT OF A DEATH UNDER THE POLICE OFFICERS RETIREMENT SYSTEM, SO AS TO PROVIDE THAT A MEMBER WHO IS NOT RETIRED MAY NAME CONTINGENT BENEFICIARIES IN THE SAME MANNER AS PRIMARY BENEFICIARIES, TO PROVIDE THAT A CONTINGENT BENEFICIARY DOES NOT HAVE CERTAIN RIGHTS UNLESS ALL PRIMARY BENEFICIARIES HAVE PREDECEASED THE MEMBER AND THE MEMBER'S DEATH OCCURS BEFORE RETIREMENT, AND TO PROVIDE THAT A MEMBER MAY NOT NAME A CONTINGENT BENEFICIARY FOR DEATH BENEFITS UNDER A PRERETIREMENT DEATH BENEFIT PROGRAM; AND TO REPEAL CHAPTER 2, TITLE 9 RELATING TO THE RETIREMENT AND PRERETIREMENT ADVISORY PANEL.

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

PEBA duties

SECTION 1. Section 1-11-710 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

"( ) Notwithstanding the provisions of Section 38-71-730(3), for all fully insured insurance products where the South Carolina Public Employee Benefit Authority (PEBA) is the plan sponsor, PEBA may establish rules for eligibility and enrollment, including the timeframes

for submitting enrollment elections and required supporting documentation. In no event may medical evidence of insurability be required sooner than thirty days from the date a person is first eligible to enroll in a fully insured insurance product."

Beneficiaries, SCRS

SECTION 2. Section 9-1-1650 of the 1976 Code, as last amended by Act 149 of 2018, is further amended to read:

"Section 9-1-1650. (A) If a member ceases to be a teacher or employee except by death or retirement, the member must be paid within six months after the member's demand for payment, but not less than ninety days after ceasing to be a teacher or employee, the sum of the member's contributions and the accumulated regular interest on the contributions. If the member has five or more years of earned service or eight or more years of such service for a Class Three member, and before the time the member's membership would otherwise terminate, elects to leave these contributions in the system, the member, unless these contributions are paid to him as provided by this section before the attainment of age sixty, remains a member of the system and is entitled to receive a deferred retirement allowance beginning at age sixty computed as a service retirement allowance in accordance with Section 9-1-1550(A) or (B) for Class One and Class Two members and Section 9-1-1550(C) for Class Three members. The employee annuity must be the actuarial equivalent at age sixty of the member's contributions with the interest credits on the contributions, if any, as allowed by the board. If a member dies before retirement, the amount of the member's accumulated contributions must be paid to the member's estate or to the person the member nominated by written designation filed with the board.

(B) Upon the death of a member who did not select a survivor option or who selected a survivor option and the member's designated beneficiary predeceased the member, a lump sum amount must be paid to the member's designated beneficiary or the member's estate if total member contributions and accrued interest at the member's retirement exceed the sum of the retirement allowances paid to the member. Upon the death of a designated beneficiary selected under a survivor option, a lump sum amount must be paid to the beneficiary's estate if total member contributions and accrued interest at the member's retirement exceed the sum of the retirement allowances paid to the member and the member's beneficiary. The lump sum payment must be the total member

contributions and accrued interest at retirement less the sum of the retirement allowances paid to the member or in the case of a survivor option, the total member contributions and accrued interest at retirement less the sum of the retirement allowances paid to the member and the member's designated beneficiary. This paragraph does not govern lump sum distributions payable on account of members retiring under former Option 1 of Section 9-1-1620 or on account of members retiring before July 1, 1990, under former Option 4 of Section 9-1-1620.

(C) A member who is not retired making the nomination provided under this section also may name contingent beneficiaries in the same manner that primary beneficiaries are named. A contingent beneficiary has no rights under this chapter unless all primary beneficiaries nominated by the member have predeceased the member and the member's death occurs before retirement. In this instance, a contingent beneficiary is considered the member's beneficiary for purposes of this section and Section 9-1-1660, if applicable. A member may not name a contingent beneficiary with respect to death benefits provided under Section 9-1-1770."

Beneficiaries, judges and solicitors

SECTION 3. Section 9-8-110(1) of the 1976 Code is amended to read:

"(1) Except as provided in subsections (2) and (3) of this section, upon the death of any member of the system, a lump sum amount must be paid to the persons the member nominated by written designation, filed with the board, otherwise to his estate. This amount must be equal to the amount of the member's accumulated contributions. A member who is not retired making the nomination provided under this section also may name secondary beneficiaries in the same manner that primary beneficiaries are named. A secondary beneficiary has no rights under this chapter unless all primary beneficiaries nominated by the member predecease the member and the member's death occurs before retirement. In this instance, a secondary beneficiary is considered the member's beneficiary for purposes of subsections (1), (2), and (3) of this section. A member may not name a secondary beneficiary with respect to death benefits provided under subsections (5) and (7) of this section."

Beneficiaries, GARS

SECTION 4. Section 9-9-100(1) of the 1976 Code is amended to read:

"(1) Upon the death of a member of the system, a lump sum amount must be paid to the person the member nominated by written designation, filed with the board, otherwise to the member's estate. This lump sum amount must be equal to the amount of the member's accumulated contributions. A member who is not retired making the nomination provided under this item also may name contingent beneficiaries in the same manner that primary beneficiaries are named. A contingent beneficiary has no rights under this chapter unless all primary beneficiaries nominated by the member have predeceased the member and the member's death occurs before retirement. In this instance, a contingent beneficiary is considered the member's beneficiary for purposes of this item and item (3) of this section, if applicable. A member may not name a contingent beneficiary with respect to death benefits provided under subsections (4) and (5) of this section."

Beneficiaries, PORS

SECTION 5. Section 9-11-110(3) of the 1976 Code is amended to read:

"(3) A member who is not retired making the nomination provided under subsection (1) of this section also may name contingent beneficiaries in the same manner that primary beneficiaries are named. A contingent beneficiary has no rights under this chapter unless all primary beneficiaries nominated by the member have predeceased the member and the member's death occurs before retirement. In this instance, a contingent beneficiary is considered the member's beneficiary for purposes of subsection (1) of this section and Section 9-11-130, if applicable. A member may not name a contingent beneficiary with respect to death benefits provided under Section 9-11-120."

Repeal

SECTION 6. A.Chapter 2, Title 9 of the 1976 Code is repealed.

B.This SECTION takes effect on July 1, 2021.

Time effective

SECTION 7. Except as otherwise provided, this act takes effect upon approval by the Governor.

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 63

(R77, S677)

AN ACT TO AMEND SECTION 12-2-100, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TAX CREDITS, SO AS TO PROVIDE FOR THE ALLOCATION OF A TAX CREDIT OR UNUSED CREDIT AMOUNT CARRIED FORWARD THAT IS EARNED BY A PARTNERSHIP OR LIMITED LIABILITY COMPANY TAXED AS A PARTNERSHIP.

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

Tax credits allocation

SECTION 1. Section 12-2-100 of the 1976 Code is amended to read:

"Section 12-2-100. (A) Unless otherwise provided by law, a tax credit administered by the department must be used in the year it is generated and must not be refunded.

(B) A tax credit earned by a partnership or limited liability company taxed as a partnership pursuant to Sections 12-6-3535, 12-6-3795, or 12-65-10, including any unused credit amount carried forward, may be passed through to the partners or members and may be allocated among any of its partners or members on an annual basis including, without limitation, an allocation of the entire credit to any partner or member who was a partner or member at any time in the year in which the credit or unused carryforward was allocated. The allocation must be allowed without regard to any provision of the Internal Revenue Code, or regulation promulgated pursuant to it, that may be interpreted as contrary

to the allocation including, without limitation, the treatment of the allocation as a disguised sale."

Time effective

SECTION 2. This act takes effect upon approval by the Governor and applies to a qualified project in service after January 1, 2020, but before December 31, 2030, if the project is issued an eligibility statement after May 14, 2020.

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 64

(R80, H3011)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56-5-1885 SO AS TO PROVIDE THE CIRCUMSTANCES WHEN A VEHICLE MAY NOT BE DRIVEN IN THE FARTHEST LEFT-HAND LANE OF A CONTROLLED ACCESS HIGHWAY, TO PROVIDE THE DEPARTMENT OF TRANSPORTATION MUST PLACE SIGNS ALONG INTERSTATE HIGHWAYS DIRECTING SLOWER TRAFFIC TO MOVE TO THE RIGHT, TO PROVIDE A PENALTY FOR A VIOLATION, TO PROVIDE A VIOLATION MUST NOT BE INCLUDED IN THE OFFENDER'S MOTOR VEHICLE RECORD, INCLUDED IN SLED'S CRIMINAL RECORDS, OR REPORTED TO THE OFFENDER'S MOTOR VEHICLE INSURER, TO PROVIDE A VIOLATION IS NOT NEGLIGENCE PER SE OR CONTRIBUTORY NEGLIGENCE, AND IS NOT ADMISSIBLE AS EVIDENCE IN A CIVIL ACTION, TO PROVIDE A LAW ENFORCEMENT OFFICER MUST NOT SEARCH AND MAY NOT REQUEST CONSENT TO SEARCH A VEHICLE, DRIVER, OR OCCUPANT OF A VEHICLE SOLELY BECAUSE OF A VIOLATION OF THIS PROVISION, AND TO PROVIDE FOR THE APPEAL OF A VIOLATION.

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

Overtaking and passing another vehicle

SECTION 1. Article 13, Chapter 5, Title 56 of the 1976 Code is amended by adding:

"Section 56-5-1885. (A) A vehicle may not be driven in the farthest left-hand lane of a controlled access highway except when overtaking and passing another vehicle.

(B) Subsection (A) of this section does not apply:

(1) when no other vehicle is directly behind the vehicle in the left lane;

(2) when traffic conditions and congestion make it impractical to drive in the right lane;

(3) when snow and other inclement weather conditions make it safer to drive in the left lane;

(4) when obstructions or hazards exist in the right lane;

(5) when, because of highway design, a vehicle must be driven in the left lane when preparing to exit;

(6) to law enforcement vehicles, ambulances, or other emergency vehicles engaged in official duties and vehicles engaged in highway maintenance and construction operations;

(7) when a driver of a tractor-trailer commercial motor vehicle combination is unable to move into the right lane safely due to another vehicle overtaking or passing his vehicle to the right; or

(8) when a driver of a vehicle requiring a commercial motor vehicle license to operate is unable to move into the right lane safely due to a highway grade or another vehicle overtaking or passing his vehicle on the right.

(C) Nothing in this section shall limit the Department of Transportation's ability to establish and delineate lane restrictions for certain types of vehicles.

(D) The Department of Transportation must place signs along interstate highways directing slower traffic to move to the right. The signs must be placed at intervals of no more than thirty-five miles.

(E)(1) A person who is adjudicated to be in violation of the provisions of this section must be fined not more than twenty-five dollars, no part of which may be suspended. No court costs, assessments, or surcharges may be assessed against a person who violates a provision of this section. A custodial arrest for a violation of this section must not be made, except upon a warrant issued for a failure to appear in court when summoned

or for a failure to pay an imposed fine. A violation of this section does not constitute a criminal offense. Notwithstanding Section 56-1-640, a violation of this section must not be:

(a) included in the offender's motor vehicle records maintained by the Department of Motor Vehicles;

(b) included in the criminal records maintained by SLED; or

(c) reported to the offender's motor vehicle insurer.

(2) A violation of this section is not negligence per se, or contributory negligence, and is not admissible as evidence in a civil action.

(3) A law enforcement officer must not search, and may not request consent to search, a vehicle, or the driver or occupant of the vehicle, solely because of a violation of this section.

(4) A person charged with a violation of this section may admit or deny the violation, enter a plea of nolo contendere, or be tried before either a judge or a jury. If the trier of fact is convinced beyond a reasonable doubt that the person violated the provisions of this section, then the penalty is a civil fine pursuant to item (1) of this subsection. If the trier of fact determines that the State has failed to prove beyond a reasonable doubt that the person violated the provisions of this section, then no penalty shall be assessed.

(5) A person found to be in violation of this section may bring an appeal to the court of common pleas."

Time effective

SECTION 2. This act takes effect ninety days after approval by the Governor. For a period of ninety days after the effective date of this act, only warning tickets may be issued for a violation of the provisions of this act.

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 65

(R81, H3024)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40-7-355 SO AS TO AUTHORIZE THE STATE BOARD OF BARBER EXAMINERS TO ISSUE MOBILE BARBERSHOP PERMITS, TO ESTABLISH PERMIT REQUIREMENTS, AND TO FURTHER PROVIDE FOR THE REGULATION OF MOBILE BARBERSHOPS.

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

Mobile barbershops authorized, regulation

SECTION 1. Chapter 7, Title 40 of the 1976 Code is amended by adding:

"Section 40-7-355. (A) As used in this section:

(1) 'Mobile barbershop' means a self-contained unit in which the practice of barbering is conducted, which may be moved, towed, or transported from one location to another. A 'mobile barbershop' includes a portable barber operation.

(2) 'Portable barber operation' means equipment used in the practice of barbering that is in a mobile barbershop or transported from a barbershop and used on a temporary basis at a location including, but not limited to:

(a) a client's home; or

(b) another institution or location as may be authorized by the board in regulation.

(B) An individual may operate a mobile barbershop if the individual:

(1) is licensed pursuant to this chapter to engage in the practice of barbering; and

(2) does not have a physically stationary office at the location where the barbering services are provided.

(C) In order to operate a mobile barbershop, a registered barber shall apply to the board for a mobile barbershop permit. The registered barber shall submit a permit application and fee in the form and manner prescribed by the board in regulation.

(D)(1) Before a mobile barbershop permit may be issued, an inspection of the mobile barbershop must be conducted by a representative of the board pursuant to Sections 40-7-320 and 40-7-330.

Upon a satisfactory inspection, the board shall issue the applicant a mobile barbershop biennial permit to be affixed within the mobile barbershop as prescribed by the board. The board shall also issue a permit card to be carried by the registered barber when practicing barbering through a portable barber operation.

(2) A mobile barbershop permit must be annually renewed, and a renewal fee paid, as prescribed by the board in regulation.

(3) A mobile barbershop is subject to unannounced inspections and must be annually inspected before a permit may be renewed.

(E)(1) A mobile barbershop permittee shall maintain an official business address, which must be indicated on the permit application and which must not be a post office box. If an address different from the official business address is used for official business, then that address must also be provided. Permit applications must also include the home address of the applicant. The inclusion of the applicant's home address on the application does authorize the applicant to conduct business at his home address if the applicant is issued a license.

(2) A mobile barbershop permittee shall maintain an official telephone number, which must be indicated on the application. If other phones are used for official business, then those phone numbers must also be provided.

(3) The board must be notified within thirty days of any change in the official business address or telephone number as indicated on the permit application or as otherwise provided to the board.

(F) A mobile barbershop permittee shall comply with all applicable federal, state, and local laws, regulations, and ordinances pertaining to the practice of barbering and with all applicable flammability, construction, sanitation, zoning, or infectious waste management guidelines; Occupational Safety and Health Administration guidelines; and federal Centers for Disease Control and Prevention guidelines. The permittee shall maintain any applicable county and city licenses or permits, including business licenses, to operate the mobile barbershop at the location where barbering services will be provided.

(G) A mobile barbershop permittee shall maintain a written or an electronic record of the street addresses where barbering services will be provided during any two-week period.

(H) A licensed barber at all times must be in charge and present during the operation of a mobile barbershop and is responsible for all barbering services provided at the mobile barbershop.

(I)(1) A mobile barbershop permittee shall notify the board in writing within thirty days of the last day of operations when a mobile barbershop ceases to operate.

(2) A mobile barbershop permit is not transferable. If a mobile barbershop is sold, the new owner shall apply to the board for a permit before providing barbering services through the mobile barbershop.

(J) The board shall promulgate regulations to carry out the provisions of this section including, but not limited to, establishing permit application and renewal fees.

(K) A barber who violates a provision of this chapter or a regulation promulgated by the board pursuant to this chapter is subject to disciplinary action as may be determined by the board.

(L) The provisions of this section do not apply to a master haircare specialist or registered barber while providing barbering services in a nursing home or community residential care facility setting equipped and maintained in compliance with regulations and other requirements concerning the equipping and maintenance of barbershops."

Operation within eyesight of nearest registered barbershop prohibited

SECTION 2. A mobile barbershop is prohibited from operating within eyesight of the nearest registered barbershop.

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 66

(R82, H3094)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "OPEN CARRY WITH TRAINING ACT"; TO AMEND SECTION 23-31-210, RELATING TO THE ISSUANCE OF CONCEALED WEAPON PERMITS, SO AS TO REVISE THE DEFINITION OF THE TERM "CONCEALABLE WEAPON" TO INCLUDE CERTAIN FIREARMS THAT MAY BE CARRIED OPENLY ON ONE'S

PERSON; TO AMEND SECTION 16-23-20, RELATING TO THE CARRYING OF A HANDGUN, SO AS TO PROVIDE A PERSON WHO POSSESSES A CONCEALED WEAPON PERMIT MAY CARRY IT OPENLY ON OR ABOUT HIS PERSON IN A VEHICLE; TO AMEND SECTION 23-31-220, RELATING TO THE RIGHT OF AN EMPLOYER TO PROHIBIT A PERSON FROM CARRYING A CONCEALABLE WEAPON ON HIS PREMISE, SO AS TO PROVIDE THIS PROVISION ALSO APPLIES TO OPENLY CARRYING A WEAPON ONTO THE PREMISE AND PROVIDE AN EMPLOYER OR OWNER OF A BUSINESS MAY POST A SIGN REGARDING THE PROHIBITION OR ALLOWANCE OF CONCEALABLE WEAPONS ON HIS PREMISE; TO AMEND SECTION 23-31-235, RELATING TO THE POSTING OF SIGNS PROHIBITING THE CARRYING OF CONCEALABLE WEAPONS UPON A PREMISE, SO AS TO PROVIDE THIS PROVISION ALSO APPLIES TO OPENLY CARRYING A CONCEALED WEAPON ON A PREMISE AND PROVIDE AN EMPLOYER OR OWNER OF A BUSINESS MAY POST A SIGN REGARDING THE PROHIBITION OR ALLOWANCE OF CONCEALABLE WEAPONS ON HIS PREMISE; TO AMEND SECTION 23-31-210, RELATING TO THE DEFINITION OF CERTAIN TERMS RELATING TO THE ISSUANCE OF CONCEALED WEAPON PERMITS, SO AS TO REVISE THE DEFINITION OF THE TERM "PROOF OF TRAINING"; BY ADDING SECTION 23-21-232 SO AS TO PROVIDE A CHURCH OFFICIAL OR GOVERNING BODY MAY ALLOW A PERSON WHO HOLDS A PERMIT TO CARRY A CONCEALABLE WEAPON TO CARRY THE WEAPON CONCEALED OR OPENLY ON PREMISES OF CERTAIN SCHOOLS LEASED BY THE CHURCH FOR CHURCH SERVICES OR OFFICIAL CHURCH ACTIVITIES UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 23-31-520, RELATING TO A LOCAL GOVERNMENT'S AUTHORITY TO REGULATE THE DISCHARGE OR PUBLIC BRANDISHMENT OF FIREARMS AND THE PROHIBITION IMPOSED UPON A LOCAL GOVERNMENT TO CONFISCATE CERTAIN FIREARMS AND AMMUNITION, SO AS TO ALLOW A LOCAL GOVERNMENT TO TEMPORARILY RESTRICT OPEN CARRYING OF A FIREARM ON PUBLIC PROPERTY DURING CERTAIN EVENTS AND PROVIDE THE CIRCUMSTANCES WHEN OPEN CARRYING OF A FIREARM IS PERMITTED AT THESE EVENTS; BY ADDING SECTION

23-31-250 SO AS TO PROVIDE THE STATE AND ITS POLITICAL SUBDIVISIONS CANNOT BE COMPELLED BY THE FEDERAL GOVERNMENT TO IMPLEMENT OR ENFORCE A LAW RELATED TO AN INDIVIDUAL'S RIGHT TO KEEP AND BEAR ARMS THAT LIMITS OR PROSCRIBES CARRYING CONCEALABLE WEAPONS UNDER CERTAIN CIRCUMSTANCES, TO DIRECT THE ATTORNEY GENERAL TO EVALUATE THESE LAWS AND ISSUE A WRITTEN OPINION OF WHETHER THE LAWS ARE PROHIBITED, AND PROVIDE ACTIONS TO BE TAKEN BY THE STATE AND ITS POLITICAL SUBDIVISIONS IF THE ATTORNEY GENERAL DETERMINES THE LAW VIOLATES THIS PROVISION; TO AMEND SECTION 14-17-325, RELATING TO THE CLERKS OF COURT REPORTING THE DISPOSITION OF COURT OF GENERAL SESSIONS CASES TO THE STATE LAW ENFORCEMENT DIVISION, SO AS TO SHORTEN THE REPORTING PERIOD, TO PROVIDE CLERKS OF COURT ALSO SHALL REPORT THE ISSUANCE, RESCISSION, OR TERMINATION OF CERTAIN INDICTMENTS AND ORDERS, AND TO MAKE TECHNICAL CHANGES; BY ADDING SECTION 22-1-200 SO AS TO REQUIRE MAGISTRATES TO REPORT TO THE STATE LAW ENFORCEMENT DIVISION WITHIN FIVE DAYS, WEEKENDS AND HOLIDAYS EXCLUDED, THE DISPOSITION OF EACH CRIMINAL CASE AND REPORT TO THE DIVISION THE ISSUANCE, RESCISSION, OR TERMINATION OF CERTAIN ORDERS; BY ADDING SECTION 14-25-250 SO AS TO PROVIDE MUNICIPAL JUDGES SHALL REPORT THE DISPOSITION OF EACH CRIMINAL CASE TO THE STATE LAW ENFORCEMENT DIVISION WITHIN FIVE DAYS, WEEKENDS AND HOLIDAYS EXCLUDED, THE ISSUANCE, RESCISSION, OR TERMINATION OF CERTAIN ORDERS; BY ADDING SECTION 63-3-545 SO AS TO PROVIDE CLERKS OF FAMILY COURT SHALL REPORT TO THE STATE LAW ENFORCEMENT DIVISION WITHIN FIVE DAYS, WEEKENDS AND HOLIDAYS EXCLUDED, THE ISSUANCE, RESCISSION, OR TERMINATION OF CERTAIN ORDERS; TO AMEND SECTION 23-31-240, RELATING TO CERTAIN PUBLIC OFFICIALS WHO ARE ALLOWED TO CARRY A CONCEALED WEAPON WHILE ON DUTY, SO AS TO DELETE THE PROVISION THAT RESTRICTS THE CARRYING OF THE WEAPON WHEN THE OFFICIAL IS CARRYING OUT THE

DUTIES OF HIS OFFICE AND ADD THE ATTORNEY GENERAL AND ASSISTANT ATTORNEYS GENERAL TO THE OFFICIALS COVERED BY THIS PROVISION; AND TO AMEND SECTION 23-31-215, RELATING TO THE ISSUANCE OF CONCEALED WEAPON PERMITS, SO AS TO ELIMINATE THE PAYMENT OF AN APPLICATION FEE, AND THE STATE LAW ENFORCEMENT HANDGUN TRAINING COURSE FEE, AND PROVIDE THE DIVISION MAY NOT CHARGE A FEE FOR A CONCEALED WEAPON PERMIT.

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

Open Carry with Training Act

SECTION 1. This act may be cited as the "Open Carry With Training Act".

Definitions

SECTION 2. Section 23-31-210(5) of the 1976 Code is amended to read:

"(5) 'Concealable weapon' means a firearm having a length of less than twelve inches measured along its greatest dimension that may be carried openly on one's person or in a manner that is hidden from public view in normal wear of clothing except when needed for self defense, defense of others, and the protection of real or personal property."

Open carrying of weapons

SECTION 3. Section 16-23-20(9) of the 1976 Code is amended to read:

"(9) a person in a vehicle if the handgun is:

(a) secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle; however, this item is not violated if the glove compartment, console, or trunk is opened in the presence of a law enforcement officer for the sole purpose of retrieving a driver's license, registration, or proof of insurance. If the person has been issued a concealed weapon permit pursuant to Article 4, Chapter 31, Title 23, then the person also may secure his weapon under

a seat in a vehicle, or in any open or closed storage compartment within the vehicle's passenger compartment; or

(b) carried openly or concealed on or about his person, and he has a valid concealed weapons permit pursuant to the provisions of Article 4, Chapter 31, Title 23;"

Open carrying of weapons

SECTION 4. Section 23-31-220 of the 1976 Code is amended to read:

"Section 23-31-220. (A) Nothing contained in this article shall in any way be construed to limit, diminish, or otherwise infringe upon:

(1) the right of a public or private employer to prohibit a person who is licensed under this article from carrying a concealable weapon, whether concealed or openly carried, upon the premises of the business or work place or while using any machinery, vehicle, or equipment owned or operated by the business;

(2) the right of a private property owner or person in legal possession or control to allow or prohibit the carrying of a concealable weapon, whether concealed or openly carried, upon his premises.

(B) The posting by the employer, owner, or person in legal possession or control of a sign stating 'NO CONCEALABLE WEAPONS ALLOWED' shall constitute notice to a person holding a permit issued pursuant to this article that the employer, owner, or person in legal possession or control requests that concealable weapons, whether concealed or openly carried, not be brought upon the premises or into the work place. A person who brings a concealable weapon, whether concealed or openly carried, onto the premises or work place in violation of the provisions of this paragraph may be charged with a violation of Section 16-11-620. In addition to the penalties provided in Section 16-11-620, a person convicted of a second or subsequent violation of the provisions of this paragraph must have his permit revoked for a period of one year. The prohibition contained in this section does not apply to persons specified in Section 16-23-20, item (1).

(C) In addition to the provisions of subsection (B), a public or private employer or the owner of a business may post a sign regarding the prohibition or allowance on those premises of concealable weapons, whether concealed or openly carried, which may be unique to that business."

Open carrying of weapons

SECTION 5. Section 23-31-235 of the 1976 Code is amended to read:

"Section 23-31-235. (A) Notwithstanding any other provision of this article, any requirement of or allowance for the posting of signs prohibiting the carrying of a concealable weapon, whether concealed or openly carried, upon any premises shall only be satisfied by a sign expressing the prohibition in both written language interdict and universal sign language.

(B) All signs must be posted at each entrance into a building where a concealable weapon permit holder is prohibited from carrying a concealable weapon, whether concealed or openly carried, and must be:

(1) clearly visible from outside the building;

(2) eight inches wide by twelve inches tall in size;

(3) contain the words 'NO CONCEALABLE WEAPONS ALLOWED' in black one-inch tall uppercase type at the bottom of the sign and centered between the lateral edges of the sign;

(4) contain a black silhouette of a handgun inside a circle seven inches in diameter with a diagonal line that runs from the lower left to the upper right at a forty-five degree angle from the horizontal;

(5) a diameter of a circle; and

(6) placed not less than forty inches and not more than sixty inches from the bottom of the building's entrance door.

(C) If the premises where concealable weapons are prohibited does not have doors, then the signs contained in subsection (A) must be:

(1) thirty-six inches wide by forty-eight inches tall in size;

(2) contain the words 'NO CONCEALABLE WEAPONS ALLOWED' in black three-inch tall uppercase type at the bottom of the sign and centered between the lateral edges of the sign;

(3) contain a black silhouette of a handgun inside a circle thirty-four inches in diameter with a diagonal line that is two inches wide and runs from the lower left to the upper right at a forty-five degree angle from the horizontal and must be a diameter of a circle whose circumference is two-inches wide;

(4) placed not less than forty inches and not more than ninety-six inches above the ground;

(5) posted in sufficient quantities to be clearly visible from any point of entry onto the premises.

(D) Nothing in this section prevents a public or private employer or owner of a business from posting a sign regarding the prohibition or

allowance on those premises of concealable weapons, whether concealed or openly carried, which may be unique to that business."

Handgun education course

SECTION 6. Section 23-31-210(4)(a) of the 1976 Code is amended to read:

"(a) a person who, within three years before filing an application, successfully has completed a basic or advanced handgun education course offered by a state, county, or municipal law enforcement agency or a nationally recognized organization that promotes gun safety. This education course must include, but is not limited to:

(i) information on the statutory and case law of this State relating to handguns and to the use of deadly force;

(ii) information on handgun use and safety;

(iii) information on the proper storage practice for handguns with an emphasis on storage practices that reduces the possibility of accidental injury to a child;

(iv) the actual firing of the handgun in the presence of the instructor, provided that a minimum of twenty-five rounds must be fired;

(v) properly securing a firearm in a holster;

(vi) 'cocked and locked' carrying of a firearm;

(vii) how to respond to a person who attempts to take your firearm from your holster; and

(viii) deescalation techniques and strategies."

Church services

SECTION 7. Article 4, Chapter 31, Title 23 of the 1976 Code is amended by adding:

"Section 23-31-232. (A) Notwithstanding any other provision of law, upon express permission given by the appropriate church official or governing body, a person who holds a valid permit issued pursuant to this article may carry a concealable weapon, whether concealed or openly carried, on the leased premises of an elementary or secondary school if a church leases the school premises or areas within the school for church services or official church activities.

(1) The provisions contained in this section apply:

(a) only during those times that the church has the use and enjoyment of the school property pursuant to its lease with the school; and

(b) only to the areas of the school within the lease agreement, any related parking areas, or any reasonable ingress or egress between these areas.

(2) A school district may request that a church utilizing school property for its services disclose and notify the school district if persons are, or may be, carrying concealed weapons on the school property.

(3) The provisions of this section do not apply during any time students are present as a result of a curricular or extracurricular school-sponsored activity that is taking place on the school property.

(B) For the purposes of the Federal Gun-Free School Zone Act (18 U.S.C. Section 921(a)), the buildings and grounds of a school that are leased to a church are not considered a school during the hours that the church has the use and enjoyment of the school property pursuant to this section."

Open carrying of weapons

SECTION 8. Section 23-31-520 of the 1976 Code is amended to read:

"Section 23-31-520. (A) Notwithstanding another provision of law, a governing body of a county, municipality, or political subdivision may temporarily restrict the otherwise lawful open carrying of a firearm on public property when a governing body issues a permit to allow a public protest, rally, fair, parade, festival, or other organized event. However, if a permit is not applied for and issued prior to an event as described in this subsection, a county, municipality, or political subdivision may not exercise the provisions of this subsection. A person or entity hosting a public protest, rally, fair, parade, festival, or other organized event must post signs at the event when open carrying is allowed or not allowed at the event.

(B) A governing body exercising the authority granted to it pursuant to this section must be specific in the area, duration, and manner in which the restriction is imposed and must provide prior notice of the restriction when feasible. In no event may the restriction extend beyond the beginning and conclusion of the event or beyond the location of the event. The duration of an event may not be scheduled for such a length of time as to frustrate the intent of this section.

(C) A county, municipality, or political subdivision may not confiscate a firearm or ammunition for a violation of this section unless incident to an otherwise lawful arrest."

Concealed and open carrying of weapons

SECTION 9. A. Article 4, Chapter 31, Title 23 of the 1976 Code is amended by adding:

"Section 23-31-250. (A) The State of South Carolina, and its political subdivisions, cannot be compelled by the federal government to take any legislative or executive action to implement or enforce a federal law, treaty, executive order, rule, or regulation related to an individual's right to keep and bear arms enshrined in the Second Amendment to the United States Constitution that limits or proscribes carrying concealable weapons, whether concealed or openly carried, as provided in this chapter.

(B) Any federal law, treaty, executive order, rule, or regulation related to limiting or proscribing the carry of concealable weapons must be evaluated by the Attorney General. The Attorney General shall issue a written opinion of whether the law, treaty, executive order, rule, or regulation purports to compel legislative or executive action prohibited pursuant to subsection (A).

(C) If the Attorney General renders an opinion that a federal law, treaty, executive order, rule, or regulation purports to compel legislative or executive action prohibited pursuant to subsection (A), then:

(1) no public funds of this State, or any political subdivision of this State, shall be allocated for the implementation or enforcement of that federal law, treaty, executive order, rule, or regulation;

(2) no personnel or property of this State, or any political subdivision of this State, shall be allocated to the implementation or enforcement of that federal law, treaty, executive order, rule, or regulation; and

(3) no official, agent, or employee of the State of South Carolina, or any political subdivision of it, shall implement, attempt to implement, enforce, or attempt to enforce that federal law, treaty, executive order, rule, or regulation."

B. This SECTION takes effect upon approval by the Governor.

Disposition of cases

SECTION 10. A. Section 14-17-325 of the 1976 Code is amended to read:

"Section 14-17-325. (A) Every clerk of court shall report the disposition of each case in the Court of General Sessions to the State Law Enforcement Division within five days of disposition, weekends and holidays excluded.

(B) Every clerk of court shall also report to the State Law Enforcement Division, within five days, the issuance, rescission, or termination of any:

(1) criminal indictments;

(2) permanent restraining orders;

(3) orders of state firearms prohibition pursuant to Section 16-25-30; and

(4) other restraining orders, orders of protection, or other orders that prohibit a person from legally purchasing or possessing a firearm, but only upon being directed to transmit such orders by the appropriate judge. For any orders, the Court Administration must provide the form.

(C) The reporting required by this section must be in a format approved by the State Law Enforcement Division and Court Administration."

B. Chapter 1, Title 22 of the 1976 Code is amended by adding:

"Section 22-1-200. (A) Magistrates shall report the disposition of each criminal case to the State Law Enforcement Division within five days, weekends and holidays excluded.

(B) Magistrates shall also report to the State Law Enforcement Division, within five days, weekends and holidays excluded, the issuance, rescission, or termination of any:

(1) restraining orders and emergency restraining orders;

(2) magistrate court orders of protection from domestic abuse act orders;

(3) orders of state firearms prohibition pursuant to Section 16-25-30; and

(4) any other restraining orders, orders of protection, or other orders that prohibit a person from legally purchasing or possessing a firearm, but only upon being directed to transmit such orders by the appropriate magistrate. For any form orders provided by Court Administration that may require transmission pursuant to this

subsection, Court Administration shall include within the form order a checked box option that the magistrate may select, when appropriate, to order the clerk to transmit the appropriate information to SLED.

(C) The reporting required by this section must be in a format approved by the State Law Enforcement Division and Court Administration."

C. Article 1, Chapter 25, Title 14 of the 1976 Code is amended by adding:

"Section 14-25-250. (A) Each municipal judge shall report the disposition of each criminal case to the State Law Enforcement Division within five days, weekends and holidays excluded.

(B) A municipal judge shall also report to the State Law Enforcement Division, within five days, weekends and holidays excluded, the issuance, rescission, or termination of any:

(1) restraining orders and emergency restraining orders;

(2) municipal court orders of protection from domestic abuse act orders;

(3) orders of state firearms prohibition pursuant to Section 16-25-30; and

(4) any other restraining orders, orders of protection, or other orders that prohibit a person from legally purchasing or possessing a firearm, but only upon being directed to transmit such orders by the appropriate judge. For any form orders provided by Court Administration that may require transmission pursuant to this subsection, Court Administration shall include within the form order a checked box option that the judge may select, when appropriate, to order the clerk to transmit the appropriate information to SLED.

(C) The reporting required by this section must be in a format approved by the State Law Enforcement Division and Court Administration."

D. Article 5, Chapter 3, Title 63 of the 1976 Code is amended by adding:

"Section 63-3-545. (A) The clerk of the family court shall report to the State Law Enforcement Division, within five days, weekends and holidays excluded, the issuance, rescission, or termination of any:

(1) permanent restraining orders;

(2) family court orders of protection from domestic abuse act orders; or

(3) any other restraining orders, orders of protection, or other orders that prohibit a person from legally purchasing or possessing a firearm, including any and all orders referenced in Section 16-25-30, but only upon being directed to transmit such orders by the appropriate judge. For any form orders provided by Court Administration that may require transmission pursuant to this subsection, Court Administration shall include within the form order a checked box option that the judge may select when appropriate to order the clerk to transmit the appropriate information to SLED.

(B) The reporting required by this section must be made in a format approved by the State Law Enforcement Division and Court Administration."

E. The provisions of this SECTION take effect October 1, 2021.

Concealable weapons

SECTION 11. Section 23-31-240 of the 1976 Code is amended to read:

"Section 23-31-240. Notwithstanding any other provision contained in this article, the following persons who possess a valid permit pursuant to this article may carry a concealable weapon anywhere within this State:

(1) active Supreme Court justices;
(2) active judges of the court of appeals;
(3) active circuit court judges;
(4) active family court judges;
(5) active masters-in-equity;
(6) active probate court judges;
(7) active magistrates;
(8) active municipal court judges;
(9) active federal judges;
(10) active administrative law judges;
(11) active solicitors and assistant solicitors;
(12) active workers' compensation commissioners; and
(13) the Attorney General and assistant attorneys general."

Concealable weapon permit

SECTION 12. A. Section 23-31-215(A)(5), (6), and (7) of the 1976 Code is amended to read:

"(5) proof of training; and

(6) a complete set of fingerprints unless, because of a medical condition verified in writing by a licensed medical doctor, a complete set of fingerprints is impossible to submit. In lieu of the submission of fingerprints, the applicant must submit the written statement from a licensed medical doctor specifying the reason or reasons why the applicant's fingerprints may not be taken. If all other qualifications are met, the Chief of SLED may waive the fingerprint requirements of this item. The statement of medical limitation must be attached to the copy of the application retained by SLED. A law enforcement agency may charge a fee not to exceed five dollars for fingerprinting an applicant."

B. Section 23-31-215(C) of the 1976 Code is amended to read:

"(C) SLED shall issue a written statement to an unqualified applicant specifying its reasons for denying the application within ninety days from the date the application was received; otherwise, SLED shall issue a concealable weapon permit. If an applicant is unable to comply with the provisions of Section 23-31-210(4), SLED shall offer the applicant a handgun training course that satisfies the requirements of Section 23-31-210(4). SLED may not charge a fee of any kind for a concealable weapon permit. If a permit is granted by operation of law because an applicant was not notified of a denial within the ninety-day notification period, the permit may be revoked upon written notification from SLED that sufficient grounds exist for revocation or initial denial."

Severability clause

SECTION 13. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 14. This act takes effect ninety days after approval by the Governor.

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 67

(R83, H3222)

AN ACT TO AMEND SECTION 44-96-100, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING IN PART TO PENALTIES FOR VIOLATING WASTE TIRE REGULATIONS, SO AS TO CHANGE CERTAIN PENALTY REQUIREMENTS; TO AMEND SECTION 44-96-170, RELATING TO THE REGULATION OF WASTE TIRES, SO AS TO AUTHORIZE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO PROMULGATE REGULATIONS AND MAKE CERTAIN PERMITTING DECISIONS CONCERNING WASTE TIRE MANAGEMENT; AND FOR OTHER PURPOSES.

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

Violations of solid waste regulations

SECTION 1. Section 44-96-100(B) of the 1976 Code is amended to read:

"(B) A person who wilfully or with gross negligence or recklessness violates a permit, permit condition, or final determination or order of the department, or a regulation promulgated pursuant to this article regarding Sections 44-96-160(X), 44-96-170(H), or 44-96-190(A) is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars for each day of violation or imprisoned for not more than one year, or both. If the conviction is for a second or subsequent offense, the punishment must be a fine not to exceed twenty-five thousand dollars for each day of violation or imprisonment

not to exceed two years, or both. The provisions of the subsection do not apply to officials and employees of a local government owning or operating, or both, a municipal solid waste management facility or to officials and employees of a region, comprised of local governments, owning or operating, or both, a regional municipal solid waste management facility."

Waste tires

SECTION 2. Section 44-96-170(J) and (O) of the 1976 Code is amended to read:

"(J)(1) Not later than twelve months after this chapter is effective, the department shall promulgate regulations requiring all collectors, processors, recyclers, haulers, and disposers of waste tires to obtain a permit or registration issued by the department.

(2) The regulations promulgated pursuant to this subsection must set forth the requirements for the issuance, denial, suspension, and revocation of such permits or registrations.

(3) After the effective date of the regulations promulgated pursuant to this subsection, a person shall not collect, haul, recycle, or process waste tires unless that person has obtained a permit or registration from the department for that activity or, for an interim period to be determined by the department, is seeking a permit or registration from the department for that activity.

(4) To carry out the purposes and provisions of this section, the department is authorized to:

(a) promulgate such regulations, procedures, or standards as are necessary to protect human health and safety of the environment from the adverse effects of improper, inadequate, or unsound management of waste tires;

(b) issue, deny, suspend, revoke, or modify permits, registrations, or orders under such conditions as the department may prescribe, pursuant to procedures consistent with the South Carolina Administrative Procedures Act, for the management of waste tires; and

(c) conduct inspections and investigations, obtain records of waste tire processing, storage, or hauling activities, obtain samples, and conduct research regarding the operation and maintenance of any waste tire management facility.

(5)(a) The department shall suspend a waste tire processing facility from accepting waste tires when the department determines that the

permitted capacity at the facility is exceeded, and after the facility has been provided an opportunity to return to compliance.

(b) Once the department determines that the permitted capacity at the facility is exceeded, the department shall provide a written warning notice to the facility that the permitted capacity has been exceeded and provide seven calendar days to reduce the number of tires at the facility to the permitted limit.

(c) If after seven calendar days the facility has not reduced the number of tires at the facility to the permitted limit, the department will provide written notice to the facility requiring it to cease accepting tires and to reduce the quantity of waste tires and processed tires on-site to no more than eighty percent of the permitted capacity within twenty-one calendar days of receipt of the notice.

(d) If after the twenty-one-day period the facility fails to comply with the requirements of the written notice as verified by the department, the department shall suspend the facility's permit via written notice to the facility and shall remove the permitted facility from the Waste Tire Rebate Facility List pursuant to subsection (O).

(e) The suspension shall remain in effect until the facility has reduced the quantity of waste tires and processed tires on-site to no more than eighty percent of its permitted capacity, as determined by the facility, and verified by the department.

(f) The department shall lift the permit suspension and return the facility to the Waste Tire Rebate Facility List pursuant to the following:

(i) upon verification by the department that the facility has reduced the total quantity of waste tires and processed tires on-site to no more than eighty percent of its permitted capacity; and

(ii) if, upon referenced verification, the facility does not have any additional citations for material violations that remain unresolved.

(g) The permitted facility shall not receive additional waste tires at the facility until the facility has received written notification from the department that the permit suspension has been lifted. However, during the permit suspension, the permitted facility may continue to process tires and sell product.

(h) Each waste tire accepted by the facility during a suspension period shall be deemed a separate violation and may be deemed a wilful violation subject to the provisions of Section 44-96-100(B).

(O)(1) A wholesaler or retailer required to submit a fee pursuant to subsection (N) who delivers or arranges delivery of waste tires to a facility listed on the Waste Tire Rebate Facility List, may apply for a

refund of one dollar for each tire delivered. If waste tires generated in this State, on which a fee has been paid, are delivered to a waste tire facility located outside this State, a wholesaler or retailer may apply for a refund of one dollar per tire delivered if the receiving facility is listed on the Waste Tire Rebate Facility List; in no case may a refund be approved for a number of tires delivered in excess of the number of new tires sold by the individual wholesaler or retailer. Verification must be provided as required by the South Carolina State Department of Revenue. All refunds made pursuant to this subsection must be charged against the appropriate county's distributions under subsection (N).

(2) The department shall maintain the list of facilities known as the Waste Tire Rebate Facility List.

(3) The Waste Tire Rebate Facility List shall include department-permitted waste tire processing facilities that fulfill the requirements of a waste tire recycling facility, as defined in Section 44-96-40(68)(d), and facilities located outside of South Carolina that are permitted or approved by the host state and that also fulfill the requirements of a waste tire recycling facility, as defined in Section 44-96-40(68)(d).

(4) The department shall remove from the Waste Tire Rebate Facility List any facility whose permit has been revoked or suspended, until the permit has been reinstated by the department or host state."

Savings

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 68

(R84, H3354)

AN ACT TO AMEND SECTION 12-37-220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO EXEMPT A RENEWABLE ENERGY RESOURCE PROPERTY HAVING A NAMEPLATE CAPACITY OF AND OPERATING AT NO GREATER THAN TWENTY KILOWATTS, AND TO REMOVE PROVISIONS OF THE EXEMPTION FOR NONPROFIT HOUSING CORPORATIONS.

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

Property tax exemptions, renewable energy property

SECTION 1. Section 12-37-220(B) of the 1976 Code, as last amended by Act 145 of 2020, is further amended by adding an appropriately numbered item at the end to read:

"( ) a renewable energy resource property having a nameplate capacity of and operating at no greater than twenty kilowatts, as measured in alternating current. For purposes of this item, 'renewable energy resource' means property defined in Section 58-40-10. This definition includes, but is not limited to, all components that enhance the operational characteristics of the generating equipment, such as an advanced inverter or battery storage device, and equipment required to meet all applicable safety, performance, interconnection, and reliability standards established by the commission, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and

Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities."

Property tax exemption, nonprofit housing

SECTION 2. Section 12-37-220(B)(11)(e) of the 1976 Code, as last amended by Act 145 of 2020, is further amended to read:

"(e) all property of nonprofit housing corporations or instrumentalities of these corporations when the property is devoted to providing housing to low or very low income residents. A nonprofit housing corporation or its instrumentality must satisfy the safe harbor provisions of Revenue Procedure 96-32 issued by the Internal Revenue Service for this exemption to apply. For purposes of this subitem, property of nonprofit housing corporations or instrumentalities of these corporations includes all leasehold interests in property owned by an entity that provides housing accommodations to persons of low or very low income, and in which a wholly owned affiliate or wholly owned instrumentality of a nonprofit housing corporation is the general partner, managing member, or the equivalent. However, the exemption allowed by this subitem only applies if the property of nonprofit housing corporations or instrumentalities of these corporations satisfies the safe harbor provisions of Revenue Procedure 96-32 issued by the Internal Revenue Service;"

Time effective

SECTION 3. This act takes effect upon approval by the Governor and applies to property tax years beginning after 2020.

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 69

(R85, H3482)

AN ACT TO AMEND SECTION 12-45-75, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INSTALLMENT

PAYMENTS OF PROPERTY TAX, SO AS TO AUTHORIZE A COUNTY TO ESTABLISH AN ALTERNATIVE PAYMENT SCHEDULE.

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

Property tax installment payment schedule

SECTION 1. Section 12-45-75(B) of the 1976 Code is amended to read:

"(B)(1) An installment payment is based on the total property tax due for the previous property tax year, after applying all applicable credits and adjustments reflecting reduced value as determined by the county assessor. An amount equal to sixteen and two-thirds percent of the estimated property tax obligation must be paid to the county treasurer in each of five installments according to the following schedule:

In the case of the following estimates, the due date is on or before:

First	February 15
Second	April 15
Third	June 15
Fourth	August 15
Fifth	October 15

The remaining balance is due on or before January fifteenth of the following taxable year in accordance with Section 12-45-70. The treasurer must notify the county auditor of the amount of a property owner's payments received no earlier than October fifteenth and no later than November fifteenth. A notice of the remaining tax due and other authorized charges and information must then be prepared and mailed to the property owner.

(2) As an alternative to the scheduling provided for in item (1), the authorizing ordinance may provide the treasurer, tax collector, or other official charged with the collection of ad valorem property taxes in a county with the discretion in the scheduling and collection of installment payments from taxpayers as well as in the application process provided for in subsection (A)(2)."

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 70

(R86, H3505)

AN ACT TO AMEND SECTION 56-3-627, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE INFRASTRUCTURE MAINTENANCE FEE ASSESSED AGAINST VEHICLES OR OTHER ITEMS UPON THEIR FIRST REGISTRATION, SO AS TO PROVIDE THIS FEE ALSO APPLIES TO THE FIRST TITLING OF VEHICLES, OTHER ITEMS, TRAILERS, OR SEMITRAILERS BY OWNERS OR LESSEES, TO PROVIDE THE DEPARTMENT OF MOTOR VEHICLES MAY NOT ISSUE TITLES UNTIL THE FEES HAVE BEEN COLLECTED, TO PROVIDE IF DEALERS DO NOT LICENSE, TITLE, OR REGISTER ITEMS, THE CUSTOMERS MUST PAY THE FEES TO THE DEPARTMENT OF MOTOR VEHICLES WHEN TITLING OR REGISTERING VEHICLES, TO PROVIDE IF THE LESSEE PURCHASES A VEHICLE HE ORIGINALLY LEASED AND THE REGISTRANT OF THE VEHICLE REMAINS THE SAME, THE PERSON DOES NOT OWE AN ADDITIONAL INFRASTRUCTURE MAINTENANCE FEE, TO PROVIDE ITEMS TRANSFERRED TO AN INSURER FOR THE PURPOSE OF APPLYING FOR SALVAGE TITLES ARE EXCLUDED FROM IMPOSITION OF FEES, TO PROVIDE FEES MUST BE ASSESSED AGAINST AN OWNER OR LESSEE WHO FIRST TITLES AN ITEM IN ANOTHER STATE AND SUBSEQUENTLY REGISTERS THE ITEM IN THIS STATE, AND TO PROVIDE THE FEES MAY NOT BE IMPOSED IF THE OWNER OR LESSEE OF THE ITEMS IS SERVING ON ACTIVE MILITARY DUTY; AND TO AMEND SECTION 56-3-645, RELATING TO THE ROAD USE FEES IMPOSED UPON OWNERS OF VEHICLES NOT POWERED EXCLUSIVELY BY MOTOR FUELS, SO AS TO PROVIDE THE FEES MUST BE COLLECTED AT THE TIME VEHICLES ARE TITLED OR REGISTERED.

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

Infrastructure maintenance fee

SECTION 1. Section 56-3-627(A),(B),(C), and (D) of the 1976 Code is amended to read:

"(A) In order to account for the necessary road maintenance caused by each item traversing the roads of this State, in addition to the registration fees imposed by this chapter, the owner or lessee of each vehicle or other item that is required to be registered pursuant to this chapter must pay an infrastructure maintenance fee upon first titling or registering the vehicle or other item. Also, the owner or lessee of each trailer or semitrailer must pay the fee upon first titling or registering the trailer or semitrailer. The Department of Motor Vehicles may not issue a title or registration until the infrastructure maintenance fee has been collected. The infrastructure maintenance fee must be credited to the Infrastructure Maintenance Trust Fund.

(B) If upon purchasing or leasing the item from a dealer, the owner or lessee first registers the item in this State, then the fee equals five percent, not to exceed five hundred dollars, of the gross proceeds of sales, or sales price, as those terms are defined in Chapter 36, Title 12. If the dealer holds a South Carolina retail license or offers to license, title, or register the item, then the dealer must collect the fee and remit it to the Department of Motor Vehicles. If the dealer does not license, title, or register the item, the customer must pay the infrastructure maintenance fee to the department when titling or registering the vehicle.

(C)(1) If upon purchasing or leasing the item from a person other than a dealer, the owner or lessee first registers the item in this State, then the fee equals five percent, not to exceed five hundred dollars, of the fair market value of the item. If the lessee purchases the vehicle he originally leased and the registrant of the vehicle remains the same, the person does not owe an additional infrastructure maintenance fee.

(2) Excluded from the fee imposed pursuant to this subsection are:

(a) items transferred:

(i) to members of the immediate family;

(ii) to a legal heir, legatee, or distributee;

(iii) from an individual to a partnership upon formation of a partnership, or from a stockholder to a corporation upon formation of a corporation;

(iv) to a licensed motor vehicle or motorcycle dealer for the purpose of resale;

(v) to a financial institution for the purpose of resale;

(vi) as a result of repossession to any other secured party, for the purpose of resale;

(vii) to an insurer for the purpose of applying for a salvage title;

(b) the fair market value of an item transferred to the seller or secured party in partial payment;

(c) gross proceeds of transfers of items specifically exempted by Section 12-36-2120 from the sales or use tax;

(d) items where a sales or use tax has been paid on the transaction necessitating the transfer.

(3) The Department of Motor Vehicles shall require every applicant for a certificate of title to supply information it considers necessary as to the time of purchase, the purchase price, and other information relative to the determination of fair market value. If the fee is based upon total purchase price as defined in this subsection, the department shall require a submission of a bill of sale and the signature of the owner subject to the perjury statutes of this State.

(4) For purposes of this subsection:

(a) 'Fair market value' means the total purchase price less any trade-in, or the valuation shown in a national publication of used values adopted by the department, less any trade-in.

(b) 'Immediate family' means spouse, parents, children, sisters, brothers, grandparents, and grandchildren.

(c) 'Total purchase price' means the price of an item agreed upon by the buyer and seller with an allowance for a trade-in, if applicable.

(D)(1) If upon purchasing or leasing the item, the owner or lessee first titles or registers the item in another state, and subsequently registers the item in this State, then the fee equals two hundred fifty dollars.

(2) This subsection does not apply if the owner or lessee of the item is serving on active duty in the Armed Forces of the United States. The exclusion allowed by this item also extends to items owned by the spouse or dependent of a person serving on active duty in the Armed Forces of the United States.

(3) Notwithstanding any other provision of this section, until after December 31, 2022, the revenue collected pursuant to this subsection must be credited to the Safety Maintenance Account established pursuant to Section 11-11-240. After December 31, 2022, the revenue collected pursuant to this subsection must be credited to the Infrastructure Maintenance Trust Fund."

Road use fee

SECTION 2. Section 56-3-645(C) of the 1976 Code is amended to read:

"(C) The Department of Motor Vehicles shall collect this fee at the same time as the vehicle subject to the fee is titled or registered."

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 71

(R87, H3539)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 47-4-65 SO AS TO PROHIBIT THE TRANSPORTATION OF LIVE SWINE ON A PUBLIC ROAD OR WATERWAY WITHOUT AN OFFICIAL FORM OF IDENTIFICATION, AND TO PROVIDE AN EXCEPTION AND PENALTIES; TO AMEND SECTION 50-16-25, RELATING TO THE UNLAWFUL RELEASE OF PIGS, SO AS TO PROVIDE THAT IT IS UNLAWFUL TO TRANSPORT A LIVE MEMBER OF THE FAMILY SUIDAE TAKEN FROM THE WILD; AND TO REPEAL SECTION 50-9-655 RELATING TO PIG TRANSPORT AND RELEASE PERMITS.

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

Transport of live swine without identification prohibited

SECTION 1. Chapter 4, Title 47 of the 1976 Code is amended by adding:

"Section 47-4-65. (A) It is unlawful to transport live swine on a public road or waterway within the State unless the swine have an official form of identification approved by the State Veterinarian and are transported in such a way that the swine is visible. Live swine transported without identification are presumed to have been taken from the wild and in violation of Section 50-16-25.

(B) It is unlawful for a person to misuse or alter a permit, tag, or other form of identification or attempt to obtain a permit, tag, or form of identification by fraud or misrepresentation. A person is deemed to have misused identification by using the identification that was not assigned to them or assigned to another owner, knowingly providing identification to a person other than the owner of the swine, or by engaging in any other activity to circumvent the provisions of this section.

(C) Absent an official form of identification, it is unlawful to transport live swine on a public road or waterway within this State unless accompanied by a document that may be presented in lieu of an official form of identification, including a dated bill of lading, invoice, receipt, bill of sale, or similar document showing the quantity of swine to be sold or transported and the name of the wholesale producer or dealer from whom the live swine were purchased or received.

(D) Live swine that do not leave the premises of the swine owner are not subject to the identification requirement.

(E) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, is subject to the penalty prescribed in Section 47-4-130. Each violation constitutes a separate offense.

(F) Notwithstanding Chapter 3, Title 22, magistrates court has jurisdiction over actions arising under this section."

Transport of swine taken from the wild prohibited

SECTION 2. Section 50-16-25 of the 1976 Code is amended to read:

"Section 50-16-25. (A) It is unlawful to:

(1) import, possess, buy, sell, offer for sale, transfer, or transport a live member of the family Suidae (pig) taken from the wild; or

(2) release a live member of the family Suidae (pig) into the wild.

(B) Each pig imported, bought, sold, offered for sale, possessed, transferred, transported, or released in violation of this section constitutes a separate offense.

(C) The department may seize and destroy any pig obtained pursuant to this section."

Transport and release permits repealed

SECTION 3. Section 50-9-655 of the 1976 Code is repealed.

Time effective

SECTION 4. This act takes effect upon approval by the Governor and is repealed on July 1, 2024.

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 72

(R88, H3541)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 48-35-55 SO AS TO PROVIDE THAT THE REGULATION OF FIRES BY THE STATE FORESTER DOES NOT APPLY TO FIRES USED FOR THE PREPARATION OF FOOD OR FIRES USED IN APPROPRIATE ENCLOSURES; AND TO AMEND SECTION 48-23-96, RELATING TO THE APPOINTMENT OF LAW ENFORCEMENT OFFICERS TO CARRY OUT THE ENFORCEMENT RESPONSIBILITIES OF THE COMMISSION, SO AS TO ALLOW FOR THE ISSUANCE OF WARNING TICKETS.

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

Fire regulation exemptions

SECTION 1. Chapter 35, Title 48 of the 1976 Code is amended by adding:

"Section 48-35-55. Except as otherwise provided by law, the provisions of this chapter do not apply to a fire used for the preparation of food for immediate consumption, or fires burned in portable outdoor

fireplaces, chimineas, or permanent fire pits constructed of stone, masonry, metal, or other noncombustible material that conforms with all applicable South Carolina fire codes so long as a person has cleared around the area to be burned and has immediately available sufficient equipment and personnel to adequately secure the fire and prevent its spread."

State Forestry Commission, warning tickets

SECTION 2. Section 48-23-96 of the 1976 Code is amended to read:

"Section 48-23-96. (A) The State Forestry Commission shall appoint law enforcement officers whose terms of office must be permanent unless revoked by the commission. Officers may be removed by the commission on proof satisfactory to it that they are not fit persons for these commissions. These officers shall carry out the law enforcement responsibilities of the commission.

(B) The officers appointed by the State Forestry Commission may issue a written warning ticket on a form approved by the State Forestry Commission, as appropriate, in their discretion."

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 73

(R89, H3545)

AN ACT TO AMEND SECTION 51-7-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEPARTMENT OF PARKS, RECREATION AND TOURISM'S AUTHORITY TO CONSTRUCT STREETS AND ROADS THROUGH HUNTING ISLAND, SO AS TO REMOVE REFERENCES TO RESIDENTIAL AREAS; TO AMEND SECTION 51-7-70, RELATING TO THE PAYMENT OF REVENUE OBLIGATIONS,

SO AS TO REMOVE CERTAIN ACTIONS THE DEPARTMENT MAY UNDERTAKE TO SECURE PAYMENT OF OBLIGATIONS; AND TO REPEAL SECTION 51-7-20 RELATING TO LEASES OF RESIDENTIAL AREAS ON HUNTING ISLAND.

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

Hunting Island, residential references removed

SECTION 1. Section 51-7-30 of the 1976 Code is amended to read:

"Section 51-7-30. The department may construct and maintain streets and roads throughout the island. It also may construct and operate a water supply system within the island."

Hunting Island, residential area revenues

SECTION 2. Section 51-7-70 of the 1976 Code is amended to read:

"Section 51-7-70. In order to secure the payment of any obligations issued pursuant to the provisions of this chapter and such interest as may accrue thereon, the department may:

(1) Pledge all or any part of its revenues derived from the operation of said island or any facility or service furnished by it on said island; and

(2) Enter into any covenant and do any and all acts and things necessary or desirable to secure its obligations or which, in the discretion of the department, tend to make the obligations more marketable, notwithstanding that such covenant may restrict or interfere with the exercise of the powers herein granted, it being the intention hereof to give to the department power to do all things in the issuance of bonds for their security that a private business corporation could do under the general laws of this State."

Hunting Island, residential leases repealed

SECTION 3. Section 51-7-20 of the 1976 Code is repealed.

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 74

(R90, H3605)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY REPEALING SECTION 11-11-90 RELATING TO MEETINGS OF APPROPRIATION COMMITTEES.

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

Repeal

SECTION 1. Section 11-11-90 of the 1976 Code is repealed.

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 75

(R91, H3694)

AN ACT TO AMEND SECTION 50-11-430, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO BEAR HUNTING, SO AS TO AUTHORIZE THE DEPARTMENT OF NATURAL

RESOURCES TO DETERMINE AN APPROPRIATE QUOTA OF BEARS TO BE HARVESTED IN EACH GAME ZONE AND TO REQUIRE A BEAR TAG FOR ANY BEAR TAKEN IN THIS STATE; AND BY ADDING SECTION 50-11-450 SO AS TO ALLOW FOR THE USE OF UNPROCESSED BAIT WHEN HUNTING ON PRIVATE LAND IN GAME ZONE 4.

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

Quota of bears to be harvested

SECTION 1. Section 50-11-430(B) of the 1976 Code is amended to read:

"(B) In Game Zones 2, 3, and 4 where the department declares an open season, the department shall determine an appropriate quota of bear to be harvested in each game zone, or county within a game zone, and shall further promulgate regulations necessary to properly control the harvest of bear. The department may close an open season at any time, provided that the department gives at least twenty-four hours' notice to the public of the closure."

Bear tag required

SECTION 2. Section 50-11-430(D) of the 1976 Code is amended to read:

"(D) Any bear taken must be tagged with a valid bear tag and reported by midnight of the day of the harvest to the department as prescribed. The tag must be attached to the bear as prescribed by the department before being moved from the point of kill."

Unprocessed bait authorized in Game Zone 4

SECTION 3. Article 3, Chapter 11, Title 50 of the 1976 Code is amended by adding:

"Section 50-11-450. (A) For the purposes of this section, 'unprocessed bait' means any natural food item harvested from a plant crop that is not modified from its raw components. Unprocessed bait includes unmodified grains, fruits, nuts, and vegetables.

(B) Notwithstanding Section 50-11-430(E)(8) and Section 50-11-440, a person may take a bear with the aid or use of unprocessed bait, including over an area with unprocessed bait, on private land in Game Zone 4."

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 76

(R92, H3786)

AN ACT TO AMEND SECTION 1-1-1210, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ANNUAL SALARIES OF STATE CONSTITUTIONAL OFFICERS, SO AS TO PROVIDE THAT BEGINNING WITH FISCAL YEAR 2022-2023 SALARIES FOR CERTAIN STATE CONSTITUTIONAL OFFICERS MUST BE BASED ON RECOMMENDATIONS BY THE AGENCY HEAD SALARY COMMISSION TO THE GENERAL ASSEMBLY; TO AMEND SECTION 8-11-160, RELATING TO THE AGENCY HEAD SALARY COMMISSION AND SALARY INCREASES FOR AGENCY HEADS, SO AS TO PROVIDE THAT THE AGENCY HEAD SALARY COMMISSION MUST MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY FOR THE SALARIES FOR CERTAIN CONSTITUTIONAL OFFICERS; AND TO AMEND SECTION 8-11-165, RELATING TO SALARY AND FRINGE BENEFIT SURVEYS, SO AS TO PROVIDE THAT SALARY SURVEYS BE CONDUCTED FOR CERTAIN CONSTITUTIONAL OFFICERS.

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

Salaries of certain constitutional officers

SECTION 1. Section 1-1-1210 of the 1976 Code, as last amended by Act 178 of 2018, is further amended to read:

"Section 1-1-1210. (A) The annual salaries of the state officers listed below are:

Governor	$98,000
Lieutenant Governor	43,000
Secretary of State	85,000
State Treasurer	85,000
Attorney General	85,000
Comptroller General	85,000
Superintendent of Education	85,000
Adjutant General	85,000
Commissioner of Agriculture	85,000

(B) These salaries must be increased by two percent on July 1, 1991, and on July first of each succeeding year through July 1, 1994.

(C) A state officer whose salary is provided in this section may not receive compensation for ex officio service on any state board, committee, or commission.

(D) Beginning with Fiscal Year 2022-2023, and beginning when the state officer's term commences and lasting until the term concludes, with the exception of the Governor and Lieutenant Governor, salaries for the state officers listed in subsection (A) must be based on recommendations by the Agency Head Salary Commission to the General Assembly as provided in Sections 8-11-160 and 8-11-165."

Agency Head Salary Commission recommendations

SECTION 2. Section 8-11-160 of the 1976 Code is amended to read:

"Section 8-11-160. (A) All boards and commissions are required to submit justification of an agency head's performance and salary recommendations to the Agency Head Salary Commission.

(B) This commission consists of four appointees of the chairman of the House Ways and Means Committee, four appointees of the chairman of the Senate Finance Committee, and three appointees of the Governor with experience in executive compensation.

(C) Beginning with Fiscal Year 2022-2023:

(1) salaries for the term of state officers listed in Section 1-1-1210(A), with the exception of the Governor and Lieutenant

Governor, must be based on recommendations by the Agency Head Salary Commission to the General Assembly; and

(2) the Agency Head Salary Commission shall authorize a study be conducted every four years to recommend a salary range for each state constitutional officer, with the exception of the Governor and Lieutenant Governor, based on their job duties and responsibilities as well as the pay of state constitutional officers in other states.

(D) Salary increases for agency heads must be based on recommendations by each agency board or commission to the Agency Head Salary Commission and their recommendations to the General Assembly."

Agency Head Salary Commission study

SECTION 3. Section 8-11-165 of the 1976 Code is amended to read:

"Section 8-11-165. (A) It is the intent of the General Assembly that:

(1) A salary and fringe benefit survey for agency heads must be conducted by the State Fiscal Accountability Authority every four years. The staff of the authority shall serve as the support staff to the Agency Head Salary Commission.

(2) Beginning with the Fiscal Year 2022-2023 and every four years thereafter, the Agency Head Salary Commission shall commission a study to recommend a salary range for the term of each state constitutional officer listed in Section 1-1-1210, with the exception of the Governor and Lieutenant Governor, based on each state constitutional officer's job duties and responsibilities as well as the pay of other state constitutional officers in other states. The commission shall then determine a salary for the term of each such state constitutional officer within the recommended pay range subject to funding being provided in the annual appropriations act.

(B) No employee of agencies reviewed by the Agency Head Salary Commission may receive a salary in excess of ninety-five percent of the midpoint of the agency head salary range or the agency head actual salary, whichever is greater, except on approval of the Director of the Division of State Human Resources at the Department of Administration, and except for employees of higher education technical colleges, colleges, and universities.

(C) The Agency Head Salary Commission may recommend to the General Assembly that agency head salaries be adjusted to the minimum of their salary ranges and may recommend to the board that agency head salaries be adjusted when necessary up to the midpoints of their

respective salary ranges. These increases must be based on criteria developed and approved by the Agency Head Salary Commission.

(D) All new members appointed to a governing board of an agency where the performance of the agency head is reviewed and ranked by the Agency Head Salary Commission shall attend the training in agency head performance appraisal provided by the commission within the first year of their appointment unless specifically excused by the chairman of the Agency Head Salary Commission."

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 77

(R93, H3865)

AN ACT TO AMEND SECTION 50-21-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO WATERCRAFT LAWS AND ORDINANCES, SO AS TO PROHIBIT A LOCAL GOVERNMENT FROM ADOPTING AN ORDINANCE RELATING TO WATERCRAFT OR WATER DEVICES USED OR HELD FOR USE ON THE WATERS OF THIS STATE AND TO PROVIDE EXCEPTIONS.

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

Watercraft laws, local ordinances

SECTION 1. Section 50-21-30 of the 1976 Code is amended to read:

"Section 50-21-30. (A) For the purposes of this section, 'floating structure' means a man-made object other than a watercraft that is capable of flotation and that is not authorized by a permit issued by an agency of this State.

(B) The provisions of Title 50 and other applicable laws of this State shall govern the operation, equipment, titling, numbering, and all other matters relating thereto for watercraft and water devices using or held for use on the waters of this State. A local government may not adopt an ordinance regulating watercraft or water devices used or held for use on the waters of this State unless the ordinance is:

(1) identical to a provision of this chapter;

(2) identical to a regulation promulgated under the authority of a provision of this chapter; or

(3) authorized pursuant to the provisions of this section.

(C)(1) A local government may adopt an ordinance requiring a permit for a watercraft or floating structure to remain moored, anchored, or otherwise located in any one five-mile radius on public waters within its local jurisdiction for more than fourteen consecutive days. The cost of a permit required by a local government may not exceed fifteen dollars. An ordinance adopted pursuant to this subsection must not apply to watercraft:

(a) moored to a dock or marina berth with permission from the dock or berth owner;

(b) moored to a mooring buoy that is permitted by the Department of Health and Environmental Control with permission from the buoy owner; or

(c) moored to a mooring buoy with permission from the buoy owner, provided that the buoy is in the location as it existed on public waters on June 30, 2021.

(2) Notwithstanding Section 5-7-140(B), the corporate limits of any municipality bordering on the high-water mark of a navigable body of water, other than the Atlantic Ocean, are extended to the center of the channel of the navigable body of water for the sole purpose of enforcing an ordinance adopted pursuant to this subsection.

(D) An officer of the department who reasonably believes that watercraft within a local government's jurisdiction is in violation of an ordinance adopted pursuant to the provisions of this section must provide the location of the watercraft to the local government.

(E) The department is hereby authorized to make special rules and regulations with reference to the operation of watercraft on the waters of this State."

Time effective

SECTION 2. This act takes effect on July 1, 2021.

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 78

(R94, H3884)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-23-125 SO AS TO AUTHORIZE THE DEPARTMENT OF NATURAL RESOURCES TO TRANSMIT CERTAIN DOCUMENTS ELECTRONICALLY FOR A CERTIFICATE OF TITLE, TO ALLOW FOR THE COLLECTION OF AN ELECTRONIC TRANSMISSION FEE, AND TO REQUIRE THE USE OF AN ELECTRONIC LIEN SYSTEM FOR BUSINESSES AND LENDERS ENGAGED IN THE SALE OF WATERCRAFT AND OUTBOARD MOTORS OR THE FINANCING OF WATERCRAFT OR OUTBOARD MOTORS; AND TO AMEND SECTION 50-23-140, RELATING TO THE PRIORITY AND VALIDITY OF LIENS UPON A CERTIFICATE OF TITLE FOR A WATERCRAFT OR OUTBOARD MOTOR, SO AS TO ALLOW FOR THE RETENTION OR DISCHARGE OF A LIEN ELECTRONICALLY.

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

Watercraft title, electronic transmission

SECTION 1. Article 1, Chapter 23, Title 50 of the 1976 Code is amended by adding:

"Section 50-23-125. (A) In lieu of paper documents, the department is authorized to transmit and receive the following information through secure electronic means for a certificate of title:

(1) the title for a watercraft or outboard motor with any liens or security interests;

(2) to the first lienholder on the title, the addition of subsequent liens; and

(3) the discharge of a security interest or lien from a lienholder on the title.

The certificate of title record must contain the same information noted on a paper certificate of title. Upon receipt of the discharge of the final lien, a clear title must be printed and conveyed to the owner at the address on file with the department. The provisions of this section do not alter the priority of lienholders and encumbrances against a certificate of title. A duly certified copy of the department's electronic record of the lien is admissible in a civil, criminal, or administrative proceeding as evidence of existence of the lien.

(B) The department is authorized to collect an electronic transaction fee not to exceed five dollars for each transaction from commercial parties who transmit or retrieve data from the department pursuant to this section. The fee collected by the department is an official fee and must be used to defray the expenses of the electronic lien program.

(C) Notwithstanding Sections 37-2-202 and 37-3-202, commercial entities and lenders who transmit or receive data from the department pursuant to the provisions of this section may collect an electronic transfer fee not to exceed five dollars for each transaction from the owners of watercraft or outboard motors. A fee charged by the department related to a titled watercraft or outboard motor for the purposes of transmittal or retrieval of this data is deemed an official fee as referenced in Sections 37-2-202 and 37-3-202.

(D) All businesses and commercial lenders who are regularly engaged in the business or practice of selling watercraft or outboard motors as a licensed dealer pursuant to this chapter or in the business or practice of financing watercraft or outboard motors shall utilize the electronic lien system to transmit and retrieve electronic lien information. The department shall maintain contact information on its website for service providers utilizing an electronic interface between the department, lienholders, and sellers of watercraft or outboard motors. The department must establish procedures to ensure compliance with the use of the electronic lien system and provide for valid exceptions as determined by the department."

Watercraft lien, electronic retention and discharge

SECTION 2. Section 50-23-140(a) and (b) of the 1976 Code is amended to read:

"(a) If a lien or encumbrance is first created at the time of transfer, the certificate of title must be retained by or delivered to the lienholder or retained electronically or delivered to the lienholder electronically. All liens, mortgages, and encumbrances noted upon a certificate of title take priority according to the order of time in which they are noted on it by the department. All such liens, mortgages, and encumbrances must be valid as against the creditors of the owner of a watercraft or outboard motor, whether armed with process or not, and against subsequent purchasers of any such watercraft or outboard motor, or against holders of subsequent liens, mortgages, or encumbrances upon the watercraft or outboard motor.

(b) When a lien is discharged, the holder shall note that fact on the face of the certificate of title or discharge the lien electronically through the system prescribed by the department. If the lienholder holds a paper certificate of title, within thirty days of discharging the lien, the holder shall present it to the department."

Savings clause

SECTION 3. The amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Time effective

SECTION 4. This act takes effect on July 1, 2022.

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 79

(R95, H3899)

AN ACT TO AMEND SECTION 12-6-3790, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE EXCEPTIONAL NEEDS CHILD TAX CREDIT, SO AS TO INCREASE THE AMOUNT THE PUBLIC CHARITY MAY EXPEND FOR ADMINISTRATION COSTS TO FIVE PERCENT, TO ALLOW THE FUND AND INDIVIDUALS TO CARRY FORWARD CREDITS AND INCREASE THE AMOUNT A TAXPAYER MAY CLAIM AS A PERCENTAGE OF TAX LIABILITY, TO REMOVE A PROVISION THAT REQUIRES A SCHOOL TO PROVIDE CERTAIN INDIVIDUAL STUDENT TEST SCORES IN ITS APPLICATION, AND TO INCREASE THE CREDIT AUTHORIZATION AMOUNTS AMONG CREDITS SO LONG AS THE TOTAL AUTHORIZATION AMOUNT IS NOT EXCEEDED.

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

Exceptional Needs credit, costs

SECTION 1. Section 12-6-3790(B) of the 1976 Code, as added by Act 247 of 2018, is amended to read:

"(B)(1) There is created the 'Educational Credit for Exceptional Needs Children's Fund' that is separate and distinct from the state general fund. The fund must be organized as a public charity as defined by the Internal Revenue Code under Section 509(a)(1) through (4) and consist only of contributions made to the fund. The fund may not receive an appropriation of public funds. The fund must receive and hold all

contributions intended for it as well as all earnings until disbursed as provided in this section. Monies received in the fund must be used to provide scholarships to exceptional needs children attending eligible schools.

(2) The amounts on deposit in the fund do not constitute public funds and are not the property of the State. Amounts on deposit in the fund may not be commingled with public funds, and the State does not have a claim to or interest in the amounts on deposit. Agreements or contracts entered into by or on behalf of the fund do not constitute a debt or obligation of the State.

(3) The public charity disbursing contributions made to the fund is governed by five directors, two appointed by the Chairman of the House Ways and Means Committee, two appointed by the Chairman of the Senate Finance Committee, and one appointed by the Governor. The directors of the public charity shall designate an executive director of the public charity.

(4) The public charity directors shall administer the public charity including, but not limited to, the keeping of records, the management of accounts, and disbursement of the grants awarded pursuant to this section. The public charity may expend up to five percent of the fund for administration and related costs. The public charity may not expend public funds to administer the program. Information contained in or produced from a tax return, document, or magnetically or electronically stored data utilized by the Department of Revenue or the public charity in the exercise of its duties as provided in this section must remain confidential and is exempt from disclosure pursuant to the Freedom of Information Act. Personally identifiable information, as described in the Family Educational Rights and Privacy Act and individual health records, or the medical or wellness needs of children applying for or receiving grants must remain confidential and is not subject to disclosure pursuant to the Freedom of Information Act.

(5) By January fifteenth of each year, the public charity shall report to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and the Governor:

(a) the number and total amount of grants issued to eligible schools in each year;

(b) the identity of the school and the amount of the grant for each grant issued to an eligible school in each year;

(c) an itemized and detailed explanation of fees or other revenues obtained from or on behalf of an eligible school;

(d) a copy of a compilation, review, or audit of the fund's financial statements, conducted by a certified public accounting firm; and

(e) the criteria and eligibility requirements for scholarship awards."

Exceptional Needs credit, carry forward

SECTION 2. A. Section 12-6-3790(D)(1)(a) of the 1976 Code, as added by Act 247 of 2018, is amended to read:

"(a) Tax credits authorized by subsection (H)(1) and subsection (I) annually may not exceed cumulatively a total of twelve million dollars for contributions to the Educational Credit for Exceptional Needs Children's Fund, unless an increased limit is authorized in the annual general appropriations act. However, the fund may carry forward up to five million dollars of donations into the next year to provide credits in the next year. This carryforward amount does not in any way increase the cumulative tax credit amount set forth in this item for any one year."

B. Section 12-6-3790(D)(2)(b) of the 1976 Code, as added by Act 247 of 2018, is amended to read:

"(b) A taxpayer may not claim more than seventy-five percent of his total tax liability for the year in contribution toward the tax credit authorized by subsection (H)(1) or subsection (I). This credit is nonrefundable. Any unused credit may be carried forward three tax years after the tax year in which the qualified contribution is first eligible to be claimed."

Exceptional Needs credit, test score reporting

SECTION 3. Section 12-6-3790(E)(1)(b) of the 1976 Code, as added by Act 247 of 2018, is amended to read:

"(b) student test scores, by category, on national achievement or state standardized tests, or both, for all grades tested and administered by the school receiving or entitled to receive scholarship grants pursuant to this section in the previous school year;"

Exceptional Needs credit, maximum authorization

SECTION 4. Section 12-6-3790(D)(1) of the 1976 Code, as added by Act 247 of 2018, is amended to read:

"(1)(a) Tax credits authorized by subsection (H)(1) and subsection (I) annually may not exceed cumulatively a total of twelve million dollars for contributions to the Educational Credit for Exceptional Needs Children's Fund, unless an increased limit is authorized in the annual general appropriations act.

(b) Tax credits authorized pursuant to subsection (H)(2) annually may not exceed cumulatively a total of two million dollars for tuition payments made on behalf of qualifying students, unless an increased limit is authorized in the annual general appropriations act. However, if less than the maximum cumulative total of tax credits allowed pursuant to subitem (a) are authorized, then, the maximum cumulative total of tax credits allowed pursuant to this subitem may be increased by up to three million dollars, but the cumulative total of all tax credits authorized pursuant to this section may not be increased as a result.

(c) If the department determines that the total of the credits claimed by all taxpayers exceeds either limit amount as contained in subitems (a) or (b), it shall allow credits only up to those amounts on a first come, first-served basis."

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 80

(R96, H3991)

AN ACT TO AMEND SECTION 16-17-680, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERMITS TO PURCHASE NONFERROUS METALS, TRANSPORTATION

AND SALE OF NONFERROUS METALS, AND VARIOUS OFFENSES ASSOCIATED WITH NONFERROUS METALS, SO AS TO INCLUDE IN THE PURVIEW OF THE STATUTE PROCEDURES FOR THE LAWFUL PURCHASE, SALE, AND POSSESSION OF USED, DETACHED CATALYTIC CONVERTERS OR ANY NONFERROUS PART OF ONE UNLESS PURCHASED, SOLD, OR POSSESSED UNDER CERTAIN DELINEATED CIRCUMSTANCES, AND TO PROVIDE INCREASED AND TIERED PENALTIES FOR UNLAWFUL CONDUCT RELATED TO CATALYTIC CONVERTERS.

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

Nonferrous metals, catalytic converters, lawful and unlawful conduct, penalties

SECTION 1. Sections 16-17-680(G), (I), and (J) of the 1976 Code are amended to read:

"(G)(1) It is unlawful to transport nonferrous metals in a vehicle or have nonferrous metals in a person's possession.

(2) Subsection (G)(1) does not apply if:

(a) the person can present a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C); or

(b) the person can present a valid bill of sale for the nonferrous metals.

(3) If a law enforcement officer determines that one or more of the exceptions listed in subsection (G)(2) applies, or the law enforcement officer determines that the nonferrous metals are not stolen goods and are in the rightful possession of the person, the law enforcement officer shall not issue a citation for a violation of this subsection.

(4) A person who violates a provision of subsection (G)(1):

(a) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days;

(b) for a second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than one year, or both; and

(c) for a third or subsequent offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both. For an offense to be

considered a third or subsequent offense, only those offenses that occurred within a period of ten years, including and immediately preceding the date of the last offense, shall constitute a prior offense within the meaning of this subsection.

(5) If a person transports nonferrous metals that the person knows are stolen in a vehicle or has in the person's possession nonferrous metals that the person knows are stolen, is operating a vehicle used in the ordinary course of business to transport nonferrous metals that the person knows are stolen, presents a valid or falsified permit to transport and sell nonferrous metals that the person knows are stolen, or presents a valid or falsified bill of sale for nonferrous metals that the person knows to be stolen, the person is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. If the person obtained a permit to transport and sell nonferrous metals pursuant to subsection (C), the permit must be revoked.

(I)(1) A secondary metals recycler shall not purchase or otherwise acquire:

(a) an iron or steel manhole cover;

(b) an iron or steel drainage grate; or

(c) a coil, unless the seller is an exempted entity pursuant to subsection (J)(1)(e) or the seller presents a bill of sale from a company licensed pursuant to Chapter 11, Title 40 indicating that the seller acquired the coil as the result of a unit replacement or repair. The bill of sale is sufficient proof of ownership and serves the same purpose as a permit to transport and sell nonferrous metals. A person who presents a falsified bill of sale is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more three years, or both.

(2)(a) It is unlawful for any individual or entity other than a permitted secondary metals recycler to purchase, or to attempt to purchase, a used, detached catalytic converter or any nonferrous part of a catalytic converter.

(b) Except as otherwise provided in item (3)(a)(iii)(aa), (bb), and (cc) for those businesses delineated in item (3)(a)(ii), it is unlawful for any individual or entity to possess, obtain or otherwise acquire, transport, or sell a used, detached catalytic converter or any nonferrous part of a catalytic converter without a permit and without providing the following documentation to law enforcement and/or a permitted secondary metals recycler:

(i) the name of the person or company that removed the catalytic converter;

(ii) the name of the person for whom the work was completed;

(iii) the make and model of the vehicle from which the catalytic converter was removed;

(iv) the vehicle identification number of the vehicle from which the catalytic converter was removed;

(v) the part number or other identifying number of the catalytic converter that was removed; and

(vi) the certificate of title or certificate of registration showing the seller's ownership interest in the vehicle.

(c) It is unlawful for a seller of a used, detached catalytic converter or any nonferrous part of a catalytic converter to provide any false, fraudulent, altered or counterfeit information or documentation as required by this subsection.

(d) An individual or entity who violates any provision of subsection (I)(2), for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both; or for a second offense, is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both.

(e) Each unlawfully obtained, possessed, or transported used, detached catalytic converter is a separate violation that subjects the individual or entity to a separate charge. Upon conviction, the court may order the individual or entity to pay restitution for the value of the repair and replacement of the catalytic converter or the individual or entity may be held liable as otherwise provided by law. A person in possession of a used, detached catalytic converter without identifying documentation is presumed to be in possession of contraband subject to forfeiture as otherwise provided by law.

(f) For purposes of this section, a used, detached catalytic converter does not include a catalytic converter that has been tested, certified, and labeled for reuse in accordance with applicable U.S. Environmental Protection Agency Clean Air Act regulations, as may from time to time be amended.

(3)(a) It is unlawful for a secondary metals recycler to purchase a used, detached catalytic converter or any nonferrous part of a used catalytic converter unless the secondary metals recycler has a permit from the local sheriff's office, the sale occurs at the secondary metals recycler's fixed site or the sale occurs at the seller's fixed site but only if the seller is a licensed automotive repair service, a licensed

demolisher, as defined in Section 56-5-5810, a licensed secondary metals recycler, or a licensed motor vehicle dealer and the purchase is made by a permitted secondary metals recycler who maintains a fixed site within the State, and the following requirements are followed:

(i) the catalytic converter or nonferrous part was purchased as part of a vehicle; or

(ii) the catalytic converter or nonferrous part was purchased from a secondary metals recycler, new or used motor vehicle dealer, automotive repair service, motor vehicle manufacturer, vehicle demolisher, or distributor of catalytic converters and a copy of the seller's valid business license is received and maintained by the purchaser at the time of the transaction; or

(iii) the business selling the catalytic converter or nonferrous part provides a record or receipt showing:

(aa) the repair order number, when applicable;

(bb) the date of repair or the date on which the catalytic converter was removed from a vehicle, including the identity of the individual or entity that removed the catalytic converter, when applicable; and

(cc) the vehicle identification number of the vehicle from which the catalytic converter was removed; or

(iv) the individual selling the catalytic converter or nonferrous part provides the secondary metals recycler with the following information for the motor vehicle that the catalytic converter was taken from to include all of the following:

(aa) the name of the person or company that removed the catalytic converter;

(bb) the name of the person for whom the work was completed;

(cc) the make and model of the vehicle from which the catalytic converter was removed;

(dd) the vehicle identification number of the vehicle from which the catalytic converter was removed;

(ee) the part number or other identifying number of the catalytic converter that was removed; and

(ff) the certificate of title or certificate of registration showing the seller's ownership interest in the vehicle.

Nothing in this item prevents an out-of-state secondary metals recycler who maintains a fixed site and who complies with all other provisions of this chapter from obtaining, purchasing, or otherwise acquiring a used, detached catalytic converter or any nonferrous part of a used catalytic converter.

(b) Before each purchase or acquisition of a used, detached catalytic converter, the secondary metals recycler, including an agent, employee, or representative of the secondary metals recycler, must:

(i) verify, with the applicable documentation that the person transferring or selling the used, detached catalytic converter acquired it legally and has the right to transfer or sell it; and

(ii) retain a record of the applicable verification and other information required pursuant to subsection (D)(2) and note in their records any obvious marking on the used, detached catalytic converter such as paint, labels, or engravings that would aid in the identification of the catalytic converter.

(c) A seller of used, detached catalytic converters or any nonferrous metal part of such is subject to the provisions of subsection (C) regarding the permitting of a person or entity to transport and sell nonferrous metals except for an automotive repair service who, in lieu of a permit, may produce a record or receipt showing:

(i) the repair order number, when applicable;

(ii) the date of repair or the date on which the catalytic converter was removed from a vehicle, including the identity of the individual or entity that removed the catalytic converter, when applicable; and

(iii) the vehicle identification number of the vehicle from which the catalytic converter was removed.

(d) It is unlawful for a secondary metals recycler to fail to collect or retain all required documentation from a seller of a used, detached catalytic converter or any nonferrous part of a catalytic converter as required by this subsection. A secondary metals recycler who obtains all documentation as required by this subsection is exempt from prosecution under this subsection unless they knew or had reason to believe that the documentation provided was false, fraudulent, altered or counterfeit, or knew or had reason to believe that the used, detached catalytic converter or any nonferrous part of a catalytic converter was stolen.

(e) A licensed secondary metals recycler, who is exempt from the provisions of subsection (I)(2), but who violates a provision of subsection (I)(3):

(i) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days;

(ii) for a second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than one year, or both; and

(iii) for a third or subsequent offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both.

(iv) Each unlawfully obtained or possessed used, detached catalytic converter or part of a used catalytic converter is a separate violation and subjects the secondary metals recycler to a separate charge for each. Any unlawfully possessed used, detached catalytic converter is subject to forfeiture as otherwise provided for by law. Upon conviction, the court may order the secondary metals recycler to pay restitution for the value of the repair and replacement of the catalytic converter or the secondary metals recycler may be held liable as otherwise provided for by law.

(J)(1) Except as provided in item (2), the provisions of this section do not apply to:

(a) the purchase or sale of aluminum cans;

(b) a transaction between a secondary metals recycler and another secondary metals recycler;

(c) a governmental entity;

(d) a manufacturing or industrial vendor that generates or sells regulated metals in the ordinary course of its business;

(e) a seller who is a holder of a retail license, an authorized wholesaler, an automobile demolisher as defined in Section 56-5-5810(d), a contractor licensed pursuant to Chapter 11, Title 40, a real estate broker or property manager licensed pursuant to Chapter 57, Title 40, a residential home builder licensed pursuant to Chapter 59, Title 40, a demolition contractor, a provider of gas service, electric service, communications service, water service, plumbing service, electrical service, climate conditioning service, appliance repair service, automotive repair service, or electronics repair service; or

(f) a seller that is an organization, a corporation, or an association registered with the State as a charitable organization or a nonprofit corporation.

(2) An exempted entity listed in item (1) is subject to the provisions of subsection (C)(10), subsection (G)(5), and subsection (I).

A secondary metals recycler shall maintain a record of transactions involving exempted entities listed in item (1) pursuant to subsection (D) and is subject to the penalty provisions of subsection (D)(6). Any item of nonferrous metals acquired from an exempted entity listed in item (1) is subject to a hold notice pursuant to subsection (F).”

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 18th day of May, 2021.

No. 81

(R97, H4006)

AN ACT TO AMEND SECTION 2.B. OF ACT 167 OF 2020, RELATING TO AN INCREASED LIMIT FOR CERTAIN OFF-PREMISES SALES, SO AS TO EXTEND THE INCREASE UNTIL MAY 31, 2022.

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

Off-premises sales extension

SECTION 1. Section 2.B. of Act 167 of 2020 is amended to read:

"B. This SECTION is effective upon approval by the Governor and expires on May 31, 2022."

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 82

(R99, H4035)

AN ACT TO AMEND ACT 129 OF 2014, RELATING TO THE SOUTH CAROLINA MANUFACTURER RESPONSIBILITY AND CONSUMER CONVENIENCE INFORMATION TECHNOLOGY EQUIPMENT COLLECTION AND RECOVERY ACT, SO AS TO EXTEND THE PROVISIONS OF CHAPTER 60, TITLE 48 UNTIL DECEMBER 31, 2023, AND TO PROVIDE THAT THE PROVISIONS OF REGULATION 61-124 SHALL EXPIRE ON DECEMBER 31, 2023.

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

South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection Act, extension and sunset

SECTION 1. SECTION 14 of Act 129 of 2014 is amended to read:

"SECTION 14. A. Section 48-60-50 of the 1976 Code, as amended by Section 3 of this act, is repealed December 31, 2014. The remaining provisions of Chapter 60, Title 48 of the 1976 Code, except Section 48-60-90, are repealed December 31, 2023.

B. Notwithstanding subsection P, Regulation 61-124, except for the provisions of subsection E, are repealed December 31, 2023."

Time effective

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

Ratified the 13th day of May, 2021.

Approved the 17th day of May, 2021.

No. 83

(R102, S436)

AN ACT TO AMEND SECTION 12-6-3530, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO COMMUNITY DEVELOPMENT TAX CREDITS, SO AS TO AUTHORIZE AN ADDITIONAL THREE MILLION DOLLARS IN CREDITS.

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

Additional community development tax credits, authorization

SECTION 1. Section 12-6-3530(B) of the 1976 Code, as last amended by Act 77 of 2019, is further amended by adding an appropriately numbered item to read:

"( ) Notwithstanding items (1) and (2), the aggregate limit for all taxpayers in all tax years set forth in items (1) and (2) is increased by three million dollars. Of this additional three million dollars, only one million dollars may be used for credits earned and certificates issued in tax year 2021, and the remaining two million dollars only may be used for credits earned and certificates issued for tax years beginning after 2021."

Time effective

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

Ratified the 18th day of May, 2021.

Approved the 18th day of May, 2021.

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No. 84

(R103, S425)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 43-35-87 SO AS TO AUTHORIZE FINANCIAL INSTITUTIONS TO DECLINE CERTAIN TRANSACTION REQUESTS IN CASES OF THE SUSPECTED FINANCIAL EXPLOITATION OF VULNERABLE ADULTS; BY ADDING ARTICLE 8 TO CHAPTER 1, TITLE 35 SO AS TO AUTHORIZE FINANCIAL REPRESENTATIVES OF CERTAIN CLIENTS, INCLUDING VULNERABLE ADULTS, TO NOTIFY THE DEPARTMENT OF SOCIAL SERVICES AND THE OFFICE OF THE ATTORNEY GENERAL IN THE EVENT OF A SUSPECTED FINANCIAL EXPLOITATION, TO PROVIDE CERTAIN PROTECTIONS FOR GOOD FAITH REPORTING, AND FOR OTHER PURPOSES; AND TO AMEND SECTION 35-1-607, RELATING TO PUBLIC RECORDS OF THE OFFICE OF THE ATTORNEY GENERAL'S SECURITIES DIVISION, SO AS TO ADD CERTAIN RECORDS PROVIDED TO THE DIVISION REGARDING SUSPECTED FINANCIAL EXPLOITATION OF VULNERABLE ADULTS.

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

Financial exploitation, financial institution authority to decline transaction requests

SECTION 1. Article 1, Chapter 35, Title 43 of the 1976 Code is amended by adding:

"Section 43-35-87. (A) For the purposes of this section, 'financial institution' means any bank, credit union, wealth management institution, or other financial services company. This section excludes a 'broker-dealer' as defined in Section 35-1-102(4) and an 'investment adviser' as defined in Section 35-1-102(15).

(B) If a financial institution reasonably believes that the financial exploitation of a vulnerable adult has occurred or may occur, then the financial institution may, but is not required to, decline or place on hold any transaction involving:

(1) the account of the vulnerable adult;

(2) an account in which the vulnerable adult is a beneficiary, including a trust or guardianship account; or

(3) the account of a person who is suspected of engaging in the financial exploitation of the vulnerable adult.

(C) A financial institution may also decline or place on hold any transaction pursuant to this section if an investigative entity or law enforcement agency provides information to the financial institution demonstrating that it is reasonable to believe that the financial exploitation of a vulnerable adult has occurred or may occur.

(D) A financial institution is not required to decline or place on hold a transaction pursuant to this section. Such a decision is in the financial institution's discretion, based on the information available to the financial institution.

(E)(1) Any financial institution that declines or places on hold a transaction pursuant to this section shall:

(a) make a reasonable effort to provide notice, orally or in writing, to all parties authorized to transact business on the account from which the transfer or disbursement was declined or placed on hold; and

(b) report the incident to the appropriate investigative entity in accordance with Section 43-35-25.

(2) Notwithstanding the provisions of this subsection, a financial institution has no duty to notify any party that is suspected of financial exploitation pursuant to this section.

(F) Any decline or hold of a disbursement or transaction as authorized by this section will expire upon the sooner of:

(1) a determination by the financial institution that allowing the transaction will not result in the financial exploitation of a vulnerable adult;

(2) thirty business days after the date on which the financial institution first declined or placed on hold the transaction, unless an appropriate investigative entity as set forth in Section 43-35-10(5) requests that the financial institution extend the delay, in which case the delay shall expire no more than fifty-five business days after the date on which the financial institution first declined or placed on hold the transaction; or

(3) the order of a court of competent jurisdiction.

(G) A financial institution may provide access to or copies of records relevant to the suspected financial exploitation of a vulnerable adult to law enforcement agencies or investigative entities responsible for administering the provisions of this article. Such records may include relevant historical records and recent transactions relating to suspected financial exploitation.

(H) If the determinations and actions of a financial institution or an employee of a financial institution are made in good faith and in accordance with the provisions of this section, then the financial institution or employee shall be immune from criminal, civil, or administrative liability for declining transactions to disburse monies pursuant to this section, and for taking actions in furtherance of a determination, including making a report or providing access to or copies of relevant records to an investigative entity or law enforcement agency. Nothing in this section is intended to nor does it limit or shield in any manner a financial institution from civil liability against any claim, including reasonable attorneys' fees, costs, and litigation expenses, for participating in or materially aiding the financial exploitation of a vulnerable adult. Any such claims shall be asserted by the vulnerable adult, or on his behalf by an appropriate guardian or representative who is not involved in or otherwise suspected of participating in the financial exploitation of the vulnerable adult, by filing a civil action in circuit court."

Protection of vulnerable adults from financial exploitation

SECTION 2. Chapter 1, Title 35 of the 1976 Code is amended by adding:

"Article 8

The Protection of Vulnerable Adults from Financial Exploitation

Section 35-1-800. In this article, unless the context otherwise requires:

(1) 'Agencies' means the Adult Protective Services Program in the Department of Social Services and the Securities Division of the Office of the Attorney General.

(2) 'Eligible adult' means:

(a) a person fifty-five years of age or older; or

(b) a vulnerable adult subject to Section 43-35-10(11).

(3) 'Financial exploitation' means:

(a) the wrongful or unauthorized taking, withholding, appropriation, or use of the money, assets, or property of an eligible adult; or

(b) any act or omission taken by a person, including through the use of a power of attorney, guardianship, or conservatorship of an eligible adult, to:

(i) obtain the control, use, or benefit, through deception, intimidation, or undue influence, or by the use of any scheme, device, or artifice to defraud, of the eligible adult's money, assets, or property to deprive the eligible adult of the ownership, use, benefit, or possession of his money, assets, or property; or

(ii) convert the money, assets, or property of the eligible adult to deprive the eligible adult of the ownership, use, benefit, or possession of his money, assets, or property.

(4) 'Qualified individual' means any agent, broker-dealer, investment adviser representative, investment adviser, or person who serves in a supervisory, compliance, or legal capacity for a broker-dealer or investment adviser.

(5) 'Reasonably associated individual' means any person known to a qualified individual to be reasonably associated with an eligible adult or his account.

Section 35-1-810. If a qualified individual reasonably believes that the financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, then the qualified individual may promptly notify the agencies.

Section 35-1-820. A qualified individual who, in good faith and exercising reasonable care, makes a disclosure of information pursuant to Section 35-1-810 shall be immune from any administrative or civil liability that might otherwise arise from such a disclosure or from the failure to notify an eligible adult of such a disclosure.

Section 35-1-830. If a qualified individual reasonably believes that the financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, then the qualified individual may notify any third party previously designated by the eligible adult or, if such a person has not been designated or cannot be contacted, a reasonably associated individual. Disclosure may not be made to any designated third party that is suspected of the financial exploitation or other abuse of the eligible adult.

Section 35-1-840. A qualified individual who, in good faith and exercising reasonable care, complies with Section 35-1-830 shall be immune from any administrative or civil liability that might otherwise arise from such a disclosure.

Section 35-1-850. (A) A broker-dealer or investment adviser may delay a disbursement from, or a transaction in connection with, an account of an eligible adult or an account on which an eligible adult is a beneficiary if:

(1) the broker-dealer, the investment adviser, or a qualified individual reasonably believes that, after initiating an internal review of the requested disbursement or transaction and the suspected financial exploitation, the requested disbursement or transaction may result in the financial exploitation of the eligible adult; and

(2) the broker-dealer or investment adviser:

(a) immediately, and in no event more than two business days after the requested disbursement or transaction is delayed, provides written notification of the delay and the reason for the delay to all parties authorized to transact business on the account, unless any such party is reasonably believed to have engaged in the suspected or attempted financial exploitation of the eligible adult;

(b) immediately, and in no event more than two business days after the requested disbursement or transaction is delayed, notifies the agencies; and

(c) continues an internal review of the suspected or attempted financial exploitation of the eligible adult, as necessary, and provides status updates to the agencies upon request.

(B) Any delay of a disbursement or transaction as authorized by this section will expire upon the sooner of:

(1) a determination by the broker-dealer or investment adviser that the disbursement or transaction will not result in the financial exploitation of the eligible adult; or

(2) thirty business days after the date on which the broker-dealer or investment adviser first delayed the requested disbursement or transaction, unless either of the agencies requests that the broker-dealer or investment adviser extends the delay, in which case the delay shall expire no more than fifty-five business days after the date on which the broker-dealer or investment adviser first delayed the disbursement or transaction, unless sooner terminated or extended by either of the agencies or an order of a court of competent jurisdiction.

(C) The Court of Common Pleas may enter an order extending the delay of the disbursement or transaction, or may order other protective relief based on the petition of either of the agencies, the broker-dealer or investment adviser that initiated the delay under this section, or another interested party.

Section 35-1-860. A qualified individual who, in good faith and exercising reasonable care, complies with Section 35-1-850 shall be immune from any administrative or civil liability that might otherwise arise from such delay of a requested disbursement or transaction.

Section 35-1-870. A broker-dealer or investment adviser shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to the agencies or to law enforcement, as part of a referral to either the agencies or to law enforcement pursuant to an investigation. The records may include historical records, as well as records relating to the most recent transaction or transactions that may comprise the financial exploitation of an eligible adult. All records made available to the agencies under this section are not public records and are not available for public examination. Nothing in this section shall limit or otherwise impede the authority of the Securities Division of the Office of the Attorney General from accessing or examining the books and records of broker-dealers and investment advisers as otherwise provided by law.

Section 35-1-880. Nothing in this article is intended to, nor does it limit or shield in any manner, a qualified individual from civil liability against any claim, including reasonable attorneys' fees, costs, and litigation expenses, for participating in or materially aiding the financial exploitation of an eligible adult. Any such claims shall be asserted by the eligible adult, or on his behalf by an appropriate guardian or representative who is not involved in or otherwise suspected of participating in the financial exploitation of the eligible adult, by filing a civil action in circuit court."

Securities Division of the Office of the Attorney General, public records

SECTION 3. Section 35-1-607(b) of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

"( ) a record provided to the Securities Division of the Office of the Attorney General pursuant to Section 35-1-870."

Time effective

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

Ratified the 18th day of May, 2021.

Approved the 18th day of May, 2021.

No. 85

(R104, S631)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "SOUTH CAROLINA ELECTRONIC NOTARY PUBLIC ACT" BY ADDING CHAPTER 2 TO TITLE 26 SO AS TO DEFINE NECESSARY TERMS; TO PROVIDE PROCEDURES AND TRAINING REQUIREMENTS TO BECOME AN ELECTRONIC NOTARY; TO PROVIDE FOR ACTS THAT MAY BE PERFORMED ELECTRONICALLY; TO PROVIDE RESTRICTIONS FOR THE PERFORMANCE OF ELECTRONIC NOTARIZATION; TO PROVIDE THE REQUIREMENTS TO COMPLETE AN ELECTRONIC NOTARIZATION; TO ESTABLISH MAXIMUM FEES; TO LIMIT THE USE OF THE ELECTRONIC SIGNATURE AND SEAL TO PROPER ELECTRONIC NOTARIAL ACTS; TO REQUIRE THE MAINTENANCE OF AN ELECTRONIC JOURNAL FOR ELECTRONIC NOTARIAL ACTS; TO REQUIRE THE SAFEKEEPING OF AN ELECTRONIC JOURNAL, PUBLIC KEY CERTIFICATE, AND ELECTRONIC SEAL; TO ALLOW THE SECRETARY OF STATE TO PROMULGATE RULES AND REGULATIONS; TO REQUIRE REGISTRATION WITH THE SECRETARY OF STATE; TO REQUIRE AN ELECTRONIC NOTARY TO UTILIZE CURRENT REGISTERED DEVICES; TO PROVIDE FOR THE TERMINATION OF ELECTRONIC NOTARIES PUBLIC; TO PROVIDE PENALTIES; TO APPLY REQUIREMENTS OF NOTARIAL CERTIFICATES TO ELECTRONIC NOTARIES PUBLIC; TO REQUIRE EVIDENCE OF AUTHENTICITY; AND TO PROVIDE LANGUAGE FOR AN ELECTRONIC CERTIFICATE OF AUTHORITY; AND TO

AMEND SECTION 26-1-160, RELATING TO UNLAWFUL ACTS, SO AS TO ALLOW THE SECRETARY OF STATE TO TERMINATE A NOTARY PUBLIC'S COMMISSION.

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

Citation

SECTION 1. This act must be known and may be cited as the "South Carolina Electronic Notary Public Act".

South Carolina Electronic Notary Public Act

SECTION 2. Title 26 of the 1976 Code is amended by adding:

"CHAPTER 2

Electronic Notaries Public

Section 26-2-5. For the purposes of this chapter:

(1) 'Capable of independent verification' means that any interested person may confirm through the Secretary of State that an electronic notary public who signed an electronic record in an official capacity had the authority at that time to perform electronic notarial acts.

(2) 'Electronic' means relating to technology and having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) 'Electronic document' or 'electronic record' means information that is created, generated, sent, communicated, received, or stored by electronic means.

(4) 'Electronic journal of notarial acts' or 'electronic journal' means a chronological electronic record of notarizations that is maintained by the electronic notary public who performed the notarizations.

(5) 'Electronic notarial act' or 'electronic notarization' means an official act by an electronic notary public that involves electronic documents.

(6) 'Electronic notarial certificate' means the part of, or attachment to, an electronic record that is completed by the electronic notary public, that bears the electronic notary's electronic signature and electronic seal, and that states the facts attested to by the electronic notary in an electronic notarization.

(7) 'Electronic notarization system' means a set of applications, programs, hardware, software, or technologies designed to enable an electronic notary public to perform electronic notarizations.

(8) 'Electronic notary public' or 'electronic notary' means a notary public who has registered with the Secretary of State to perform electronic notarial acts in conformance with this chapter.

(9) 'Electronic notary seal' or 'electronic seal' means information within a notarized electronic document that includes the electronic notary's name, jurisdiction, registration number, and commission expiration date and that generally corresponds to data in notary seals used on paper documents.

(10) 'Electronic signature' means an electronic symbol or process attached to or logically associated with an electronic document that is executed or adopted by an individual with the intent to sign the document.

(11) 'Principal' has the same meaning as in Section 26-1-5.

(12) 'Public key certificate' means an electronic credential that is used to identify an individual who signed an electronic record with the certificate.

(13) 'Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and that is retrievable in perceivable form.

(14) 'Sole control' means at all times being in the direct physical custody of an electronic notary public or safeguarded by the electronic notary with a password or other secure means of authentication.

(15) 'Tamper evident' means that any change to a record shall provide evidence of the change.

(16) 'Verification of fact' means a notarial act in which an electronic notary reviews public or vital records, or other legally accessible data, to ascertain or confirm any of the following facts:

(a) a date of birth, death, marriage, or divorce;

(b) the name of a parent, a marital partner, offspring, or a sibling; or

(c) any matter authorized for verification by a notary by other law or rule of this State.

Section 26-2-10. The provisions of Chapters 1 and 3 of this title apply to all acts authorized pursuant to this chapter unless the provisions of Chapters 1 and 3 directly conflict with the provisions of this chapter. In that case, the provisions of this chapter control when applied to electronic notaries public and electronic notarial acts.

Section 26-2-20. (A) A notary public commissioned in this State may become an electronic notary public in accordance with this section. Before a notary public performs an electronic notarization, the notary public must register with the Secretary of State in accordance with the rules for registration as an electronic notary public and must identify the technology that he intends to use, which must conform to any rules or regulations adopted by the Secretary of State. A registration fee of fifty dollars must be submitted to the Secretary of State with the registration form to be used by the Secretary of State to administer the provisions of this chapter.

(B) Unless terminated pursuant to Section 26-2-140, the term of registration to perform electronic notarial acts shall begin on the registration starting date set by the Secretary of State and shall continue as long as the notary public's current commission remains valid.

(C) An individual registering to perform electronic notarial acts shall submit to the Secretary of State an application in a format prescribed by the Secretary of State that includes:

(1) proof of the successful completion of the course and examination required pursuant to Section 26-2-30;

(2) the disclosure of any and all license or commission revocations or other disciplinary actions against the individual; and

(3) any other information, evidence, or declarations required by the Secretary of State.

(D) Upon the individual's fulfillment of the requirements for registration under this chapter, the Secretary of State shall approve the registration and issue to the individual a unique registration number.

(E) The Secretary of State may reject a registration application if the individual fails to comply with any section of this chapter.

Section 26-2-30. (A) Before performing electronic notary acts, an electronic notary public shall take a course of instruction of sufficient length to ensure that the electronic notary public understands his duties and responsibilities, as determined and approved by the Secretary of State, and shall pass an examination of this course.

(B) The content of the course and the basis of the examination must be notarial laws, procedures, technology, and ethics as they pertain to notarizations and electronic notarizations.

Section 26-2-40. The following notarial acts may be performed electronically:

(1) acknowledgments;

(2) oaths and affirmations;

(3) attestations and jurats;
(4) signature witnessing;
(5) verifications of fact;
(6) certification that a tangible copy of an electronic record is an accurate copy of the electronic record; and
(7) any other acts authorized by law.

Section 26-2-50. (A) An electronic notary public shall perform an electronic notarization only if the principal:
(1) appears in person before the electronic notary public at the time of notarization; and
(2) is personally known to the electronic notary or identified by the electronic notary through satisfactory evidence as defined in Chapter 1 of this title.
(B) In performing electronic notarial acts, an electronic notary public shall adhere to all applicable rules governing notarial acts provided in Chapter 1 of this title.

Section 26-2-60. (A) When performing an electronic notarial act, an electronic notarial certificate must be attached to, or logically associated with, the electronic document by the electronic notary public and must include:
(1) the electronic notary public's name exactly as stated on the commission issued by the Secretary of State;
(2) the electronic notary public's electronic seal;
(3) the expiration date of the electronic notary public's commission;
(4) the electronic notary public's electronic signature; and
(5) completed wording appropriate to the particular electronic notarial act, as prescribed by law.
(B) All components in subsection (A)(2) through (5) must be immediately perceptible and reproducible in the electronic record to which the electronic notary public's electronic signature is attached, such that removal or alteration of a component is tamper evident and will render evidence of alteration of the document containing the electronic notarial certificate, which may invalidate the electronic notarial act. If an electronic seal is not used, then the words 'Electronic Notary Public' and the words 'State of South Carolina' must still be attached.
(C) An electronic notary public's electronic signature or electronic seal is considered to be reliable if it is:
(1) unique to the electronic notary public;
(2) capable of independent verification;

(3) retained under the electronic notary public's sole control;

(4) attached to or logically associated with the electronic document; and

(5) linked to the data in such a manner that any subsequent alterations to the underlying document or electronic notarial certificate are tamper evident and may invalidate the electronic notarial act.

(D) The electronic seal of an electronic notary public shall contain the:

(1) name of the electronic notary public exactly as it is spelled on the electronic notary public's commission;

(2) title 'Notary Public';

(3) words 'State of South Carolina';

(4) registration number indicating that the electronic notary public may perform electronic notarial acts; and

(5) expiration date of the electronic notary public's commission.

(E) The electronic seal of an electronic notary public may be a digital image that appears in the likeness or representation of a traditional physical notary public seal. The electronic seal of an electronic notary public may not be used for any purpose other than performing electronic notarizations under this chapter.

(F) Only the electronic notary public whose name and registration number appear on an electronic seal shall generate that electronic seal.

Section 26-2-70. (A) An electronic notary public may charge the maximum fee for performing an electronic notarial act specified in subsection (B), charge less than the maximum fee, or waive the fee.

(B) The maximum fees that may be charged by an electronic notary public for performing electronic notarial acts are:

(1) for acknowledgments, ten dollars per signature;

(2) for oaths and affirmations, ten dollars per signature;

(3) for attestations and jurats, ten dollars per signature;

(4) for signature witnessing, ten dollars per signature;

(5) for verifications of fact, ten dollars per signature; and

(6) for any other acts authorized by law, ten dollars per signature.

(C) An electronic notary public may charge a travel fee when traveling to perform an electronic notarial act if:

(1) the electronic notary public and the person requesting the electronic notarial act agree upon the travel fee in advance of the travel; and

(2) the electronic notary public explains to the person requesting the electronic notarial act that the travel fee is both separate from the

notarial fee prescribed by subsection (B) and neither specified nor mandated by law.

(D) An electronic notary public who charges fees for performing electronic notarial acts shall conspicuously display in all of the electronic notary public's places of business and Internet websites, or present to each principal or requester of fact when outside these places of business, an English-language schedule of maximum fees for electronic notarial acts, as specified in subsection (B). A notarial fee schedule may not appear or be printed in smaller than ten-point type.

Section 26-2-80. (A) An electronic notary public's electronic signature, in combination with his electronic seal, must be used only for the purpose of performing electronic notarial acts.

(B) An electronic notary public shall use an electronic notarization system that complies with this chapter and that has been registered with the Secretary of State to produce the electronic notary's electronic signature and electronic seal in a manner that is capable of independent verification.

(C) An electronic notary public shall take reasonable steps to ensure that no other individual may possess or access an electronic notarization system in order to produce the electronic notary public's electronic signature or electronic seal.

(D) An electronic notary public shall keep in his sole control all or any part of an electronic notarization system for which the exclusive purpose is to produce the electronic notary public's electronic signature and electronic seal.

(E) The Secretary of State shall promulgate regulations necessary to establish standards, procedures, practices, forms, and records relating to an electronic notary public's electronic signature and electronic seal. The electronic notary public's electronic seal and electronic signature must conform to all standards adopted by the Secretary of State.

Section 26-2-90. (A) An electronic notary public shall create and maintain an electronic journal of each electronic notarial act. For every electronic notarial act, the electronic notary public shall record the following information in the electronic journal:

(1) the date and time of the electronic notarial act;

(2) the type of electronic notarial act;

(3) the title or a description of the record being notarized, if any;

(4) the printed full name of each principal;

(5) if identification of the principal is based on personal knowledge, a statement to that effect;

(6) if identification of the principal is based on satisfactory evidence of his identity pursuant to Section 26-1-5(17), a description of the evidence relied upon and the name of any credible witness or witnesses;

(7) the address where the notarization was performed, if the notarization was not performed at the electronic notary public's business address;

(8) if the notarial act is performed electronically, a description of the electronic notarization system used; and

(9) the fee, if any, charged by the electronic notary.

(B) An electronic notary public may not record a Social Security number in the electronic journal.

(C) An electronic notary public may not allow the electronic journal to be used by any other notary public and may not surrender the electronic journal to an employer upon the electronic notary public's termination of employment.

(D) Any party to the notarized transaction or party with a legitimate interest in the transaction may inspect or request a copy of an entry or entries in the electronic notary public's electronic journal, provided that:

(1) the party specifies the month, year, type of record, and name of the principal for the electronic notarial act, in a signed physical or electronic request;

(2) the electronic notary public does not surrender possession or control of the electronic journal;

(3) the party is shown or given a copy of only the entry or entries specified; and

(4) a separate new entry is made in the electronic journal, explaining the circumstances of the request and noting any related act of copy certification by the electronic notary public.

(E) An electronic notary public may charge a reasonable fee to recover any cost of providing a copy of an entry in the electronic journal of notarial acts. An electronic notary who has a reasonable and explainable belief that a person requesting information from the electronic notary's electronic journal has a criminal or other inappropriate purpose may deny access to any entry or entries.

(F) All electronic notarial records required by statute or regulation may be examined and copied without restriction by a law enforcement officer in the course of an official investigation, subpoenaed by court order, or surrendered at the direction of the Secretary of State.

(G) The Secretary of State shall establish commercially reasonable standards for the preservation of electronic journals in the event of a resignation, revocation, or expiration of an electronic notary

commission, or upon the death of an electronic notary. The provisions of this subsection do not apply to a former electronic notary whose commission has expired if, within three months, the electronic notary commission is renewed.

Section 26-2-100. (A) An electronic notary public shall keep his electronic journal, public key certificate, and electronic seal secure. The electronic notary public may not allow another person to use his electronic journal, public key certificate, or electronic seal.

(B) An electronic notary public shall attach his public key certificate and electronic seal to the electronic notarial certificate of an electronic record in a manner that renders any subsequent change or modification to the electronic record to be evident.

(C) An electronic notary public shall immediately notify the appropriate law enforcement agency and the Secretary of State of any theft or vandalism of the electronic notary public's electronic journal, public key certificate, or electronic seal. An electronic notary public immediately shall notify the Secretary of State of the loss or use by another person of the electronic notary public's electronic journal, public key certificate, or electronic seal.

(D) Upon the resignation, revocation, or expiration of an electronic notary commission or the death of an electronic notary, the electronic notary or his personal representative shall erase, delete, or destroy the coding, disk, certificate, card software, file, or program that enables electronic affixation of the electronic notary's official electronic signature. The provisions of this subsection do not apply to a former electronic notary who renews his commission within three months of the expiration of his previous commission.

Section 26-2-110. (A) An electronic notarization system shall comply with this chapter and any regulations promulgated by the Secretary of State pursuant to Section 26-2-190.

(B) An electronic notarization system shall require access to the system by a password or other secure means of authentication.

(C) An electronic notarization system shall enable an electronic notary public to affix the electronic notary public's electronic signature in a manner that attributes the signature to the electronic notary public.

(D) An electronic notarization system shall render every electronic notarial act tamper evident.

(E) Except as provided in subsection (F), if the commission of an electronic notary public expires or is resigned or revoked, or if the electronic notary dies or is adjudicated as incompetent, then the

electronic notary public or his personal representative or guardian shall, within three months, dispose of all or any part of the electronic notarization system that had been in the electronic notary's sole control for which the exclusive purpose was to perform electronic notarial acts.

(F) A former electronic notary public whose previous commission expired need not comply with subsection (E) if this individual, within three months after commission expiration, is recommissioned as a notary public and reregistered to perform electronic notarial acts.

Section 26-2-120. (A) Any person or entity wishing to provide an electronic notarization system to electronic notaries public in this State must complete and submit a registration form to the Secretary of State for review.

(B) An electronic notarization system shall comply with all regulations promulgated by the Secretary of State.

(C) An electronic notary solution provider must be registered with the Secretary of State pursuant to this chapter before making available to South Carolina electronic notaries public any updates or subsequent versions of the electronic notary solution provider's electronic notarization system.

Section 26-2-130. (A) An electronic notary public shall take reasonable steps to ensure that any registered device used to create the electronic notary public's electronic signature is current and has not been revoked or terminated by its issuing or registering authority.

(B) If the registration of the device used to create electronic signatures either expires or is changed during the electronic notary public's term of office, then the electronic notary public shall cease performing electronic notarizations until:

(1) a new device is duly issued or registered to the electronic notary public; and

(2) an electronically signed notice is sent to the Secretary of State that includes the starting and expiration dates of any new registration term and any other new information at variance with the information in the most recently executed electronic registration form.

Section 26-2-140. (A) The liability, sanctions, and remedies for the improper performance of electronic notarial acts, or for providing false or misleading information in registering to perform electronic notarial acts, by an electronic notary public are the same as provided by law for the improper performance of nonelectronic notarial acts.

(B)(1) The Secretary of State may terminate an electronic notary public's registration for one or more of the following reasons:

(a) the submission of an electronic registration form containing a material misstatement or omission of fact;

(b) the failure to maintain the capability to perform electronic notarial acts; or

(c) official misconduct by the electronic notary public.

(2) If the Secretary of State terminates an electronic notary public's registration, then the Secretary of State shall send written notice by certified mail to the electronic notary public at his last known address. A person who has had his electronic notary public registration terminated has thirty days from the receipt of the notice to appeal the termination by filing a request for a contested case hearing with the South Carolina Administrative Law Court.

(3) Neither resignation nor expiration of a notary commission or of an electronic notary public registration precludes or terminates an investigation by the Secretary of State into an electronic notary public's conduct. The investigation may be pursued to a conclusion, when it must be made a matter of public record whether the finding would have been grounds for the termination of the electronic notary public's commission or registration.

Section 26-2-150. (A) It is unlawful for a person to knowingly:

(1) act as or otherwise impersonate an electronic notary public, if that person is not an electronic notary public;

(2) obtain, conceal, damage, or destroy the coding, disk, certificate, card, token, program, software, or hardware that is intended exclusively to enable an electronic notary public to produce a registered electronic signature, electronic seal, or single element combining the required features of an electronic signature and electronic seal; or

(3) solicit, coerce, or in any way influence an electronic notary public to commit official misconduct.

(B) A person who violates the provisions of subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars, imprisoned for not more than one year, or both.

(C) The sanctions of this chapter do not preclude other sanctions and remedies provided by law.

Section 26-2-160. The provisions contained in Chapter 1 of this title, with regard to notarial certificates, are applicable for the purposes of this chapter.

Section 26-2-170. Electronic evidence of the authenticity of the official electronic signature and electronic seal of an electronic notary public of this State, if required, must be attached to, or logically associated with, a notarized electronic document transmitted to another state or nation and must be in the form of an electronic certificate of authority signed by the Secretary of State in conformance with any current and pertinent international treaties, agreements, and conventions subscribed to by the government of the United States.

Section 26-2-180. (A) An electronic certificate of authority evidencing the authenticity of the official electronic signature and electronic seal of an electronic notary public of this State shall substantially contain the following words:
'Certificate of Authority for an Electronic Notarial Act
I, _____ [name, title, jurisdiction of commissioning official] certify that _____ [name of electronic notary], the person named as an electronic notary public in the attached or associated document, was indeed registered as an electronic notary public for the State of South Carolina and authorized to act as such at the time of the document's electronic notarization.
To verify this Certificate of Authority for an Electronic Notarial Act, I have included herewith my electronic signature this _____ day of _____, 20__.
[Electronic signature and electronic seal of the commissioning official]'.
(B) The Secretary of State may charge ten dollars for issuing an electronic certificate of authority.

Section 26-2-190. The Secretary of State may promulgate and enforce any regulations and create and enforce any policies and procedures necessary for the administration of this chapter."

Termination of commission

SECTION 3. Section 26-1-160 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

"( ) The Secretary of State may terminate a notary public's commission upon notification that the notary public has been charged with an offense listed in this section or may terminate the notary public's commission at any subsequent point until the final adjudication of the charges. If the Secretary of State terminates a notary public's

commission, then the Secretary of State shall send written notice by certified mail to the notary public at his last known address. A person who has had his notary public commission terminated has thirty days from the receipt of the notice to appeal the termination by filing a request for a contested case hearing with the South Carolina Administrative Law Court."

Applicability to wills and trusts

SECTION 4. This act does not apply to wills and trusts in South Carolina.

Supervision of attorney

SECTION 5. Nothing in this act contravenes the South Carolina law that requires a licensed South Carolina attorney to supervise a closing.

Time effective

SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.

Ratified the 18th day of May, 2021.

Approved the 18th day of May, 2021.

No. 86

(R105, S675)

AN ACT TO AMEND SECTION 12-37-2460, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROPERTY TAX REVENUES FROM CERTAIN AIRCRAFT, SO AS TO CREDIT THE PROCEEDS OF SUCH TAXES TO THE STATE AVIATION FUND; TO AMEND SECTION 55-5-280, RELATING TO THE STATE AVIATION FUND, SO AS TO PHASE IN THE CREDITING OF THE PROPERTY TAX REVENUES FROM AIRCRAFT; AND TO PROVIDE THAT A PORTION OF THE

REVENUES COLLECTED MUST BE USED TO OBTAIN OR DEVELOP CERTAIN AIRPORT FACILITIES.

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

Property taxes on aircraft, crediting

SECTION 1. Section 12-37-2460 of the 1976 Code is amended to read:

"Section 12-37-2460. Subject to Section 55-5-280, the proceeds collected under this article shall be paid into the State Aviation Fund."

State Aviation Fund

SECTION 2. Section 55-5-280(B) of the 1976 Code is amended to read:

"(B)(1) In Fiscal Year 2021-2022, the first one million two hundred fifty thousand dollars in revenue from the tax levied by the State pursuant to Section 12-37-2410, et seq., must be directed to the General Fund of the State. In Fiscal Year 2021-2022, if the revenues from the tax levied by the State pursuant to Section 12-37-2410, et seq., exceeds one million two hundred fifty thousand dollars, the revenues in excess of one million two hundred fifty thousand dollars must be directed to the State Aviation Fund.

(2) In any fiscal year after 2021-2022, the revenues from the tax levied by the State pursuant to Section 12-37-2410, et seq., must be credited to the State Aviation Fund."

Airport facilities

SECTION 3. Revenues collected pursuant to this act and credited to the State Aviation Fund shall be used, in part, to aid counties within the State that do not have an airport facility in obtaining or developing an airport facility through the South Carolina Aeronautics Commission.

Time effective

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

Ratified the 18th day of May, 2021.

Approved the 18th day of May, 2021.

No. 87

(R106, H4017)

AN ACT TO AMEND SECTION 12-6-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE APPLICATION OF THE INTERNAL REVENUE CODE TO STATE INCOME TAX LAWS, SO AS TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE TO THE YEAR 2020, TO PROVIDE THAT IF THE INTERNAL REVENUE CODE SECTIONS ADOPTED BY THIS STATE ARE EXTENDED, THEN THESE SECTIONS ALSO ARE EXTENDED FOR SOUTH CAROLINA INCOME TAX PURPOSES, AND TO PROVIDE FOR THE TAX TREATMENT OF THE PAYCHECK PROTECTION PROGRAM AND CERTAIN EXPENSES AS PROVIDED FOR IN THE FEDERAL CONSOLIDATED APPROPRIATIONS ACT OF 2021; TO SPECIFICALLY NOT ADOPT CERTAIN PROVISIONS OF THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT; AND TO ADOPT A PROVISION OF THE AMERICAN RESCUE PLAN RELATING TO UNEMPLOYMENT COMPENSATION, AND TO AUTHORIZE FUNDS TO ACCOUNT FOR THE ADOPTED PROVISION.

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

Internal Revenue Code conformity

SECTION 1. A. Section 12-6-40(A)(1)(a) and (c) of the 1976 Code, as last amended by Act 147 of 2020, is further amended to read:

"(a) Except as otherwise provided, 'Internal Revenue Code' means the Internal Revenue Code of 1986, as amended through December 31, 2020, and includes the effective date provisions contained in it.

(c) If Internal Revenue Code sections adopted by this State which expired or portions thereof expired on December 31, 2020, are extended, but otherwise not amended, by congressional enactment during 2021, these sections or portions thereof also are extended for South Carolina income tax purposes in the same manner that they are extended for federal income tax purposes."

B. Section 12-6-40(A)(1) of the 1976 Code, as last amended by Act 147 of 2020, is further amended by adding appropriately lettered subitems to read:

"( ) To the extent loans are forgiven and excluded from gross income for federal income tax purposes under the paycheck protection program in Section 1102 of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136), or from any extension of the paycheck protection program, those loans are excluded for South Carolina income tax purposes. Further, to the extent the federal government allows the deduction of expenses associated with the forgiven paycheck protection program loans, these expenses will be allowed as a deduction for South Carolina income tax purposes.

( ) South Carolina adopts the federal tax treatment for any exclusion from federal taxable income or allowance of expenses as provided in the federal Consolidated Appropriations Act of 2021 in Sections 276 (Clarification of Tax Treatment of Forgiveness of Covered Loans), 277 (Emergency Financial Aid Grants), and 278 (Clarification of Tax Treatment of Certain Loan Forgiveness and Other Business Financial Assistance)."

CARES Act nonconformity

SECTION 2. (A) The following amendments in the Coronavirus Aid, Relief, and Economic Security Act (CARES) of 2020, P.L. 116-136 (March 27, 2020) are specifically not adopted by this State:

(1) Internal Revenue Code (IRC) Section 62(a)(22) relating to the $300 charitable deduction allowed in 2020 for persons who claim the standard deduction;

(2) Section 2205(a), (b), and (c) of the CARES Act relating to the modification of limitations on individual and corporate cash charitable

contributions for 2020 and relating to the increase in limits on charitable contributions of food inventory for 2020;

(3) IRC Section 172(a) relating to the modification of the income limitations allowed for the use of net operating losses in tax years 2018, 2019, and 2020;

(4) IRC Section 461(l) relating to the modification of the limitation on losses allowed for noncorporate taxpayers in tax years 2018, 2019, and 2020.

(B) The following amendments in the Consolidated Appropriations Act of 2021, P.L. 116-260 (December 27, 2020) are specifically not adopted by this State:

(1) Amendment to Division N Section 275 relating to the allowance of personal protective equipment expenses for the educator expense deduction under IRC Section 62(a)(2)(D)(ii);

(2) IRC Section 274(n) relating to the temporary allowance of the full business deduction for business meals that are paid or incurred after December 30, 2020, and before January 1, 2023;

(3) IRC Section 170(p) relating to the $300 or $600 charitable deduction allowed in 2021 for persons taking the standard deduction;

(4) Amendment to CARES Act Section 2205 relating to the temporary extension of the modification of limitations on individual and corporate cash charitable contributions and the increase in limits on charitable contributions of food inventory to tax year 2021;

(5) Amendments to the Taxpayer Certainty and Disaster Tax Relief Act of 2020, P.L. 116-260 Division EE Section 304 relating to the special rules for qualified disaster relief for charitable contributions and special rules for qualified disaster-related personal casualty losses.

American Rescue Plan, unemployment compensation

SECTION 3. For tax year 2020, the amendment in the American Rescue Plan of 2021, P.L. 117-2 (March 11, 2021) relating to the exclusion from taxable income for tax year 2020 of $10,200 of unemployment compensation for a taxpayer with less than $150,000 in federal adjusted gross income is specifically adopted by South Carolina. The Department of Administration’s Director of the Executive Budget Office is authorized to allocate sixty-one million three hundred thousand dollars in the appropriate fiscal years from the American Rescue Plan Act of 2021 to the general fund to account for the provisions of this SECTION.

Time effective

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

Ratified the 18th day of May, 2021.

Approved the 18th day of May, 2021.

No. 88

(R108, H4320)

AN ACT TO AMEND SECTION 7-7-280, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN GREENVILLE COUNTY, SO AS TO UPDATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE.

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

Greenville County voting precincts map number updated

SECTION 1. Section 7-7-280(B) of the 1976 Code is amended to read:

"(B) The precinct lines defining the precincts in subsection (A) are as shown on maps filed with the Board of Voter Registration and Elections of Greenville County as provided and maintained by the Revenue and Fiscal Affairs Office designated as document P-45-21."

Time effective

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

Ratified the 18th day of May, 2021.

Approved the 19th day of May, 2021.

No. 89

(R101, S40)

AN ACT TO AMEND SECTION 57-5-840, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ALTERATIONS BY MUNICIPALITIES OF STATE HIGHWAY FACILITIES, SO AS TO PROVIDE USE OR RESTRICTIONS MADE BY MUNICIPALITIES ON STATE HIGHWAY FACILITIES OR RIGHTS OF WAY FOR MUNICIPAL UTILITIES, PARKING OR OTHER PURPOSES ARE SUBJECT TO PRIOR APPROVAL BY THE DEPARTMENT OF TRANSPORTATION BY ENCROACHMENT PERMIT; BY ADDING SECTION 57-5-845 SO AS TO PROVIDE FREE AND PAID PARKING RESTRICTIONS ON STATE HIGHWAY FACILITIES LOCATED IN BEACH COMMUNITIES ELIGIBLE FOR BEACH RENOURISHMENT FUNDS, AND TO PROVIDE FOR THE USE OF FUNDS GENERATED FROM MUNICIPAL PUBLIC BEACH PARKING CHARGES; AND TO AMEND SECTION 57-7-210, RELATING TO OBSTRUCTIONS IN HIGHWAYS, SO AS TO DEFINE THE TERM "HIGHWAY" AND REVISE THE PENALTY FOR VIOLATIONS OF THIS SECTION.

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

Alterations of state highways by municipalities

SECTION 1. Section 57-5-840 of the 1976 Code is amended to read:

"Section 57-5-840. A municipality may not alter any state highway facility without the prior approval of the department, and any use or restriction made by a municipality of a highway or highway right of way for municipal utilities, parking, or other purposes is subject to prior approval of the department by encroachment permit."

Parking facilities in beach communities

SECTION 2. Article 5, Chapter 5, Title 57 of the 1976 Code is amended by adding:

"Section 57-5-845. (A) Parking facilities on state highway facilities located in beach communities that are eligible for beach renourishment funds:

(1) must include free public beach parking;

(2) may include paid public beach parking; and

(3) only may be restricted by the department if the department determines that the restrictions are necessary under the circumstances.

(B) Any municipality electing to charge for public beach parking may use the parking revenues for the operation, maintenance, preservation, or funding of:

(1) public beach parking facilities;

(2) beach access, maintenance, and renourishment;

(3) traffic and parking enforcement;

(4) first responders;

(5) sanitation; and

(6) litter control and removal for beaches."

Obstructions in highways

SECTION 3. Section 57-7-210 of the 1976 Code is amended to read:

"Section 57-7-210. (A) For the purposes of this section, 'highway' includes the entire area within a highway right of way, including the shoulders and parking areas.

(B) It is unlawful for any person wilfully to obstruct ditches and drainage openings along any highway, to place obstructions upon any such highway, or to throw or place on any such highway any objects likely to cut or otherwise injure vehicles using them.

(C) A violation of this section shall be punishable by a fine of not more than one hundred dollars per day, imprisonment for not more than thirty days, or both."

Time effective

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

Ratified the 18th day of May, 2021.

Approved the 24th day of May, 2021.

No. 90

(R110, H3194)

AN ACT TO AMEND SECTION 58-31-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE BOARD OF DIRECTORS OF THE SOUTH CAROLINA PUBLIC SERVICE AUTHORITY, SO AS TO, AMONG OTHER THINGS, REVISE THE TERMS AND QUALIFICATIONS FOR MEMBERSHIP ON THE PUBLIC SERVICE AUTHORITY BOARD OF DIRECTORS AND TO PROVIDE FOR EX OFFICIO MEMBERS ON THE BOARD OF DIRECTORS; TO AMEND SECTION 58-31-30, RELATING TO THE POWERS OF THE PUBLIC SERVICE AUTHORITY, SO AS TO AUTHORIZE THE PUBLIC SERVICE AUTHORITY TO ESTABLISH SUBCOMMITTEES AND TO SELECT A CHIEF EXECUTIVE OFFICER WHO SHALL CAUSE THE AUTHORITY TO EMPLOY ALL NECESSARY EMPLOYEES WITH THE BOARD APPROVING THE COMPENSATION OF ANY SENIOR MANAGEMENT OFFICIAL SELECTED BY THE CHIEF EXECUTIVE OFFICER, AND TO PROVIDE THAT CERTAIN PUBLIC SERVICE AUTHORITY COMPENSATION AND SEVERANCE PACKAGES MUST FIRST BE APPROVED BY THE AGENCY HEAD SALARY COMMISSION; TO AMEND SECTION 58-31-55, RELATING TO THE DUTIES AND RESPONSIBILITIES OF THE DIRECTORS OF THE PUBLIC SERVICE AUTHORITY, SO AS TO REVISE THE DEFINITION OF "BEST INTERESTS"; TO AMEND SECTION 58-31-56, RELATING TO CONFLICT OF INTEREST TRANSACTIONS, SO AS TO PROVIDE A VIOLATION OF THIS SECTION BY A DIRECTOR CONSTITUTES GROUNDS FOR REMOVAL FROM OFFICE BY THE GOVERNOR; TO AMEND SECTION 1-3-240, RELATING TO REMOVAL OF OFFICERS BY THE GOVERNOR, SO AS TO CLARIFY THE GOVERNOR'S AUTHORITY TO REMOVE DIRECTORS OF THE PUBLIC SERVICE AUTHORITY; TO ESTABLISH EXPIRATION DATES FOR DIRECTORS SERVING AS OF THE EFFECTIVE DATE OF THIS ACT; BY ADDING SECTION 58-31-240 SO AS TO REQUIRE THE JOINT BOND REVIEW COMMITTEE TO APPROVE, REJECT, OR MODIFY CERTAIN BONDS, NOTES, OR OTHER INDEBTEDNESS PRIOR TO ISSUANCE, AND TO REQUIRE THE PUBLIC SERVICE AUTHORITY TO PROVIDE

AN ANNUAL REPORT BY SEPTEMBER FIRST OF EACH YEAR REGARDING REAL ESTATE TRANSACTIONS EXECUTED DURING THE PRECEDING TWELVE MONTHS; BY ADDING SECTION 58-31-250 SO AS TO AUTHORIZE THE SENATE FINANCE COMMITTEE AND THE HOUSE OF REPRESENTATIVES WAYS AND MEANS COMMITTEE TO COMPEL CERTAIN WRITTEN OR ORAL TESTIMONY FROM THE PUBLIC SERVICE AUTHORITY; TO AMEND SECTION 58-33-110, AS AMENDED, RELATING TO THE CERTIFICATION OF MAJOR UTILITY FACILITIES, SO AS TO PROVIDE A QUALIFIED CERTIFICATION EXEMPTION FOR CERTAIN TRANSMISSION LINES OR FACILITIES; TO AMEND SECTION 58-31-430, RELATING TO THE SERVICE AREA TO BE EXCLUSIVELY SERVED BY THE AUTHORITY, SO AS TO, AMONG OTHER THINGS, CLARIFY THE PUBLIC SERVICE AUTHORITY'S RIGHT TO ENTER INTO CERTAIN AGREEMENTS WITH OTHER ELECTRIC SUPPLIERS CONCERNING SERVICE AREAS AND CORRIDOR RIGHTS; BY ADDING ARTICLE 7 TO CHAPTER 31, TITLE 58 SO AS TO ESTABLISH A RETAIL RATES PROCESS; BY ADDING SECTION 58-31-225 SO AS TO AUTHORIZE THE OFFICE OF REGULATORY STAFF TO MAKE INSPECTIONS, AUDITS, AND EXAMINATIONS OF THE PUBLIC SERVICE AUTHORITY; BY ADDING SECTION 58-4-51 SO AS TO ENUMERATE CERTAIN DUTIES AND RESPONSIBILITIES OF THE OFFICE OF REGULATORY STAFF REGARDING THE PUBLIC SERVICE AUTHORITY; TO AMEND SECTION 58-4-55, AS AMENDED, RELATING TO THE PRODUCTION OF RECORDS TO THE OFFICE OF REGULATORY STAFF WHEN CONDUCTING INSPECTIONS, AUDITS, AND EXAMINATIONS, SO AS TO, AMONG OTHER THINGS, AUTHORIZE THE PUBLIC SERVICE AUTHORITY TO DESIGNATE CERTAIN DOCUMENTS OR INFORMATION PROVIDED TO THE OFFICE OF REGULATORY STAFF AS CONFIDENTIAL, OR PROPRIETARY, AND EXEMPT FROM DISCLOSURE; TO AMEND SECTIONS 58-27-190, 58-27-200, 58-27-210, AND 58-27-220, ALL RELATING TO THE INSPECTION, AUDIT, AND ENFORCEMENT AUTHORITY OF THE OFFICE OF REGULATORY STAFF, ALL SO AS TO EXPAND THE APPLICABILITY OF THESE SECTIONS' PROVISIONS TO THE PUBLIC SERVICE AUTHORITY; TO AMEND SECTION 58-33-20, RELATING TO DEFINITIONS

APPLICABLE TO THE "UTILITY FACILITY SITING AND ENVIRONMENTAL PROTECTION ACT", SO AS TO REVISE THE DEFINITION OF "MAJOR UTILITY FACILITY"; BY ADDING SECTIONS 58-33-180, 58-33-185, AND 58-33-190 ALL SO AS TO, AMONG OTHER THINGS, IMPOSE ADDITIONAL REQUIREMENTS AND LIMITATIONS ON THE PUBLIC SERVICE AUTHORITY REGARDING THE CONSTRUCTION, ACQUISITION, AND PURCHASE OF MAJOR UTILITY FACILITIES; TO AMEND SECTION 58-37-40, AS AMENDED, RELATING TO INTEGRATED RESOURCE PLANS, SO AS TO, AMONG OTHER THINGS, EXPAND THE SECTION'S APPLICABILITY TO THE PUBLIC SERVICE AUTHORITY, AND TO IMPOSE ADDITIONAL REQUIREMENTS ON THE PUBLIC SERVICE AUTHORITY; BY ADDING SECTION 58-31-227 SO AS TO, AMONG OTHER THINGS, IMPOSE RENEWABLE ENERGY RESOURCE PROCUREMENT REQUIREMENTS ON THE PUBLIC SERVICE AUTHORITY; TO REQUIRE THE PUBLIC SERVICE AUTHORITY TO DEVELOP AND IMPLEMENT A PLAN THAT PROVIDES FOR EMPLOYEE RETENTION, JOB TRAINING, AND ECONOMIC DEVELOPMENT OPPORTUNITIES FOR EMPLOYEES AND COMMUNITIES AFFECTED BY THE RETIREMENT OF CERTAIN COAL STATIONS; AND TO EXTEND THE PROVISIONS OF SECTION 11 OF ACT 135 OF 2020.

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

Board of directors and ex officio members

SECTION 1. Section 58-31-20 of the 1976 Code is amended to read:

"Section 58-31-20. (A)(1) The Public Service Authority consists of a board of twelve directors who reside in South Carolina and who have the qualifications stated in this section, as determined by the State Regulation of Public Utilities Review Committee pursuant to Section 58-3-530(14), before being appointed by the Governor with the advice and consent of the Senate as follows: one from each congressional district of the State; one from each of the counties of Horry, Berkeley, and Georgetown who reside in Authority territory and are customers of the Authority; and two from the State at large, one of whom must be chairman. Two of the directors must have substantial work experience within the operations of electric cooperatives or substantial experience

on an electric cooperative board, including one of the two who must have substantial experience within the operations or board of a transmission or generation cooperative. Except to the extent they are serving in an ex-officio capacity, a director shall not serve as an employee or board member of an electric cooperative during his term as a director. Each director shall serve for a term of four years, except as provided in this section. At the expiration of the term of each director and of each succeeding director, the Governor, with the advice and consent of the Senate, must appoint a successor, who shall hold office for a term of four years or until his successor has been appointed and qualified. In the event of a director vacancy due to death, resignation, or otherwise, the Governor must appoint the director's successor, with the advice and consent of the Senate, and the successor director shall hold office for the unexpired term. A director shall not be appointed for more than three consecutive full terms. An appointment to an unexpired partial term shall not be considered for purposes of determining term limits.

(2) A director may not receive a salary for services as director until the Authority is in funds, but each director must be paid his actual expense in the performance of his duties, the actual expense to be advanced from the contingent fund of the Governor until the time the Public Service Authority is in funds, at which time the contingent fund must be reimbursed. After the Public Service Authority is in funds, the compensation and expenses of each member of the board must be paid from these funds, and the compensation and expenses must be fixed by the advisory board established in this section. The Authority may provide, at its expense, health insurance benefits to members of the board, through the state insurance plan or otherwise.

(3) Members of the board of directors may be removed for cause, pursuant to Section 1-3-240(C), by the Governor of the State, the advisory board, or a majority thereof. A member of the General Assembly of the State of South Carolina is not eligible for appointment as Director of the Public Service Authority during the term of his office. No more than two members from the same county may serve as directors at any time.

(B) Candidates for appointment to the board must be screened by the State Regulation of Public Utilities Review Committee and, prior to confirmation by the Senate, must be found qualified by meeting the minimum requirements contained in subsection (C). The review committee must submit a written report to the Clerk of the Senate setting forth its findings as to the qualifications of each candidate. A candidate must not serve on the board, even in an interim capacity, until he is

screened and found qualified by the State Regulation of Public Utilities Review Committee.

(C)(1) Each member must possess abilities and experience that are generally found among directors of energy utilities serving this State and that allow him to make valuable contributions to the conduct of the authority's business. These abilities include substantial business skills and experience, but are not limited to:

(a) general knowledge of the history, purpose, and operations of the Public Service Authority and the responsibilities of being a director of the authority;

(b) the ability to interpret legal and financial documents and information so as to further the activities and affairs of the Public Service Authority;

(c) with the assistance of counsel, the ability to understand and apply federal and state laws, rules, and regulations including, but not limited to, Chapter 4 of Title 30 as they relate to the activities and affairs of the Public Service Authority; and

(d) with the assistance of counsel, the ability to understand and apply judicial decisions as they relate to the activities and affairs of the Public Service Authority.

(2) Each member also must have:

(a) a baccalaureate or more advanced degree from:

(i) a recognized institution of higher learning requiring face-to-face contact between its students and instructors prior to completion of the academic program;

(ii) an institution of higher learning that has been accredited by a regional or national accrediting body; or

(iii) an institution of higher learning chartered before 1962; and

(b) a background of substantial duration and an expertise in at least one of the following:

(i) energy issues;
(ii) consumer protection and advocacy issues;
(iii) water and wastewater issues;
(iv) finance, economics, and statistics;
(v) accounting;
(vi) engineering; or
(vii) law.

(D) For the assistance of the board of directors of the Public Service Authority, there is hereby established an advisory board to be known as the advisory board of the South Carolina Public Service Authority, to be composed of the Governor of the State, the Attorney General, the State

Treasurer, the Comptroller General, and the Secretary of State, as ex officio members, who must serve without compensation other than necessary traveling expenses. The advisory board must perform any duties imposed on it pursuant to this chapter, and must consult and advise with the board of directors on any and all matters which by the board of directors may be referred to the advisory board. The board of directors must make annual reports to the advisory board, which reports must be submitted to the General Assembly by the Governor, in which full information as to all of the acts of said board of directors shall be given, together with financial statement and full information as to the work of the authority. On July first of each year, the advisory board must designate a certified public accountant or accountants for the purpose of making a complete audit of the affairs of the Authority, which must be filed with the annual report of the board of directors. The Public Service Authority must submit the audit to the General Assembly.

(E)(1) The following shall be nonvoting ex officio members of the board of directors entitled to attend all meetings of the Authority board, including any executive sessions, except as set forth below:

The Chairman of Central Electric Power Cooperative, or his designee, and one member of the Board of Central Electric Power Cooperative chosen by that board who is not the chairman or his designee. The ex officio members shall have the same obligations and duties as other members of the board, except the obligation to vote, and are subject to removal in the same manner as other board members. An ex officio member that has otherwise satisfied all obligations and duties owed to the Public Service Authority shall not be liable for matters directly related to either the process of voting nor a decision determined by a vote of the board of directors.

(2) The ex officio members may be excluded from executive session where the following matters are being discussed:

(a) negotiations incident to proposed contractual arrangements with a customer, including Central Electric Cooperative, Inc., or receiving legal advice involving a customer, Central Electric Power Cooperative, Inc., or one of its members; or

(b) discussions regarding generation resources that will not be shared resources under any wholesale power supply agreement between the Authority and Central Electric Power Cooperative or receiving legal advice in relation thereto.

Upon advice of counsel that a conflict may exist for an ex officio member of the board to attend an executive session or a portion thereof to discuss matters other than (a) and (b), the board may exclude, by a

majority vote, the ex officio member from those portions of an executive session for which a conflict may exist.

(3) When ex officio members are excluded from executive session, the reason for the conflict must be stated before the vote is taken and shall be recorded in official minutes or other records of the meeting. The ex officio member of the board must be given an opportunity to speak to the conflict and the underlying issue at the beginning of the executive session. After being provided the opportunity to speak as provided in this provision, the ex officio member must leave the room and may not participate in the remainder of the executive session on the issue giving rise to the conflict. Efforts should be taken to optimize participation of ex officio members by segmenting executive sessions.

(4) Ex officio members will begin serving immediately upon a letter indicating their appointments is delivered to the board and to the Public Utilities Review Committee but must meet the qualifications set forth in Section 58-31-20(C) as verified by the Public Utilities Review Committee within six months of beginning service as an ex officio member. Ex officio members will be appointed for two-year terms but may be removed either by the Governor pursuant to Section 1-3-240(C)(1)(m) or the Board of Central Electric Power Cooperative. In the event that the Board of Central Electric Power Cooperative removes the ex officio member, the Public Service Authority Board of Directors must receive notice at least sixty days before the ex officio member's successor begins service on the Public Service Authority Board of Directors. An ex officio member will not be entitled to receive compensation from the Public Service Authority for his or her service as an ex officio member and will not be counted for purposes of determining a quorum.

(F) In making appointments to the board of directors, the Governor, in making appointments and the Senate, in its advice and consent capacity, must give due consideration to race, gender, and other demographic factors to assure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of this State."

Public Service Authority powers

SECTION 2. Section 58-31-30(A)(11) and (12) of the 1976 Code is amended to read:

"(11) to make bylaws for the management and regulation of its affairs, including the establishment of subcommittees of the board of

directors to include Finance and Audit, Public Information, Water Services and Resource Management, Generation and Power Supply Planning, and Executive and Governance, each of these making regular reports to the full board of directors at each regular meeting of the full board;

(12) to select a chief executive officer for the Authority who shall cause the Authority to employ all necessary employees with the board, by vote, approving the compensation of any senior management official selected by the chief executive officer;"

Approval of compensation and severance packages

SECTION 3. Section 58-31-30 of the 1976 Code is amended by adding a subsection (C) to read:

"(C) Any compensation package, severance package, payment or other benefit of whatever nature conferred upon the chief executive officer or member of the board of the Public Service Authority or offered on or after May 15, 2021, must first be approved by the Agency Head Salary Commission before the Authority can enter into an agreement regarding a severance package, payment or other benefits. Any payment made in violation of this section is grounds for a claw-back of the payment or benefit in a legal action brought by the Attorney General of this State seeking a recovery of that payment. The Public Service Authority must provide a report to the Agency Head Salary Commission by July 6, 2021, with information regarding any severance package, payment or other benefit conferred upon an executive officer or member of the board of the Public Service Authority from January 1, 2020, through June 30, 2021."

Director's duties and responsibilities

SECTION 4. Section 58-31-55 of the 1976 Code is amended to read:

"Section 58-31-55. (A) A director shall discharge his duties as a director, including his duties as a member of a committee:

(1) in good faith;

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

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

(a) preservation of the financial integrity of the Public Service Authority and its ongoing operations;

(b) the interest of the Public Service Authority's residential, commercial and industrial retail customers, and those wholesale customers served pursuant to contractual arrangements, but excluding joint action agencies and those entities located outside the State, in reliable, adequate, efficient, and safe service, at just and reasonable rates, regardless of customer class;

(c) maintenance, preservation, and keeping of the Public Service Authority's properties and all additions and betterments thereto and extension thereof and every part and parcel in thereof, in good repair, working order and condition;

(d) the support of, economic development and job attraction and retention within the Public Service Authority's present service area or areas within the State authorized to be served by an electric cooperative or municipally owned electric utility that is a direct or indirect wholesale customer of the Authority, provided the remaining items of this subsection have been met; and

(e) subject to the limitations of Section 58-31-30(B) and item (A)(3)(a) of this section, exercise of the powers of the Authority set forth in Section 58-31-30 in accordance with good business practices and the requirements of applicable licenses, laws, and regulations.

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

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

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

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

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

(D) A director is not liable for any action taken as a director, or any failure to take any action, if he performed the duties of his office in compliance with this section.

(E) An action against a director for failure to perform the duties imposed by this section must be commenced within three years after the

cause of action has occurred, or within two years after the time when the cause of action is discovered or should reasonably have been discovered, whichever occurs sooner. This limitations period does not apply to breaches of duty which have been concealed fraudulently.

(F) Any violation of this code section by a director shall constitute grounds for removal from office by the Governor pursuant to Section 1-3-240."

Conflict of interest transactions

SECTION 5. Section 58-31-56 of the 1976 Code is amended to read:

"Section 58-31-56. (A) A conflict of interest transaction is a transaction with the Public Service Authority in which a director of the Public Service Authority has a direct or indirect interest. A conflict of interest transaction is not voidable by the Public Service Authority solely because of the director's interest in the transaction if any one of the following is true:

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

(2) the transaction was fair to the Public Service Authority and its customers.

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

(B) For purposes of this section, a Director of the Public Service Authority has an indirect interest in a transaction if:

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

(2) another entity of which he is a director, officer, or trustee is a party to the transaction and the transaction is or should be considered by the board of directors of the Public Service Authority.

(C) For purposes of subsection (A)(1), a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board of directors (or on the committee) who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved, or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize,

approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection (A)(1) if the transaction is otherwise authorized, approved, or ratified as provided in that subsection.

(D) Any violation of this code section by a director shall constitute grounds for removal from office by the Governor pursuant to Section 1-3-240."

Governor's authority to remove directors

SECTION 6. Section 1-3-240(C)(1)(m) of the 1976 Code is amended to read:

"(m) Directors of the South Carolina Public Service Authority appointed pursuant to Section 58-31-20;"

Term of office expiration dates

SECTION 7. (A) To ensure that the Public Service Authority Board of Directors positions are appropriately staggered, the following establishes the term expiration for positions as of the effective date of this act:

(1) The terms for the members representing the 2nd and 4th congressional districts, and the at-large seat designated as the chair shall expire on January 1, 2022;

(2) The terms for the members representing the 1st and 7th congressional districts and Berkeley County shall expire on January 1, 2023;

(3) The terms for members representing the 3rd and 6th congressional districts and the other at-large seat shall expire on January 1, 2024; and

(4) The terms for members representing the 5th congressional district and Georgetown and Horry counties shall expire on January 1, 2025.

If any vacancy occurs prior to respective dates established in this SECTION, the Governor may appoint a successor pursuant to Section 58-31-20.

(B) Notwithstanding the term limit provisions in Section 58-31-20(A), a director serving as of the effective date of this act is ineligible for reappointment unless that director was first appointed after January 1, 2018.

JBRC approval, annual reporting of real property transactions, and legislative oversight

SECTION 8. Article 1, Chapter 31, Title 58 of the 1976 Code is amended by adding:

"Section 58-31-240. For purposes of this section:

(A) 'JBRC' means the Joint Bond Review Committee.

(1) Prior to issuing any (1) bonds, (2) notes, or (3) other indebtedness, including any refinancing that does not achieve a savings in total debt service, the JBRC must approve, reject, or modify the issuance by the Authority. This section does not apply to the issuance of short-term or revolving-credit debt for the management of day-to-day operations and financing needs.

(2) If the JBRC does not take action on the issuance within sixty days, the issuance is considered approved.

(3) Issuance approved by the JBRC need not be issued immediately, and the debt may be issued across multiple series and over a three-year term.

(B)(1) By September first of each year, the Authority shall provide an annual report regarding every transaction involving an interest in real property and executed during the preceding twelve months, including:

(a) a summary of the key terms of all contracts effectuating or related to such transactions; and

(b) parties involved in the transaction, including all entities or persons with any type of ownership interest or authority to control.

(2) A transfer of any interest in real property by the Authority, regardless of the value of the transaction, requires approval, rejection, or modification by the JBRC.

(3) The reporting and other requirements of this item do not apply to encroachment agreements, rights of way, or lease agreements made by the Authority for property within the Federal Energy Regulatory Project boundary.

(C) The JBRC may adopt instructions which must be followed by the Authority for any submission pursuant to this section.

(D) The requirements imposed on the Authority pursuant to this section are in addition to any other requirements of law. If any provision of this section conflicts with another provision of law, the provisions of this section shall control to the extent of the conflict.

Section 58-31-250. (A) The Senate Finance Committee and the House Ways and Means Committee may request and the Authority must

produce, in writing or by testimony at the request of the relevant committee, within thirty days of any request any or all of the following:

(1) annual audited financial statements;

(2) projected and actual annual revenue;

(3) actual annual expenditures;

(4) any debt issuances in the previous five years, whether short-term or long-term;

(5) percent of annual revenues utilized for administration. For purposes of this item, 'administration' includes executive-level employees compensation and other operating costs;

(6) organizational flow chart displaying the position titles and name of executive-level employees;

(7) major components of any long-term capital plan, including timing and cost estimates, and financing plan for such capital investments whether paid from operations or debt;

(8) performance objectives and results;

(9) performance measurements used to evaluate program effectiveness;

(10) any outstanding litigation issues; and

(11) planning documents and progress reports, including budgeted and actual expenditures.

(B) The Authority must post its annual audited financial report in a conspicuous place on the Authority's website and distribute the reports to members of the General Assembly.

(C) Any problems or issues of concern that arise during this oversight process may be forwarded to the State Inspector General for investigation after a vote of either committee. The Inspector General is granted the authority to complete the investigation.

(D) The Authority and the Board of Directors and its subcommittees are public bodies for purposes of the Freedom of Information Act.

(E) Any and all compensation for the Authority CEO must be reviewed by the Agency Head Salary Commission. Additionally, any employment contracts or retention contracts that last longer than five years, and all contract extensions, must be reviewed by the Agency Head Salary Commission."

Certain transmission lines and facilities exempted

SECTION 9. Section 58-33-110(4) of the 1976 Code is amended to read:

"(4) This chapter shall not apply to any major utility facility:

(a) the construction of which is commenced within one year after January 1, 1972; or

(b) for which, prior to January 1, 1972, an application for the approval has been made to any federal, state, regional, or local governmental agency which possesses the jurisdiction to consider the matters prescribed for finding and determination in subsection (1) of Section 58-33-160;

(c) for which, prior to January 1, 1972, a governmental agency has approved the construction of the facility and indebtedness has been incurred to finance all or part of the cost of such construction;

(d) which is a hydroelectric generating facility over which the Federal Power Commission has licensing jurisdiction; or

(e) which is a transmission line or associated electrical transmission facilities constructed by the South Carolina Public Service Authority, for which construction either is commenced within one year after January 1, 2022, or is necessary to maintain system reliability in connection with the closure of the Winyah Generating Station, provided that such transmission is not for generation subject to this chapter."

Service areas and corridor rights

SECTION 10. Section 58-31-430 of the 1976 Code is amended to read:

"Section 58-31-430. The Public Service Commission may not assign any portion of the present service area of the Public Service Authority to any electrical utility or electric cooperative and this service area must be exclusively served by the Public Service Authority unless otherwise agreed to by the Public Service Authority as described in this section. Santee Electric Cooperative, Inc., Berkeley Electric Cooperative, Inc., Horry Electric Cooperative, Inc., may serve those areas reserved to them as provided in Section 58-31-330. The Public Service Commission is directed to conform the present assignment under Section 58-27-620 to the mandates of this article. Nothing contained in this article may be construed as preventing the Public Service Commission from exercising its jurisdiction over electric cooperative service areas in the manner provided by law. Upon customer choice either the Public Service Authority, an electric cooperative mentioned above, or Edisto Electric Cooperative, Inc., may furnish electric service to any new premises which the other supplier has the right to serve, upon agreement of the affected suppliers.

Notwithstanding the foregoing, the Public Service Authority shall have the right to enter into agreements with other electric suppliers, as defined by Section 58-27-610, concerning service areas, as contemplated by Section 58-27-640, and corridor rights, as defined by Section 58-27-610. In that event, the Public Service Commission shall have the authority to approve said agreements and to reassign said service area or corridor rights. This authority shall only apply in situations where all affected electric suppliers have reached an agreement concerning service areas or corridor rights. With respect to the agreements, the commission shall approve the agreements and reassign said service area or corridor rights if, after giving notice and an opportunity for hearing to interested parties, it finds the agreements to be fair and reasonable, but the commission shall not have the authority to alter or amend any such agreement unless all affected electric suppliers agree to the alteration or amendment. For purposes of this article, the term 'all affected electric suppliers' shall include, but not be limited to, the nearest electric cooperative or cooperatives to the proposed service area changes within a five mile radius of the affected service area or corridor. This section shall not confer service territory rights to the Public Service Authority beyond those provided in Section 58-31-330 and Section 58-31-320(2)."

Retail rates process

SECTION 11. Chapter 31, Title 58 of the 1976 Code is amended by adding:

"Article 7

Retail Rates Process

Section 58-31-710. The Public Service Authority, through its board of directors, shall adopt and publish pricing principles that respect and balance factors including, but not limited to, adherence to the Authority's mission to be a low-cost provider, reliability, transparency, preservation of the Authority's financial integrity, equity among customer classes, gradualism in adjustments to its pricing and rate schedule type, encouragement of efficiency and demand response, adequate notice to customers, and relief mechanisms for financially distressed customers. The Authority shall also maintain and continue to offer rate schedules and options that provide demand-side management flexibility including, but not limited to, non-firm sales and interruptible power rates, and conservation opportunities to its customers.

Section 58-31-720. For purposes of this article 'customer' shall include the Authority's residential, commercial and industrial retail customers, and those wholesale customers served pursuant to contractual arrangements, but excluding joint action agencies and those entities located outside the State.

Section 58-31-730. Prior to creating or revising any of its board-approved retail rate schedules, the Public Service Authority, through resolution of its board of directors or otherwise, shall adopt a process that shall include the following:

(A) The Authority shall provide notice to all customers at least one hundred and eighty days before the board of directors' vote on a proposed rate adjustment.

(1) The one hundred and eighty days' notice required under this section is established to allow customers to provide comments to the Authority as follows:

(a) written comments to the Authority for ninety days from the date of notice; and

(b) oral comments to the Authority for one hundred twenty days from the date of notice.

(2) The notice required by this subsection must be given in the following forms:

(a) by first-class United States mail addressed to the customer's billing address in the Authority's records at the time of the notice, or for customers who have elected paperless billing, by the same means of communication used for providing these customers paperless billing;

(b) by advertisements to be published in newspapers of general circulation within the service territory of the Authority;

(c) by way of the Authority's regularly maintained website, including a conspicuous portal or link accessible from the website's landing page; and

(d) by issuance of a news release to local news outlets.

(3) The notice of proposed rate adjustments required by this subsection shall contain the following information:

(a) the date, time, and location of all public meetings;

(b) the date, time, and location of the meeting at which a proposed rate adjustment is expected to be submitted to the board of directors for its consideration;

(c) the date, time, and location of the meeting at which the board of directors is expected to vote on the proposed rate adjustment;

(d) a notification to customers of their right to:

(i) review the proposed rate schedules;

(ii) appear and speak in person concerning the proposed rates at public meetings or the specified meetings of the board of directors; and

(iii) submit written comments;

(e) the means by which customers can submit written comments, including the email and physical addresses to which written comments may be submitted, and the deadline for submitting such comments; and

(f) the means by which customers can access and review the Authority's written report containing the proposed rate adjustments, the non-proprietary and non-confidential portions of any rate study or other documentation developed by the Authority in support of the rate adjustment which shall be available at the time the notice is issued.

(4) Contemporaneously with notice to customers, the Authority shall provide notice of proposed rate adjustments to the Office of Regulatory Staff.

(B) In addition to the requirements of notice set forth above, the Authority shall provide for the following in its retail rate adjustment process:

(1) the Office of Regulatory Staff must review any rate adjustments proposed to the Authority's board of directors under this article including conducting an inspection, audit, and examination of the proposed rate schedule, revenue requirements, cost-of-service analysis, and rate/tariff design. In accomplishing its responsibilities under this article, the Office of Regulatory Staff must use the authority granted to it pursuant to Section 58-31-225. The Office of Regulatory Staff must treat as confidential or proprietary the information provided by the Authority pursuant to this subsection that is identified by the Authority as such unless or until the Authority agrees that such information is no longer confidential or proprietary. Any disputes concerning whether such information is subject to protection must be resolved by the South Carolina Public Service Commission;

(2) a comprehensive review of the Authority's rate structure and rates, consistent with the provisions of Chapter 31, Title 58, and the Public Service Authority's bond covenants concerning the Public Service Authority's revenue requirements, provided that:

(a) management may engage consultants as necessary to assist the Authority in completing this review; and

(b) this review should include such subjects as the Authority's revenue requirements, rate/tariff design recognizing the provisions of any wholesale power supply agreement, and a comprehensive cost-of-service analysis that includes an allocation of costs, between wholesale

and retail customers, and among all classes of retail customers, including residential, commercial and industrial classes;

(3) a written report of management's recommendations concerning proposed rate adjustments;

(4) beginning no later than the date that notice of the proposed rate adjustment is issued by the Authority, an opportunity for customers and the Office of Regulatory Staff, in advance of the board of directors' consideration and determination of rates, to review the proposed rate schedules and written findings and analyses of employees and consultants retained by the Authority that support the proposed rate adjustments, provided that:

(a) the Authority also shall provide customers and the Office of Regulatory Staff access to proposed rate schedules and written findings and analyses of employees and consultants retained by the Authority that support the proposed rate adjustments, such materials to be made available at a physical location, at public meetings, and posted on the Authority's website; and

(b) the Authority shall not be required to provide to customers analyses which disclose the commercially sensitive information of individual customers or which is otherwise proprietary or confidential;

(5) public meetings, to be held at locations convenient for customers and within the Authority's service territory, provided that:

(a) the Authority shall convene at least two public meetings at a minimum of two locations within its service territory for the purpose of presenting the proposed rate adjustment and relevant information regarding the same to customers for their information and comment;

(b) customers may appear and speak in person at public meetings and direct comments and inquiries about the rate adjustment to representatives of the Authority;

(c) at least one representative of the Authority's staff or management and a quorum of the board of directors shall attend each public meeting;

(d) the Authority shall cause a transcript of all such meetings to be prepared and maintained as a public record and for consideration by the board of directors prior to its consideration and vote on a proposed rate adjustment; and

(e) the contents of this item must not be construed in such a manner as to prevent the Authority from extending the prescribed timelines, holding additional public meetings, holding additional meetings with customers as may be scheduled from time to time at the convenience of the Authority and the customers, or having additional

representatives of staff, management, or the board of directors in attendance at such meetings;

(6) the Authority's management shall respond to reasonable questions and requests for information from customers and the Office of Regulatory Staff during the comment period regarding the rate proposal, subject to the appropriate protection of confidential information. All information provided to the Office of Regulatory Staff upon request that is not confidential or proprietary shall be made publicly available immediately following disclosure to the requesting party;

(7) submission by the Office of Regulatory Staff of written comments and supporting documentation in the same manner as customers and an opportunity for the Office of Regulatory Staff to provide comments to, and answer questions from, the board of directors;

(8) a meeting of the board of directors, separate from its scheduled vote on proposed rate adjustments and no less than one hundred twenty days from the date of notice required pursuant to Section 58-31-730(A), at which the board of directors shall receive written comments received in accordance with Section 58-31-730(A)(1), and transcripts of the public meetings, provided that:

(a) at this meeting customers who will be affected by a rate adjustment and other interested parties, including the Office of Regulatory Staff and Consumer Advocate, shall be entitled to appear and speak in person for a reasonable amount of time to offer their comments directly to the board of directors;

(b) customer comments received by the Authority prior to this meeting and transcripts of the public meetings shall be submitted to the board of directors for their consideration in the determination of rates;

(c) submissions from the Office of Regulatory Staff shall be provided to the board of directors for their consideration in the determination of rates; and

(d) the Authority shall cause a transcript of this meeting to be prepared and maintained as a public record;

(9) a meeting of the board of directors, separate from its scheduled vote on proposed rate adjustments and no less than one hundred fifty days from the date of notice required pursuant to Section 58-31-730(A), at which it shall receive the Authority management's recommendation, which shall be made publicly available, concerning proposed rate adjustments, the proposed rate schedules, and documentation supporting the same; and

(10) a meeting at which the board of directors votes on the proposed rate adjustment, following notice as set forth in subsection (A) and

completion of the process implemented by the board of directors pursuant to subsection (B).

(C) Rates shall become effective no earlier than sixty days following board approval of proposed rate adjustments.

(D) Nothing contained in this section may be construed to limit or derogate from the state's covenants as provided in Sections 58-31-30 and 58-31-360, and those covenants are hereby reaffirmed.

(E) The board of directors shall utilize consultants independent from the Authority's management and is authorized to hire independent, outside experts and consultants as necessary to fulfill the board of directors' obligations and duties pursuant to this section.

(F) Notwithstanding the provisions of this section, the Authority may place such adjusted rates and charges into effect on an interim basis under emergency circumstances such as the avoidance of default of its obligations and to ensure proper maintenance of its system; these interim rates must not be in effect for more than eighteen months. Said adjusted rates and charges shall be subject to prospective rate adjustment in accordance with the terms of this section, provided further, that the Authority may implement experimental rates on an interim basis for the purpose of developing improved rate offerings for customers. These experimental rates will be enacted for no longer than four years and (a) for large industrial customers, no more than twelve percent of the large industrial customer class except large industrial customers with one hundred megawatts or greater load shall be excluded from any class size limit, and (b) for all other customers no more than five percent of the customers in the class. All experimental rates must be disclosed in public session of the board prior to being enacted and are subject to approval by the board only to the extent that they meet the requirements of Section 58-31-55.

(G) Judicial review of decisions by the board of directors under this article shall be by direct appeal to the South Carolina Supreme Court. The service of a notice of appeal from a decision of the board of directors pursuant to this article does not act to automatically stay the matters decided in the decision, in the same manner as provided by Rule 241(b)(11) of the South Carolina Appellate Court Rules. Rate adjustments approved by the board of directors pursuant to this article have been authorized by law.

(1) The Office of Regulatory Staff, or any customer who has submitted written or oral comments as permitted under this article is considered a 'party in interest' entitled to obtain judicial review of any final decision of the board under this article by appealing in the manner provided by Rule 203(b)(6) of the South Carolina Appellate Court Rules

as applicable to appeals from administrative tribunals. No right to appeal accrues unless a request for reconsideration is submitted to the board and refused as set out in S.C. Code Ann. Section 58-31-730(G)(2).

(2) Any party in interest seeking to appeal must first submit, within ten days after the decision of the board, a request for reconsideration. The board of directors shall either grant or refuse such request within twenty days of receipt. If the board grants the request for reconsideration, it must meet to consider the request within thirty days.

(3) On appeal, the South Carolina Supreme Court may not substitute its judgment for the judgment of the board of directors as to the weight of the evidence on questions of fact. The court may affirm the decision of the board of directors or remand the case to the board of directors for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the board's findings, inferences, conclusions, or decisions are:

(a) in violation of constitutional or statutory provisions;

(b) in excess of the statutory authority of the Authority;

(c) made upon unlawful procedure;

(d) affected by other error of law;

(e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

(f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(H) The procedure provided in this article is the exclusive process for challenging any rate adjustments approved by the board of directors. If a party in interest successfully challenges a rate approval decision on appeal, the exclusive remedy is a prospective adjustment of a new rate by the board of directors. The board of directors possesses authority only to adjust rates prospectively and has no authority to refund amounts collected pursuant to a rate adjustment approved pursuant to this article. The filed rate doctrine protects any such rate adjustment decisions from any collateral attack, which includes, but is not limited to, any claim that a rate adjustment decision by the board of directors violates S.C. Code Ann. Sections 58-31-55, 58-31-56, or 58-31-57.

Section 58-31-740. The Authority shall submit to the Office of Regulatory Staff a pricing report each year, and its report must include an analysis of the adherence to the pricing principles required in Section 58-31-710, the current and projected electric customer pricing, a comparison of pricing to other utilities, and an analysis of the rates of return by customer class. After its review, the ORS shall issue comments

on the Authority's annual pricing report to the Authority's board of directors and the Public Utility Review Committee."

Office of Regulatory Staff, inspections, audits, and examinations

SECTION 12. Chapter 31, Title 58 of the 1976 Code is amended by adding:

"Section 58-31-225. The Office of Regulatory Staff, under the provisions of this section, is hereby vested with the authority and jurisdiction to make inspections, audits, and examinations of the Public Service Authority pursuant to the provisions of Chapter 4, Title 58, relating to the electric rates established by the Public Service Authority. Upon completion of an authorized inspection, audit, or examination, the Office of Regulatory Staff must report its findings to the management and board of the Public Service Authority and attempt to resolve with the management and board any issues that are identified. The Public Service Authority must post information regarding its electric rates on its website."

Office of Regulatory Staff, duties and responsibilities

SECTION 13. Chapter 4, Title 58 of the 1976 Code is amended by adding:

"Section 58-4-51. (A) Regulatory staff shall have the following duties and responsibilities concerning the Public Service Authority to:

(1) when considered necessary by the Executive Director of the Office of Regulatory Staff, review, investigate, and make appropriate recommendations to the appropriate entity with respect to the rates charged or proposed to be charged for electric service provided by the Public Service Authority;

(2) when considered necessary by the Executive Director of the Office of Regulatory Staff, make inspections, audits, and examinations of, and to make recommendations to, the appropriate entity, regarding electric service provided by the Public Service Authority;

(3) upon request by the commission, make studies and recommendations to the commission with respect to standards, regulations, practices, or electric service provided by the Public Service Authority for matters within the commission's jurisdiction; and

(4) when considered necessary by the Executive Director of the Office of Regulatory Staff, investigate and examine the condition of

generation, transmission, or distribution electric facilities owned or operated by the Public Service Authority.

(B) Regulatory staff may participate as a party of interest, as deemed necessary by the Executive Director of the Office of Regulatory Staff, before regulatory agencies, state courts and federal courts, in matters that could affect the Public Service Authority's rates or charges for the Authority's electric service.

(C) The regulatory staff may have additional duties and responsibilities related to the Public Service Authority as otherwise provided by law."

Treatment of confidential or proprietary information

SECTION 14. Section 58-4-55 of the 1976 Code, as last amended by Act 56 of 2019, is further amended to read:

"Section 58-4-55. (A) The regulatory staff, in accomplishing its responsibilities under Section 58-4-50 and Section 58-4-51, may require the production of books, records, and other information to be produced at the regulatory staff's office, that, upon request of the regulatory staff, must be submitted under oath and without the requirement of a confidentiality agreement or protective order being first executed or sought. The regulatory staff must treat the information as confidential or proprietary unless or until the commission rules such information is not entitled to protection from public disclosure or the public utility, the Public Service Authority, or the electric cooperative agrees that such information is no longer confidential or proprietary. Unless the commission's order contains a finding to the contrary, all documents or information designated as confidential or proprietary pursuant to this subsection are exempt from public disclosure under Sections 30-4-10, et seq., and the regulatory staff shall not disclose such documents and information, or the contents thereof, to any member of the commission or to any other person or entity; provided, however, that, if the commission determines that it is necessary to view such documents or information, it shall order the regulatory staff to file the documents or information with the commission under seal, and such documents or information shall not be available for public inspection unless otherwise ordered by the commission. Although the Public Service Authority is subject to the Freedom of Information Act pursuant to Sections 30-4-10, et seq., the Authority, when necessary and appropriate, may indicate that documents or information provided to regulatory staff is confidential or proprietary, or otherwise exempt from disclosure in accordance with

statute, and the regulatory staff must treat this information in the same manner as public utilities and cooperatives pursuant to this section.

If the books, records, or other information provided do not appear to disclose full and accurate information and, if such apparent deficiencies are not cured after reasonable notice, the regulatory staff may require the attendance and testimony under oath of the officers, accountants, or other agents of the parties having knowledge thereof at such place as the regulatory staff may designate and the expense of making the necessary examination or inspection for the procuring of the information must be paid by the party examined or inspected, to be collected by the regulatory staff by suit or action, if necessary. If, however, the examination and inspection and the reports thereof disclose that full and accurate information had previously been made, the expense of making the examination and inspection must be paid out of the funds of the regulatory staff.

(B) If the regulatory staff initiates an inspection, audit, or examination of a public utility, the Public Service Authority, or an electric cooperative, the public utility, the Public Service Authority, or the electric cooperative that is the subject of the inspection, audit, or examination may petition the commission to terminate or limit the scope of such inspection, audit, or examination. The commission must grant such petition if it finds that such inspection, audit, or examination is arbitrary, capricious, unnecessary, unduly burdensome, or unrelated to the regulated operations of the public utility, the Public Service Authority, or the electric cooperative.

(1) If such an inspection, audit, or examination is not part of a contested case proceeding, the public utility, the Public Service Authority or the electric cooperative may also raise objections or seek relief available under the South Carolina Rules of Civil Procedure to a party upon whom discovery is served or to a person upon whom a subpoena is served. The commission shall provide the regulatory staff reasonable notice to respond to any such objection or request. Absent the consent of the public utility, the Public Service Authority, or the electric cooperative raising such an objection or request and the Office of Regulatory Staff, the commission must rule on such an objection or request within sixty days of the date it was filed. During the pendency of the commission's ruling, the public utility, the Public Service Authority, or the electric cooperative making such an objection or request is not required to produce or provide access to any documents or information that is the subject of the objection or request.

(2) If such an inspection, audit, or examination is part of a contested case proceeding, the commission shall address objections to

information sought by the regulatory staff in the same manner in which it addresses objections to discovery issued by the parties to the contested case proceeding.

(C) Any public utility, the Public Service Authority, or any electric cooperative that provides the regulatory staff with copies of or access to documents or information in the course of an inspection, audit, or examination that is not part of a contested case proceeding may designate any such documents or information as confidential or proprietary if it believes in good faith that such documents or information would be entitled to protection from public disclosure under the South Carolina Rules of Civil Procedure or any provision of South Carolina or federal law. The regulatory staff may petition the commission for an order that some or all of the documents so designated are not entitled to protection from public disclosure and it shall be incumbent on the utility to prove that such documents are entitled to protection from public disclosure under the South Carolina Rules of Civil Procedure or any provision of South Carolina or federal law. The commission shall rule on such petition after providing the regulatory staff and the utility an opportunity to be heard. Unless the commission's order on such a petition contains a finding to the contrary, all documents or information designated as confidential or proprietary pursuant to this subsection are exempt from public disclosure under Sections 30-4-10, et seq., and the regulatory staff shall not disclose such documents and information, or the contents thereof, to any member of the commission or to any other person or entity; provided, however, that, if the commission determines that it is necessary to view such documents or information in order to rule on such a petition, it shall order the regulatory staff to file the documents or information with the commission under seal, and such documents or information shall not be available for public inspection during the pendency of the petition.

(D) Nothing in this section restricts the regulatory staff's ability to serve discovery in a contested case proceeding that seeks the type of documents or information the regulatory staff has obtained in the course of any review, investigation, inspection, audit, or examination, nor does anything in this section restrict the ability of any public utility, the Public Service Authority, or electric cooperative to object to such discovery or to seek relief regarding such discovery, including without limitation, the entry of a protective order. The regulatory staff shall not be required to execute a confidentiality agreement or seek a protective order prior to accessing the documents or information of a public utility, the Public Service Authority, or an electric cooperative, and such information or documents must be treated as confidential or proprietary unless or until

the commission rules such information is not entitled to protection from public disclosure or the public utility, the Public Service Authority, or the electric cooperative agrees that such information is no longer confidential or proprietary. Unless the commission's order contains a finding to the contrary, all documents or information designated as confidential or proprietary pursuant to this subsection are exempt from public disclosure under Section 30-4-10, et seq., and the regulatory staff shall not disclose such documents and information, or the contents thereof, to any member of the commission or to any other person or entity. However, if the commission determines that it is necessary to view such documents or information, it shall order the regulatory staff to file the documents or information with the commission under seal, and such documents or information shall not be available for public inspection unless otherwise ordered by the commission.

(E)(1) The Office of Regulatory Staff, in order to accomplish any of the responsibilities assigned to it by Chapter 4, Title 58 or any other provision of law, may apply to the circuit court for subpoenas to be issued to entities over which the Public Service Commission does not have jurisdiction. Such subpoenas will be issued by the circuit court in the same manner as subpoenas are issued to parties to proceedings before that court, and all rules applicable to the issuance of such subpoenas, including enforcement and penalties, shall apply to subpoenas issued at the request of the regulatory staff.

(2) In order to accomplish any of the responsibilities assigned to the Office of Regulatory Staff regarding the Public Service Authority in which the commission does not have jurisdiction, regulatory staff may request a hearing with the Administrative Law Court.

(F) The actual expenses of the Office of Regulatory Staff incurred in carrying out its duties under Section 58-4-50(A)(12) must be certified annually to the Public Utilities Review Committee in an itemized statement by the Office of Regulatory Staff, shown as a line item in the Office of Regulatory Staff budget, to be assessed directly to an audited electric cooperative by the Office of Regulatory Staff, and deposited with the State Treasurer to the credit of the Office of Regulatory Staff."

Inspection of electrical utility and Public Service Authority facilities

SECTION 15. Section 58-27-190 of the 1976 Code is amended to read:

"Section 58-27-190. The Office of Regulatory Staff has the right at any and all times to inspect the property, plant, and facilities of any

electrical utility and the South Carolina Public Service Authority and to inspect or audit at reasonable times the accounts, books, papers, and documents of any electrical utility and the South Carolina Public Service Authority. For the purposes herein mentioned an employee or agent of the Office of Regulatory Staff may during all reasonable hours enter upon any premises occupied by or under the control of any electrical utility or the South Carolina Public Service Authority. An employee or agent of the Office of Regulatory Staff authorized to administer oaths has the power to examine under oath any officer, agent, or employee of the electrical utility and the South Carolina Public Service Authority, in relation to the business and affairs of the electrical utility or the South Carolina Public Service Authority, but written record of the testimony or statement so given under oath must be made."

Inspection of tax returns filed by electrical utilities and Public Service Authority

SECTION 16. Section 58-27-200 of the 1976 Code is amended to read:

"Section 58-27-200. In the performance of its duties under this chapter, an employee or agent of the Office of Regulatory Staff may inspect or make copies of all income, property, or other tax returns, reports, or other information filed by electrical utilities or the South Carolina Public Service Authority, with or otherwise obtained by any other department, commission, board, or agency of the state government. All departments, commissions, boards, or agencies of the state government must permit an employee or agent of the Office of Regulatory Staff to inspect or make copies of all information filed by electrical utilities or the South Carolina Public Service Authority, with or otherwise obtained by the department, commission, board, or agency of the state government."

Actions to prevent or discontinue violations of law

SECTION 17. Section 58-27-210 of the 1976 Code is amended to read:

"Section 58-27-210. Whenever it shall appear that any electrical utility, electric cooperative, the South Carolina Public Service Authority regarding its provision of electric services, or consolidated political subdivision is failing or omitting, or about to fail or omit, to do anything

required of it by law or by order of the commission or is doing, or about to do anything or permitting or about to permit anything to be done contrary to or in violation of law or of any order of the commission, an action or proceeding shall be prosecuted in any court of competent jurisdiction in the name of the Office of Regulatory Staff for the purpose of having such violation or threatened violation discontinued or prevented, either by mandamus, injunction, or other appropriate relief, and in such action or proceeding, it shall be permissible to join such other persons, corporations, municipalities, or consolidated political subdivisions as parties thereto as may be reasonably necessary to make the order of the court in all respects effective. The commission must not be a party to any action."

Enforcement and administration Chapter 27, Title 58

SECTION 18. Section 58-27-220 of the 1976 Code is amended to read:

"Section 58-27-220. In addition to the foregoing expressly enumerated powers, the Office of Regulatory Staff must enforce, execute, administer, and carry out the provisions of this chapter relating to the powers, duties, limitations, and restrictions imposed upon electrical utilities and the South Carolina Public Service Authority by this chapter or any other provisions of the law of this State regulating electrical utilities and the South Carolina Public Service Authority regarding its provision of electric services."

"Major utility facility" defined

SECTION 19. Section 58-33-20 of the 1976 Code is amended to read:

"Section 58-33-20. (1) The term 'commission' means Public Service Commission.

(2) The term 'major utility facility' means:

(a) electric generating plant and associated facilities designed for, or capable of, operation at a capacity of more than seventy-five megawatts.

(b) an electric transmission line and associated facilities of a designed operating voltage of one hundred twenty-five kilovolts or more; provided, however, that the words 'major utility facility' shall not include electric distribution lines and associated facilities.

(3) The term 'commence to construct' means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route of a major utility facility, but does not include surveying or changes needed for temporary use of sites or routes for nonutility purposes, or uses in securing geological data, including necessary borings to ascertain foundation conditions.

(4) The term 'municipality' means any county or municipality within this State.

(5) The term 'person' includes any individual, group, firm, partnership, corporation, cooperative, association, government subdivision, government agency, local government, municipality, any other organization, or any combination of any of the foregoing, and shall include the South Carolina Public Service Authority.

(6) The term 'public utility' or 'utility' means any person engaged in the generating, distributing, sale, delivery, or furnishing of electricity for public use.

(7) The term 'land' means any real estate or any estate or interest therein, including water and riparian rights, regardless of the use to which it is devoted.

(8) The term 'certificate' means a certificate of environmental compatibility and public convenience and necessity.

(9) The term 'regulatory staff' means the executive director or the executive director and the employees of the Office of Regulatory Staff."

Construction, acquisition, or purchase of major utility facilities

SECTION 20. Article 3, Chapter 33, Title 58 of the 1976 Code is amended by adding:

"Section 58-33-180. (A)(1) In addition to the requirements of Articles 1, 3, 5, and 7 of Chapter 33, Title 58, a certificate for the construction of a major utility facility shall be granted only if the Public Service Authority demonstrates and proves by a preponderance of the evidence and the commission finds:

(a) the construction of a major utility facility constitutes a more cost-effective means for serving direct serve and wholesale customers than other feasibly available long-term power supply alternatives and provides less ratepayer risk while maintaining safe and reliable electric service than other feasibly available long-term power supply alternatives; and

(b) energy efficiency measures; demand-side management; renewable energy resource generation; available long-term power

supply alternatives, or any combination thereof, would not establish or maintain a more cost-effective and reliable generation system and that the construction and operation of the facility is in the public interest.

(2) Available long-term power supply alternatives may include, but are not limited to, power purchase agreements, competitive procurement of renewable energy, joint dispatch agreements, market purchases from an existing regional transmission organization, joining or creating a new regional transmission organization, using best available technology for energy generation, transmission, storage and distribution, or any combination thereof.

(3) The commission shall consider any previous analysis performed pursuant to Section 58-37-40 in acting upon any petition by the Public Service Authority pursuant to this section. The commission shall also take into account the Public Service Authority's resource and fuel diversity, reasonably anticipated future operating costs, arrangements with other electric utilities for interchange of power, pooling of plants, purchase of power and other alternative methods for providing reliable, efficient, and economical electric service.

(B) The Public Service Authority shall file an estimate of construction costs in such detail as the commission may require. No certificate shall be granted unless the commission has approved the estimated construction costs and made a finding that construction will be consistent with the Authority's commission-approved plan for expansion of electric generating capacity.

Section 58-33-185. (A) The Public Service Authority may not enter into a contract for the acquisition of a major utility facility without approval of the Public Service Commission of South Carolina, provided that the approval is required only to the extent the transaction is not subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission or any other federal agency.

(B)(1) In acting upon any petition by the Public Service Authority pursuant to this section, the Public Service Authority must prove by a preponderance of the evidence that the proposed transaction constitutes a more cost-effective means for serving direct serve and wholesale customers than other feasibly available long-term power supply alternatives and provides less ratepayer risk while maintaining safe and reliable electric service than other feasibly available long-term power supply alternatives. The commission shall consider any previous analysis performed pursuant to Section 58-37-40 in acting upon any petition by the Public Service Authority pursuant to this section. The commission shall also take into account the Public Service Authority's

arrangements with other electric utilities for interchange of power, pooling of plants, purchase of power and other alternative methods for providing reliable, efficient, and economical electric service.

(2) Available long-term power supply alternatives may include, but not be limited to, power purchase agreements of a different duration than proposed, competitive procurement of renewable energy, joint dispatch agreements, market purchases from an existing regional transmission organization, joining or creating a new regional transmission organization, using best available technology for energy generation, transmission, storage and distribution, or any combination thereof.

(C) Application for the approval of the commission shall be made by the Public Service Authority and shall contain a concise statement of the proposed action, the reasons therefor, and such other information as may be required by the commission.

(D) Upon the receipt of an application, the commission shall promptly fix a date for the commencement of a public hearing, not less than sixty nor more than ninety days after the receipt, and shall conclude the proceedings as expeditiously as practicable. The commission shall establish notice requirements and proceedings shall include an opportunity for intervention, discovery, filed comments or testimony, and an evidentiary hearing.

(E) The commission shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions or modifications as the commission may deem appropriate.

(F)(1) The commission may not grant approval unless it shall find and determine that the Public Service Authority satisfied all requirements of this section and the proposed transaction is in the best interests of the retail and wholesale customers of the Public Service Authority.

(2) The commission also may require compliance with any provision of Article 3, Chapter 33, Title 58 that the commission determines necessary to grant approval.

Section 58-33-190. (1) The Public Service Authority may not enter into a contract for the purchase of power with a duration longer than ten years without approval of the Public Service Commission of South Carolina, provided that the approval is required only to the extent the transaction is not subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission or any other federal agency. This

section does not apply to purchases of renewable power through a commission approved competitive procurement process.

(2) The commission shall consider any previous analysis performed pursuant to Section 58-37-40 in acting upon any petition by the Public Service Authority pursuant to this section. The commission shall also take into account the Public Service Authority's resource and fuel diversity, reasonably anticipated future operating costs, arrangements with other electric utilities for interchange of power, pooling of plants, purchase of power, and other alternative methods for providing reliable, efficient, and economical electric service.

(3) The commission may not grant approval unless it shall find and determine that the proposed transaction is in the best interests of the retail and wholesale customers of the Public Service Authority."

Integrated resource plans

SECTION 21. Section 58-37-40 of the 1976 Code, as last amended by Act 62 of 2019, is further amended to read:

"Section 58-37-40. (A) Electrical utilities, electric cooperatives, municipally owned electric utilities, and the South Carolina Public Service Authority must each prepare an integrated resource plan. An integrated resource plan must be prepared and submitted at least every three years. Nothing in this section may be construed as requiring interstate natural gas companies whose rates and services are regulated only by the federal government or gas utilities subject to the jurisdiction of the commission to prepare and submit an integrated resource plan.

(1) Each electrical utility with one hundred thousand or more customer accounts and the Public Service Authority must submit its integrated resource plan to the commission. The integrated resource plan must be posted on the electrical utility's website and on the commission's website.

(2) Electric cooperatives, electric utilities with less than one hundred thousand customer accounts, and municipally owned electric utilities shall each submit an integrated resource plan to the State Energy Office. Each integrated resource plan must be posted on the State Energy Office's website. If an electric cooperative, electric utility with less than one hundred thousand customer accounts, or municipally owned utility has a website, its integrated resource plan must also be posted on its website. For distribution, electric cooperatives that are members of a cooperative that provides wholesale service, the integrated resource plan may be coordinated and consolidated into a single plan provided that

nonshared resources or programs of individual distribution cooperatives are highlighted. Where plan components listed in subsection (B)(1) and (2) of this section do not apply to a distribution or wholesale cooperative or a municipally owned electric utility as a result of the cooperative or the municipally owned electric utility not owning or operating generation resources, the plan may state that fact or refer to the plan of the wholesale power generator. Where plan components listed in subsection (B)(1) and (2) of this section do not apply to an electrical utility with less than one hundred thousand customer accounts as a result of its own generation resources being comprised of more than seventy-five percent renewable energy or because it purchases wholesale load balancing generation services, then the plan may state that fact or refer to the plan of the wholesale power generator. For purposes of this section, a wholesale power generator does not include a municipally created joint agency if that joint agency receives at least seventy-five percent of its electricity from a generating facility owned in partnership with an electrical utility and that electrical utility:

(a) generally serves the area in which the joint agency's members are located; and

(b) is responsible for dispatching the capacity and output of the generated electricity.

(3) The South Carolina Public Service Authority shall submit its integrated resource plan to the commission. The Public Service Authority shall develop a public process allowing for input from all stakeholders prior to submitting the integrated resource plan. The integrated resource plan must be developed in consultation with the electric cooperatives and municipally owned electric utilities purchasing power and energy from the Public Service Authority and consider any feedback provided by retail customers and shall include the effect of demand-side management activities of the electric cooperatives and municipally owned electric utilities that directly purchase power and energy from the Public Service Authority or sell power and energy generated by the Public Service Authority. The integrated resource plan must be posted on the commission's website and on the Public Service Authority's website.

(4)(a) In addition to the requirements of Section 58-37-40(B), the Public Service Authority's integrated resource plan shall include an analysis of long-term power supply alternatives and enumerate the cost of various resource portfolios over various study periods including a twenty-year study period and, by comparison on a net present value basis, identify the most cost-effective and least ratepayer-risk resource

portfolio to meet the Public Service Authority's total capacity and energy requirements while maintaining safe and reliable electric service.

(b) In addition to the requirements of Section 58-37-40(B), the commission shall review and evaluate the Public Service Authority's analysis of long-term power supply alternatives and various resource portfolios over various study periods including a twenty-year study period and, by comparison on a net present value basis, identify the most cost-effective and lowest ratepayer-risk resource portfolio to meet the Public Service Authority's total capacity and energy requirements while maintaining safe and reliable electric service. The commission's evaluation shall include, but not be limited to:

(i) evaluating the cost-effectiveness and ratepayer-risk of self-build generation and transmission options compared with various long-term power supply alternatives, including power purchase agreements, competitive procurement of renewable energy, joint dispatch agreements, market purchases from an existing regional transmission organization, joining or creating a new regional transmission organization, using best available technology for energy generation, transmission, storage and distribution, or any combination thereof. In evaluating and identifying the most cost-effective and least ratepayer-risk resource portfolio, the commission shall strive to reduce the risk to ratepayers associated with any generation and transmission options while maintaining safe and reliable electric service; and

(ii) an analysis of any potential cost savings that might accrue to ratepayers from the retirement of remaining coal generation assets.

(c) The Authority's integrated resource plan must provide the information required in Section 58-37-40(B) and must be developed in consultation with the electric cooperatives, including Central Electric Power Cooperative, and municipally owned electric utilities purchasing power and energy from the Public Service Authority, and consider any feedback provided by retail customers and shall include the effect of demand-side management activities of the electric cooperatives, including Central Electric Power Cooperative, and municipally owned electric utilities that directly purchase power and energy from the Public Service Authority or sell power and energy generated by the Public Service Authority. The Integrated Resource Plan of the South Carolina Public Service Authority shall include and evaluate at least one resource portfolio, which will reflect the closure of the Winyah Generating Station by 2028, designed to provide safe and reliable electric service while meeting a net zero carbon emission goal by the year 2050.

(B)(1) An integrated resource plan shall include all of the following:

(a) a long-term forecast of the utility's sales and peak demand under various reasonable scenarios;

(b) the type of generation technology proposed for a generation facility contained in the plan and the proposed capacity of the generation facility, including fuel cost sensitivities under various reasonable scenarios;

(c) projected energy purchased or produced by the utility from a renewable energy resource;

(d) a summary of the electrical transmission investments planned by the utility;

(e) several resource portfolios developed with the purpose of fairly evaluating the range of demand-side, supply-side, storage, and other technologies and services available to meet the utility's service obligations. Such portfolios and evaluations must include an evaluation of low, medium, and high cases for the adoption of renewable energy and cogeneration, energy efficiency, and demand response measures, including consideration of the following:

(i) customer energy efficiency and demand response programs;

(ii) facility retirement assumptions; and

(iii) sensitivity analyses related to fuel costs, environmental regulations, and other uncertainties or risks;

(f) data regarding the utility's current generation portfolio, including the age, licensing status, and remaining estimated life of operation for each facility in the portfolio;

(g) plans for meeting current and future capacity needs with the cost estimates for all proposed resource portfolios in the plan;

(h) an analysis of the cost and reliability impacts of all reasonable options available to meet projected energy and capacity needs; and

(i) a forecast of the utility's peak demand, details regarding the amount of peak demand reduction the utility expects to achieve, and the actions the utility proposes to take in order to achieve that peak demand reduction.

(2) An integrated resource plan may include distribution resource plans or integrated system operation plans.

(C)(1) The commission shall have a proceeding to review each electrical utility subject to subsection (A)(1) and the Public Service Authority's integrated resource plan. As part of the integrated resource plan filing, the commission shall allow intervention by interested parties. The commission shall establish a procedural schedule to permit reasonable discovery after an integrated resource plan is filed in order to

assist parties in obtaining evidence concerning the integrated resource plan, including the reasonableness and prudence of the plan and alternatives to the plan raised by intervening parties. No later than three hundred days after an electrical utility files an integrated resource plan, the commission shall issue a final order approving, modifying, or denying the plan filed by the electrical utility or the Public Service Authority.

(2) The commission shall approve an electrical utility's or the Public Service Authority's integrated resource plan if the commission determines that the proposed integrated resource plan represents the most reasonable and prudent means of meeting the electrical utility's or the Public Service Authority's energy and capacity needs as of the time the plan is reviewed. To determine whether the integrated resource plan is the most reasonable and prudent means of meeting energy and capacity needs, the commission, in its discretion, shall consider whether the plan appropriately balances the following factors:

(a) resource adequacy and capacity to serve anticipated peak electrical load, and applicable planning reserve margins;

(b) consumer affordability and least cost;

(c) compliance with applicable state and federal environmental regulations;

(d) power supply reliability;

(e) commodity price risks;

(f) diversity of generation supply; and

(g) other foreseeable conditions that the commission determines to be for the public's interest.

(3) If the commission modifies or rejects an electrical utility's or the Public Service Authority's integrated resource plan, the electrical utility or the Public Service Authority, within sixty days after the date of the final order, shall submit a revised plan addressing concerns identified by the commission and incorporating commission-mandated revisions to the integrated resource plan to the commission for approval. Within sixty days of the electrical utility's or the Public Service Authority's revised filing, the Office of Regulatory Staff shall review the electrical utility's or the Public Service Authority's revised plan and submit a report to the commission assessing the sufficiency of the revised filing. Other parties to the integrated resource plan proceeding also may submit comments. No later than sixty days after the Office of Regulatory Staff report is filed with the commission, the commission at its discretion may determine whether to accept the revised integrated resource plan or to mandate further remedies that the commission deems appropriate.

(4) The submission, review, and acceptance of an integrated resource plan by the commission, or the inclusion of any specific resource or experience in an accepted integrated resource plan, shall not be determinative of the reasonableness or prudence of the acquisition or construction of any resource or the making of any expenditure. An electrical utility shall retain the burden of proof to show that all of its investments and expenditures are reasonable and prudent when seeking cost recovery in rates.

(D)(1) An electrical utility and the Public Service Authority shall each submit annual updates to its integrated resource plan to the commission. An annual update must include an update to the electric utility's or the Public Service Authority's base planning assumptions relative to its most recently accepted integrated resource plan, including, but not limited to: energy and demand forecast, commodity fuel price inputs, renewable energy forecast, energy efficiency and demand-side management forecasts, changes to projected retirement dates of existing units, along with other inputs the commission deems to be for the public interest. The electrical utility's or Public Service Authority's annual update must describe the impact of the updated base planning assumptions on the selected resource plan.

(2) The Office of Regulatory Staff shall review each electrical utility's or the Public Service Authority's annual update and submit a report to the commission providing a recommendation concerning the reasonableness of the annual update. After reviewing the annual update and the Office of Regulatory Staff report, the commission may accept the annual update or direct the electrical utility or the Public Service Authority to make changes to the annual update that the commission determines to be in the public interest.

(E) The commission is authorized to promulgate regulations to carry out the provisions of this section."

Renewable energy facilities and resources

SECTION 22. Article 1, Chapter 31, Title 58 of the 1976 Code is amended by adding:

"Section 58-31-227. (A) The Public Service Authority shall file for commission approval of a program for the competitive procurement of energy, capacity, and environmental attributes from renewable energy facilities to meet needs for new generation resources identified by the Authority in its Integrated Resource Plans or other planning processes. The commission may not grant approval unless the commission finds

and determines that the Public Service Authority satisfied all requirements of this section and the proposed program is in the best interests of the customers of the Public Service Authority. The commission may adopt procedures to implement the requirements of this section and shall retain continuing oversight and approval authority over all aspects of an approved program to ensure any approved program complies with this section and is in the best interests of the customers of the Public Service Authority.

(B) The Public Service Authority shall procure renewable energy resources subject to the following requirements:

(1) Renewable energy resources procured by the Public Service Authority shall be procured via a competitive solicitation process open to all independent market participants that meet minimum eligibility requirements.

(2) The Public Service Authority shall issue public notification of its intention to issue a competitive renewable solicitation at least ninety days prior to the release of each solicitation, including the proposed procurement volume, process, and timeline.

(3) Renewable energy facilities eligible to participate in a competitive procurement are those that have a valid interconnection request on file and that use renewable energy resources identified in Section 58-39-120(F) and may include battery storage devices charged exclusively by renewable energy.

(C) The Public Service Authority shall make publicly available at least forty-five days prior to each competitive solicitation:

(1) A pro forma contract to inform market participants of the procurement terms and conditions. The pro forma contract will (i) include standardized and commercially reasonable requirements for contract performance security consistent with market standards; (ii) define limits and compensation for resource dispatch and curtailments that limit uncompensated curtailment to a specified portion of estimated annual output.

(2) A bid evaluation methodology that ensures all bids are treated equitably, including price and nonprice evaluation criteria. Nonprice criteria will at minimum include consideration of diversity in resource size and geographic location.

(3) Interconnection requirements and study methodology, including how bids without existing interconnection studies will be treated for purposes of evaluation.

(D) After bids are submitted and evaluated, winning bids will be selected based upon the published evaluation methodology.

(E) The Public Service Authority shall issue a public report summarizing the results of each competitive solicitation within sixty days of the award notifications. The report will include, at minimum, a summary of the submitted bids and an anonymized list of the project awards, including their size, location, average award price and tenor, and award price range."

Job retention, training, and economic development

SECTION 23. As part of the process of retiring its coal units, the Public Service Authority shall develop and implement a plan, with community engagement and participation, that: (a) allows employees in good standing who would be directly affected by the closure of the unit to be retained by the Public Service Authority, or provides training opportunities for related employment to affected employees in good standing who are not retained; and (b) provides an opportunity for economic development and job attraction in the communities where the retired coal stations are located. Annual written status reports shall be provided to the South Carolina Public Utilities Review Committee.

Section 11 of Act 135 of 2020 extended

SECTION 24. Section 11 of Act 135 of 2020 is hereby extended through December 31, 2021, except that:

(1) The Office of Regulatory Staff shall no longer be required to conduct monthly reviews of Santee Cooper.

(2) Nothing contained in the language of Act 135 of 2020 shall prohibit Santee Cooper from taking all necessary steps to plan for the closing of the Winyah Generating Station.

(3) Nothing contained in the language of Act 135 of 2020 shall prohibit Santee Cooper from entering financial transactions for the purpose of obtaining lower interest rates on existing debts, provided that overall debt load may not be increased by any such transaction.

Severability

SECTION 25. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, then such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act and each and every section, subsection, paragraph, subparagraph,

sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 26. SECTIONS 1 through 10 and SECTION 24 take effect upon approval by the Governor. The remaining SECTIONS of this act take effect January 1, 2022.

Ratified the 9th day of June, 2021.

Approved the 15th day of June, 2021.

No. 91

(R111, H3957)

AN ACT TO AMEND SECTIONS 50-5-1705 AND 50-5-1710, BOTH AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CATCH AND SIZE LIMITS FOR THE TAKING, POSSESSING, LANDING, SELLING, OR PURCHASING OF CERTAIN FISH FROM THE STATE'S WATERS, SO AS TO DECREASE THE CATCH LIMIT AND INCREASE THE SIZE LIMIT FOR FLOUNDER; TO AMEND SECTION 50-9-540, RELATING TO RECREATIONAL SALTWATER FISHING LICENSES AND CHARTER FISHING VESSELS, SO AS TO INCREASE CERTAIN FEES AND TO CREATE AND ELIMINATE CERTAIN LICENSES; TO AMEND SECTION 50-9-920, AS AMENDED, RELATING TO REVENUES GENERATED BY CERTAIN LICENSES, SO AS TO REQUIRE THAT A PORTION BE USED FOR THE DEVELOPMENT AND IMPLEMENTATION OF A FLOUNDER STOCKING PROGRAM; AND TO REQUIRE THE DEPARTMENT OF NATURAL RESOURCES PROVIDE A REPORT ON SOUTH CAROLINA'S STOCK OF FLOUNDER.

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

Flounder catch limit

SECTION 1. Section 50-5-1705(G) of the 1976 Code is amended to read:

"(G) It is unlawful for a person to take or possess more than five flounder (Paralichthys species) taken by means of gig, spear, hook and line, or similar device in any one day, not to exceed ten flounder in any one day on any boat."

Flounder size limit

SECTION 2. Section 50-5-1710(B)(2) of the 1976 Code is amended to read:

"(2) flounder (Paralichthys) of less than sixteen inches total length;"

Recreational saltwater fishing license and charter vessel license

SECTION 3. Section 50-9-540(A) and (D) of the 1976 Code is amended to read:

"(A) For the privilege of recreational statewide fishing in saltwater:

(1) a resident must purchase:

(a) a fourteen-day temporary saltwater fishing license for ten dollars, one dollar of which the issuing sales vendor may retain;

(b) an annual saltwater fishing license for fifteen dollars, one dollar of which the issuing sales vendor may retain;

(c) a three-year saltwater fishing license for forty-five dollars, one dollar of which the issuing sales vendor may retain;

(d) a lifetime statewide saltwater fishing license for three hundred dollars at designated licensing locations; or

(e) any other license which grants saltwater fishing privileges;

(2) a nonresident must purchase:

(a) a one-day temporary saltwater fishing license for ten dollars, one dollar of which the issuing sales vendor may retain;

(b) a seven-day temporary saltwater fishing license for thirty-five dollars, one dollar of which the issuing sales vendor may retain;

(c) an annual saltwater fishing license for seventy-five dollars, one dollar of which the issuing sales vendor may retain; or

(d) any other license which grants saltwater fishing privileges.

(D) For the privilege of operating a charter fishing vessel in the salt waters of this State, the owner or operator must purchase an annual charter vessel license for each vessel. For a vessel:

(1) to carry six or fewer passengers, the fee is two hundred seventy-five dollars for residents and five hundred fifty dollars for nonresidents;

(2) to carry seven but no more than forty-nine passengers, the fee is four hundred fifty dollars for residents and nine hundred dollars for nonresidents;

(3) to carry fifty or more passengers, the fee is six hundred fifty dollars for residents and one thousand three hundred dollars for nonresidents."

Flounder stocking program funding

SECTION 4. Section 50-9-920(C) of the 1976 Code, as last amended by Act 263 of 2018, is further amended to read:

"(C) Revenue generated from the sale of recreational and commercial marine licenses, permits, and tags shall be deposited to the Marine Resources Fund. Revenue generated from the sale of recreational licenses, permits, and tags must be distributed in accordance with the provisions of Sections 50-9-960 and 50-9-965, provided that a minimum of five dollars from the sale of each recreational saltwater fishing license must be used for the development and implementation of a flounder stocking program."

Repeal

SECTION 5. SECTION 1 of this act is repealed on June 30, 2024, and the text amended by that SECTION shall revert back to the language contained in the South Carolina Code of Laws as of January 1, 2020.

Flounder report

SECTION 6. The Department of Natural Resources shall furnish a written report to the General Assembly on South Carolina's stock of flounder by December 31, 2023. The report must provide future projections.

Time effective

SECTION 7. This act takes effect on July 1, 2021.

Ratified the 9th day of June, 2021.

Approved the 15th day of June, 2021.

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ASHLEY HARWELL-BEACH
Code Commissioner
P. O. Box 11489
Columbia, S.C. 29211