ACTS
AND
JOINT RESOLUTIONS
SOUTH CAROLINA
2020

Volume I

REGULAR
SESSION

Pages 1210-1560
Acts 113-187

ACTS and JOINT RESOLUTIONS

OF THE

GENERAL ASSEMBLY

OF THE

STATE of SOUTH CAROLINA

_____

2020 REGULAR SESSION

VOLUME I

_____

Second Part
of Eighty second Volume of Statutes at Large

(The Acts and Joint Resolutions of 2019
Constitute the First Part)

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Passed at the regular session which was begun and held at the City of Columbia on the 14th day of January, A.D., 2020, and was adjourned on the 24th day of September, A.D., 2020

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ASHLEY HARWELL-BEACH
CODE COMMISSIONER

Notice

The second regular session of the 123rd South Carolina General Assembly has adjourned under the provisions of S. 1194, the Sine Die Resolution.

In the parenthesis to the left of the permanent numbers are two numbers of which this is an example: (R276, S424). The first number is preceded by R in every instance, and the second number is either H or S. The R indicates the ratification number of the act or joint resolution; the H is the House number as a bill or joint resolution; and the S is the Senate number as a bill or joint resolution.

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ACTS

AND

JOINT RESOLUTIONS

OF THE

General Assembly

OF THE

State of South Carolina

HENRY D. MCMASTER, Governor; HARVEY S. PEELER, JR., President of the Senate; JAMES H. LUCAS, Speaker of the House of Representatives; THOMAS E. POPE, Speaker Pro Tempore of the House of Representatives; JEFFREY S. GOSSETT, Clerk of the Senate; CHARLES F. REID, Clerk of the House of Representatives

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PART I

GENERAL AND PERMANENT LAWS

No. 113

(R114, S11)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1-1-30 SO AS TO PROVIDE THAT THE SOUTH CAROLINA GENERAL ASSEMBLY INTENDS FOR DAYLIGHT SAVING TIME TO BE THE YEAR-ROUND STANDARD TIME OF THE ENTIRE STATE SHOULD THE UNITED STATES CONGRESS AMEND CERTAIN RELATED FEDERAL LAW TO ALLOW STATES TO OBSERVE DAYLIGHT SAVING TIME YEAR ROUND.

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

Daylight saving time observation

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

"Section 1-1-30. If the United States Congress amends 15 U.S.C. Section 260a to authorize states to observe daylight saving time year round, it is the intent of the South Carolina General Assembly that daylight saving time be the year-round standard of the entire State and all of its political subdivisions."

Time effective

SECTION 2. This act takes effect July 1, 2019.

Ratified the 29th day of January, 2020.

Approved the 3rd day of February, 2020.

No. 114

(R116, H3174)

AN ACT TO AMEND SECTION 56-1-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CERTAIN TERMS

AND THEIR DEFINITIONS ASSOCIATED WITH THE POWERS AND DUTIES OF THE DEPARTMENT OF MOTOR VEHICLES, SO AS TO PROVIDE DEFINITIONS FOR THE TERMS "ELECTRIC-ASSIST BICYCLES" AND "BICYCLES WITH HELPER MOTORS"; AND BY ADDING SECTION 56-5-3520 SO AS TO PROVIDE THAT BICYCLISTS OPERATING BICYCLES WITH HELPER MOTORS ARE SUBJECT TO ALL STATUTORY PROVISIONS APPLICABLE TO BICYCLISTS.

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

Department of Motor Vehicles, definitions, electric-assist bicycles, bicycles with helper motors

SECTION 1. Section 56-1-10 of the 1976 Code is amended by adding the following appropriately numbered item at the end to read:

"( ) 'Electric-assist bicycles' and 'bicycles with helper motors' means low-speed electrically assisted bicycles with two or three wheels, each having fully operable pedals and an electric motor of no more than 750 watts, or one horsepower, and a top motor-powered speed of less than twenty miles an hour when operated by a rider weighing one hundred seventy pounds on a paved level surface, that meet the requirements of the Federal Consumer Product Code provided in 16 C.F.R., Part 1512, and that operate in a manner such that the electric motor disengages or ceases to function when their brakes are applied or the rider stops pedaling. Manufacturers and distributors of electric-assist bicycles shall apply a label that is affixed permanently, in a prominent location, to each electric-assist bicycle, indicating its wattage and maximum electrically assisted speed. The owner or user of an electric-assist bicycle shall not remove or tamper with the label. If a user tampers with or modifies an electric-assist bicycle, changing the speed capability, he must replace the label indicating the vehicle's wattage or horsepower. Electric-assist bicycles and bicycles with helper motors are not mopeds."

Applicability

SECTION 2. Article 27, Chapter 5, Title 56 of the 1976 Code is amended by adding:

"Section 56-5-3520. Bicyclists operating bicycles with helper motors, as defined in Section 56-1-10, are subject to all statutory provisions applicable to bicyclists, as provided in Section 56-5-3420."

Time effective

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

Ratified the 29th day of January, 2020.

Approved the 3rd day of February, 2020.

No. 115

(R117, H4244)

AN ACT TO AMEND SECTION 38-78-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS APPLICABLE TO SERVICE CONTRACTS, SO AS TO EXPAND THE DEFINITION OF "SERVICE CONTRACT" AND "WARRANTY" AND TO DEFINE THE TERMS "ROAD HAZARD", "THEFT PROTECTION PROGRAM", AND "THEFT PROTECTION PROGRAM WARRANTY"; TO AMEND SECTION 38-78-30, RELATING TO SERVICE CONTRACT REQUIREMENTS, SO AS TO EXCLUDE A SERVICE CONTRACT PROVIDER THAT INSURES THEIR OBLIGATIONS UNDER A REIMBURSEMENT INSURANCE POLICY FROM THE FINANCIAL STATEMENT REQUIREMENT FOR REGISTRATION WITH THE DIRECTOR OF THE DEPARTMENT OF INSURANCE; AND TO AMEND SECTION 38-78-50, RELATING TO REQUIRED PROVISIONS IN SERVICE CONTRACTS, SO AS TO REQUIRE A CERTAIN DISCLOSURE.

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

Definitions

SECTION 1. Section 38-78-20(12), (13), and (14) of the 1976 Code is amended to read:

"(12) 'Service contract' means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement, or maintenance of property or indemnification for repair, replacement, or maintenance, for the operational or structural failure due to a defect in materials, workmanship, or normal wear and tear, with or without additional provisions for incidental payment of indemnity under limited circumstances including, but not limited to, towing, rental, and emergency road service. Service contracts may provide for the repair, replacement, or maintenance of property for damage resulting from power surges and accidental damage from handling. 'Service contract' includes a contract or agreement for a separately stated consideration for a specific duration to perform one or more of the following services:

(a) the repair or replacement of tires and wheels on a motor vehicle damaged as a result of coming into contact with road hazards;

(b) the removal of dents, dings, or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the existing paint finish and without sanding, bonding, painting, or replacing a vehicle body panel;

(c) the replacement of a motor vehicle key or key fob in the event that the key or key fob becomes inoperable, lost, or stolen; and

(d) other services consistent with the provisions of this chapter approved by the director.

(13) 'Road hazard' means a hazard that is encountered while driving a motor vehicle including, but not limited to, potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps.

(14) 'Service contract holder' or 'contract holder' means a person who is the purchaser or holder of a service contract.

(15) 'Theft protection program' means a device or system installed on or applied to a motor vehicle designed to prevent loss or damage to a motor vehicle from theft that includes a theft protection program warranty. The term 'theft protection program' includes, but is not limited to, alarm systems, body-part marking products, steering locks, window etch products, pedal and ignition locks, fuel and ignition kill switches, and electronic, radio, and satellite tracking devices.

(16) 'Theft protection program warranty' means a written agreement by a warrantor that provides the warrantor will pay to or on behalf of the warranty holder specified incidental costs not to exceed five thousand dollars as a result of the failure of the theft protection program to prevent loss or damage to a motor vehicle pursuant to the terms of the warranty. Specified incidental costs include expenses specified in the warranty that are incurred by the warranty holder due to the failure of the program to

perform as provided in the warranty. Incidental costs include, without limitation, insurance policy deductibles, rental vehicle charges, the difference between the actual value of the stolen vehicle at the time of theft and the cost of a replacement vehicle, sales taxes, registration fees, transaction fees, and mechanical inspection fees. Incidental costs may be reimbursed in a fixed amount specified in the warranty or by use of a formula itemizing specific costs incurred by the warranty holder. A theft protection program warranty must contain a conspicuous disclosure substantially similar to the following in ten-point bold font: 'This warranty is not insurance and payments or reimbursement under this warranty may not exceed five thousand dollars.'

(17) 'Warranty' means a warranty made solely by the manufacturer, importer, or seller of property or services without charge, that is not negotiated or separated from the sale of the product, that is incidental to the sale of the product, and that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or other remedial measures, such as repair or replacement of the property or repetition of services. This term includes theft protection program warranties if the warrantor has obtained a reimbursement insurance policy to insure its warranty obligations in this State."

Service contract, financial statement exception

SECTION 2. Section 38-78-30(E) of the 1976 Code is amended to read:

"(E) Except for the requirements specified in subsection (D), no other financial security requirements shall be required by the director for service contract providers. Service contract providers that establish their financial security to pay claims by insuring their obligations under a reimbursement insurance policy as provided in subsection (D)(1) are not required to file financial statements in connection with an application for registration or the renewal of a registration."

Service contract, required disclosure

SECTION 3. Section 38-78-50 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

"( ) Service contracts must include a disclosure substantially similar to the following: 'In the event of a dispute with the provider of this contract, you may contact the South Carolina Department of Insurance,

Capitol Center, 1201 Main Street, Ste. 1000, Columbia, South Carolina, 29201 or by phone at (800) 768-3467'."

Time effective

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

Ratified the 29th day of January, 2020.

Approved the 3rd day of February, 2020.

No. 116

(R129, H4014)

AN ACT TO MAKE SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2019-2020 TO THE EXECUTIVE BUDGET OFFICE FOR THE BENEFIT OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL FOR THE STATE'S PUBLIC HEALTH RESPONSE TO THE COVID-19 VIRUS AND TO PROVIDE FOR OTHER MATTERS.

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

SECTION 1. From the Fiscal Year 2018-2019 Contingency Reserve Fund, there is appropriated $45,000,000 to the Executive Budget Office for use by the Department of Health and Environmental Control for the coordination of the state's public health preparedness and response to the COVID-19 virus.

SECTION 2. The Executive Budget Office shall establish a COVID-19 Response account separate and distinct from all other accounts. The funds appropriated in SECTION 1 shall be credited to the COVID-19 Response account. The Department of Health and Environmental Control shall request funds from the account to be expended only for those purposes necessary for the health, safety, and welfare of the public in response to the COVID-19 pandemic. The Executive Budget Office shall release funds from the account upon the Department of Health and Environmental Control's request only if the requested funds are

necessary for the health, safety, and welfare of the public in response to the COVID-19 pandemic. Beginning on April 1, 2020, and on the first day of each month thereafter, the Executive Budget Office shall provide a detailed accounting of the expenditure of all funds appropriated pursuant to this act. The report shall be transmitted to the Governor, the General Assembly, and made available on the department's website.

SECTION 3. Nothing in this act limits the Department of Health and Environmental Control from continuing to expend funds from other sources, including funds appropriated for the current fiscal year, that are necessary to address the state's response to COVID-19. Any unexpended funds appropriated pursuant to this act may be carried forward, without limitation, into the succeeding fiscal year and expended for the same purpose.

SECTION 4. The Department of Health and Environmental Control is authorized to take action to reallocate supplies and employees to meet the demands of hospitals and other medical providers who receive Medicaid or other state funds that are located within specific areas of this State where COVID-19 infections are most concentrated, commonly referred to as hotspots. The provisions of this SECTION expire thirty days after an executive order issued by the Governor lifting a state of emergency related to COVID-19.

SECTION 5. For the period beginning March 19, 2020, and ending September 1, 2020, the earnings limitation imposed pursuant to Section 9-1-1790 and Section 9-11-90 of the South Carolina Code does not apply to retired members of the South Carolina Retirement System or the Police Officers Retirement System who return to covered employment to participate in the state's public health preparedness and response to the COVID-19 virus.

SECTION 6. This act takes effect upon approval by the Governor and the appropriations contained herein must be distributed immediately upon approval.

Ratified the 19th day of March, 2020.

Approved the 19th day of March, 2020.

No. 117

(R119, S16)

AN ACT TO AMEND SECTION 40-43-86, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EMERGENCY REFILLS OF PRESCRIPTIONS BY PHARMACISTS, SO AS TO INCREASE THE AMOUNT OF A PRESCRIPTION THAT MAY BE REFILLED WHEN AUTHORIZATION FROM THE PRESCRIBER IS NOT OBTAINABLE FROM A TEN-DAY SUPPLY TO A FOURTEEN-DAY SUPPLY, TO PROVIDE RELATED LABELING REQUIREMENTS, AND TO PROVIDE EXCEPTIONS TO ACCOMMODATE CERTAIN PACKAGING CONSTRAINTS.

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

Fourteen-day supplies, labels, exceptions

SECTION 1. Section 40-43-86(P) of the 1976 Code is amended to read:

"(P) If a pharmacist receives a request for a prescription refill and the pharmacist is unable to obtain refill authorization from the prescriber, the pharmacist may dispense, once within a twelve-month period, an emergency refill of up to a fourteen-day supply of the prescribed medication if:

(1) the prescription is not for a controlled substance;

(2) the medication is essential to the maintenance of life or to the continuation of therapy;

(3) in the pharmacist's professional judgment, continuing the therapy for up to fourteen days will produce no undesirable health consequences or cause physical or mental discomfort;

(4) the pharmacist properly records the dispensing; and

(5) the dispensing pharmacist notifies the prescriber of the refill and the amount of the refill, not to exceed a fourteen-day supply, within a reasonable time, but no later than ten days after the once in twelve months refill dispensing.

In the event that a pharmacist is unable to dispense an emergency refill for the time period specified in this subsection due to the medication's packaging, the pharmacist is permitted to dispense up to a thirty-day

quantity of the medication so long as the requirements contained in this subsection are otherwise met."

Time effective

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

Ratified the 19th day of March, 2020.

Approved the 24th day of March, 2020.

No. 118

(R120, S474)

AN ACT TO AMEND SECTION 50-5-1705, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CATCH LIMITS FOR ESTUARINE AND SALTWATER FINFISH, SO AS TO PROVIDE A CATCH LIMIT FOR SPADEFISH; AND TO AMEND SECTION 50-5-1710, RELATING TO SIZE LIMITS FOR ESTUARINE AND SALTWATER FINFISH, SO AS TO PROVIDE A MINIMUM SIZE LIMIT FOR SPADEFISH.

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

Spadefish catch limit

SECTION 1. Section 50-5-1705 of the 1976 Code, as last amended by Act 203 of 2018, is further amended by adding an appropriately lettered subsection to read:

"( ) It is unlawful for a person to take or have in possession more than ten spadefish (Chaetodipterus faber) in any one day, not to exceed thirty spadefish in any one day on any boat."

Spadefish size limit

SECTION 2. Section 50-5-1710(B) of the 1976 Code is amended by adding an appropriately numbered item to read:

"( ) spadefish (Chaetodipterus faber) of less than fourteen inches in total length."

Time effective

SECTION 3. This act takes effect on July 1, 2019.

Ratified the 19th day of March, 2020.

Approved the 24th day of March, 2020.

No. 119

(R121, S475)

AN ACT TO AMEND SECTION 50-5-1705, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CATCH LIMITS FOR ESTUARINE AND SALTWATER FINFISH, SO AS TO PROVIDE A CATCH LIMIT FOR TRIPLETAIL; AND TO AMEND SECTION 50-5-1710, RELATING TO SIZE LIMITS FOR ESTUARINE AND SALTWATER FINFISH, SO AS TO PROVIDE A MINIMUM SIZE LIMIT FOR TRIPLETAIL.

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

Tripletail catch limit

SECTION 1. Section 50-5-1705 of the 1976 Code, as last amended by Act 203 of 2018, is further amended by adding an appropriately lettered subsection to read:

"( ) It is unlawful for a person to take or have in possession more than three tripletail (Lobotes surinamensis) in any one day, not to exceed nine tripletail in any one day on any boat."

Tripletail size limit

SECTION 2. Section 50-5-1710(B) of the 1976 Code is amended by adding an appropriately numbered item to read:

"( ) tripletail (Lobotes surinamensis) of less than eighteen inches in total length."

Time effective

SECTION 3. This act takes effect on July 1, 2019.

Ratified the 19th day of March, 2020.

Approved the 24th day of March, 2020.

No. 120

(R122, S525)

AN ACT TO AMEND SECTION 44-2-90, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DISPOSITION OF ACCRUED INTEREST IN THE SUPERB ACCOUNT AND THE SUPERB FINANCIAL RESPONSIBILITY FUND, SO AS TO REPEAL THE ABOLITION OF THE ENVIRONMENTAL IMPACT FEE.

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

Environmental impact fee abolition deleted

SECTION 1. Section 44-2-90 of the 1976 Code is amended to read:

"Section 44-2-90. Any interest accruing on the Superb Account and the Superb Financial Responsibility Fund must be credited to each respective account."

Time effective

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

Ratified the 19th day of March, 2020.

Approved the 24th day of March, 2020.

No. 121

(R123, S580)

AN ACT TO AMEND CHAPTER 29 OF TITLE 38, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA LIFE AND ACCIDENT AND HEALTH INSURANCE GUARANTY ASSOCIATION, SO AS TO DEFINE NECESSARY TERMS, TO PROVIDE THE PURPOSE OF THE CHAPTER, TO ALTER THE APPLICATION OF THE CHAPTER, TO ESTABLISH CERTAIN POWERS AND DUTIES FOR THE ASSOCIATION IN RELATION TO IMPAIRED OR INSOLVENT MEMBER INSURERS, TO PROVIDE THAT THE BOARD OF DIRECTORS OF THE ASSOCIATION MAY CALL AN ASSESSMENT OF THE MEMBERS AND TO PROVIDE CLASSES FOR THE ASSESSMENTS, TO REQUIRE THE ASSOCIATION TO ESTABLISH A PLAN OF OPERATION AND REQUIRE THE PLAN TO CREATE PROCEDURES FOR REMOVING A MEMBER OF THE BOARD UNDER CERTAIN CIRCUMSTANCES AND TO ADDRESS CONFLICTS OF INTEREST, TO PROSCRIBE CERTAIN DUTIES FOR THE DIRECTOR OF THE DEPARTMENT OF INSURANCE TO AID IN THE DETECTION AND PREVENTION OF INSURER IMPAIRMENTS AND INSOLVENCIES, TO PROVIDE THAT NO PERSON MAY USE THE EXISTENCE OF THE SOUTH CAROLINA LIFE AND ACCIDENT AND HEALTH INSURANCE GUARANTY ASSOCIATION FOR THE PURPOSE OF INSURANCE SALES, AND TO REQUIRE THE ASSOCIATION TO PREPARE A DOCUMENT DESCRIBING THE GENERAL PURPOSES AND LIMITATIONS OF THIS CHAPTER.

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

South Carolina Life and Accident and Health Insurance Guaranty Association

SECTION 1. A.Chapter 29, Title 38 of the 1976 Code is amended to read:

"CHAPTER 29

South Carolina Life and Accident
and Health Insurance Guaranty Association

Section 38-29-10. This chapter is known and may be cited as the 'South Carolina Life and Accident and Health Insurance Guaranty Association Act'.

Section 38-29-20. As used in this chapter:

(1) 'Account' means any of the three accounts created under Section 38-29-50.

(2) 'Association' means the South Carolina Life and Accident and Health Insurance Guaranty Association created under Section 38-29-50.

(3) 'Authorized assessment' or 'authorized' when used in the context of assessments means the board of directors has passed a resolution whereby an assessment will be called immediately or in the future from member insurers for a specified amount. An assessment is authorized when the resolution is passed.

(4) 'Benefit plan' means a specific employee, union, or association of natural persons benefit plan.

(5) 'Called assessment' or 'called' when used in the context of assessments means that notice has been issued by the association to the member insurers requiring that an authorized assessment be paid within the time frame set forth within the notice. An authorized assessment becomes a called assessment when notice is mailed by the association to member insurers.

(6) 'Contractual obligation' means any obligation under covered policies, contracts, or certificates under a group policy or contract, or portion thereof for which coverage is provided pursuant to Section 38-29-40.

(7) 'Covered policy' or 'covered contract' means any policy or contract or portion of a policy or contract within the scope of Section 38-29-40.

(8) 'Director' means the Director of the Department of Insurance.

(9) 'Extra-contractual claims' includes claims relating to bad faith in the payment of claims, punitive or exemplary damages, or attorney's fees and costs.

(10) 'Health benefit plan' means any hospital or medical expense policy or certificate, or health maintenance organization subscriber contract or any other similar health contract. 'Health benefit plan' does not include:

(a) accident only insurance;

(b) credit insurance;

(c) dental only insurance;

(d) vision only insurance;

(e) Medicare supplement insurance;

(f) benefits for long-term care, home health care, community-based care, or any combination thereof;

(g) disability income insurance;

(h) coverage for on-site medical clinics; or

(i) specified disease, hospital confinement indemnity, or limited benefit health insurance if the types of coverage do not provide coordination of benefits and are provided under separate policies or certificates.

(11) 'Impaired insurer' means a member insurer which, after the effective date of this chapter, is not an insolvent insurer but has been placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

(12) 'Insolvent insurer' means a member insurer which, after the effective date of this chapter, is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency.

(13) 'Member insurer' means an insurer or health maintenance organization authorized to transact in this State any kind of insurance to which this chapter applies under Section 38-29-40. This includes an insurer or health maintenance organization whose authority to transact business in this State may have been suspended, revoked, not renewed, or voluntarily withdrawn but does not include:

(a) a hospital or medical service organization, whether profit or nonprofit;

(b) a fraternal benefit society;

(c) a mandatory state pooling plan;

(d) a mutual assessment company or other person that operates on an assessment basis;

(e) an insurance exchange;

(f) an organization that has a certificate or license limited to the issuance of charitable gift annuities under Section 38-5-20; or

(g) an entity similar to any of the above.

(14) 'Moody's Corporate Bond Yield Average' means the Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto.

(15) 'Owner' of a policy or contract and 'policy holder', 'policy owner', and 'contract owner' means the person who is identified as the legal owner under the terms of the policy or contract or who is otherwise vested with legal title to the policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and properly recorded as the owner on the books of the member insurer. The terms owner, contract owner, policyholder and policy owner do not include persons with a mere beneficial interest in a policy or contract.

(16) 'Person' means an individual, corporation, limited liability company, partnership, association, governmental body or entity, or voluntary organization.

(17) 'Premiums' means amounts or considerations received on covered policies or contracts less returned premiums, considerations and deposits and less dividends and experience credits. 'Premiums' does not include amounts or considerations received for policies or contracts or for the portions of policies or contracts for which coverage is not provided pursuant to Section 38-29-40 except that assessable premiums may not be reduced on account of the provisions of Section 38-29-40 relating to interest limitations and limitations with respect to one individual, one participant, and one policy or contract owner. 'Premiums' does not include premiums on an unallocated annuity contract or, with respect to multiple nongroup policies of life insurance owned by one owner, whether the policy or contract owner is an individual, firm, corporation or other person, and whether the persons insured are officers, managers, employees or other persons, premiums in excess of $5,000,000 with respect to these policies or contracts, regardless of the number of policies or contracts held by the owner.

(18) 'Principal place of business' means the state in which a natural person who establishes policies or contracts for the direction, control, and coordination of the operations of the entity as a whole primarily exercises that function, determined by the association after consideration of the state in which the:

(a) primary executive and administrative headquarters of the entity is located;

(b) principal office of the chief executive officer of the entity is located;

(c) board of directors conducts the majority of its meetings;

(d) executive or management committee of the board of directors of the entity conducts the majority of its meetings;

(e) management of the overall operations of the entity is directed; and

(f) holding company or controlling affiliate has its principal place of business in the case of a benefit plan by affiliated companies comprising a consolidated corporation.

However, in the case of a plan sponsor, if more than fifty percent of the participants in the benefit plan are employed in a single state, that state is deemed to be the principal place of business of the plan sponsor.

The principal place of business of a plan sponsor of a benefit plan is deemed to be the principal place of business of the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan that, in lieu of a specific or clear designation of a principal place of business, shall be deemed to be the principal place of business of the employer or employee organization that has the largest investment in the benefit plan in question.

(19) 'Receivership court' means the court in the insolvent or impaired insurer's state with jurisdiction over the conservation, rehabilitation, or liquidation of the member insurer.

(20) 'Resident' means a person who resides in this State at the time the impairment as determined by a court of appropriate jurisdiction and to whom contractual obligations are owed. A person may be a resident of only one state, which in the case of a person other than a natural person shall be its principal place of business. Citizens of the United States that are either residents of foreign countries, or residents of United States' possessions, territories, or protectorates that do not have an association similar to the association created by this chapter, are deemed residents of the state of domicile of the member insurer that issued the policies or contracts.

(21) 'State' means a state, the District of Columbia, Puerto Rico, and a United States' possession, territory, or protectorate.

(22) 'Structured settlement annuity' means an annuity purchased in order to fund periodic payments for a plaintiff or other claimant in payment for or with respect to personal injury suffered by the plaintiff or other claimant.

(23) 'Supplemental contract' means a written agreement entered into for the distribution of proceeds under a life, health, or annuity policy or contract.

(24) 'Unallocated annuity contract' means an annuity contract or group annuity certificate that is not issued to and owned by an individual,

except to the extent of any annuity benefits guaranteed to an individual by an insurer under the contract or certificate.

Section 38-29-30. (1) The purpose of this chapter is to protect, subject to certain limitations, the persons specified in Section 38-29-40(1) against failure in the performance of contractual obligations of certain life, health, and annuity policies, plans, or contracts due to the impairment or insolvency of the member insurer issuing these policies, plans, or contracts.

(2) To provide this protection, an association of member insurers is created to pay benefits and continue coverage in the manner provided for in this chapter and the member insurers are subject to an assessment to provide funds to carry out this purpose.

Section 38-29-40. (1)(a) The provisions of this chapter shall provide coverage to a person, regardless of where they reside, excluding nonresident certificate holders under group policies or contracts, who is the beneficiary, assignee, or payee, including health care providers rendering services covered under health insurance policies or certificates, of the persons covered under this section.

(b) The provisions of this chapter shall provide coverage to a person who is the owner of, certificate holder, or enrollee under a policy or contract, other than a structured settlement annuity, and is:

(i) a resident; or

(ii) not a resident, but under all of the following conditions:

(A) the member insurer that issued the policies or contracts is domiciled in this State;

(B) the states in which the person resides have associations similar to the association created by this chapter;

(C) the person is not eligible for coverage by an association in any other state due to the fact that the insurer or health maintenance organization was not licensed in the state at the time specified in the state's guaranty association law.

(c) The provisions of this chapter shall provide coverage to a person who is a payee or a beneficiary if the payee is deceased under a structured settlement annuity if the payee:

(i) is a resident, regardless of where the contract owner resides;

(ii) is not a resident but the contract owner is a resident; or

(iii) is not a resident but:

(A) the insurer that issued the structured settlement annuity is domiciled in this State; and

(B) the state in which the contract owner resides has an association similar to the association created pursuant to this chapter but the payee and contract owner are not eligible for coverage by the association of the state in which they reside.

(d) The provisions of this chapter shall not provide coverage to a person who:

(i) is a payee of a contract owner resident of this State, if the payee is afforded any coverage by the association of another state; or

(ii) acquires rights to receive payments through a structured settlement factoring transaction as defined in 26 U.S.C. Section 55891(c)(3)(A), regardless of when the transaction occurred.

(e) This chapter is intended to provide coverage to a person who is a resident of this State and, in special circumstances, to a nonresident. In order to avoid duplicate coverage, if a person who would otherwise receive coverage under this chapter is provided coverage under the laws of any other state, the person may not be provided coverage under this chapter. In determining the application of the provisions of this subsection in situations where a person could be covered by the association of more than one state, whether as an owner, payee, enrollee, beneficiary, or assignee, this chapter may be construed in conjunction with other state laws to result in coverage by only one association.

(2)(a) This chapter shall provide coverage for policies or contracts of direct, nongroup life insurance, health insurance including health maintenance organization subscriber contracts and certificates, or annuities, for certificates under direct group policies and contracts, and for supplemental contracts to any of these, in each case issued by member insurers, except as limited by this chapter. Annuity contracts and certificates under group annuity contracts include, but are not limited to, allocated funding agreements, structured settlement annuities, and any immediate or deferred annuity contracts.

(b) Except as otherwise provided, this chapter does not provide coverage for:

(i) a portion of a policy or contract or part thereof not guaranteed by the member insurer, or under which the risk is borne by the policy or contract owner;

(ii) a policy or contract of reinsurance, unless assumption certificates have been issued pursuant to the reinsurance policy or contract;

(iii) a portion of a policy or contract, other than a portion, including a rider, that provides long-term care or any other health insurance benefits, to the extent the rate of interest on which it is based, or the interest rate, crediting rate, or similar factor determined by use of

an index or other external reference stated in the policy or contract employed in calculating returns or changes in value:

(A) averaged over the period of four years prior to the date on which the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier, exceeds the rate of interest determined by subtracting two percentage points from Moody's Corporate Bond Yield Average averaged for that same four-year period or for such lesser period if the policy or contract was issued less than four years before the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier; and

(B) on and after the date on which the member insurer becomes an impaired or insolvent insurer, whichever is earlier, exceeds the rate of interest determined by subtracting three percentage points from Moody's Corporate Bond Yield Average as most recently available;

(iv) any policy or contract issued by assessment mutuals, fraternals, and nonprofit hospital and medical service plans;

(v) a portion of a policy or contract issued to a plan or program of an employer, association, or other person to provide life, health, or annuity benefits to its employees, members, or others, to the extent that the plan or program is self-funded or uninsured including, but not limited to, benefits payable by an employer, association, or other person under:

(A) a multiple employer welfare arrangement as defined in 29 U.S.C. Section 1002(40);

(B) a minimum premium group insurance plan;

(C) a stop-loss group insurance plan; or

(D) an administrative services-only contract;

(vi) a portion of a policy or contract to the extent that it provides for:

(A) dividends or experience rating credits;

(B) voting rights; or

(C) payment of any fees or allowances to any person, including the policy or contract owner, in connection with the service to or administration of the policy or contract;

(vii) a portion of a policy or contract to the extent that the assessments required by Section 38-29-80 with respect to the policy or contract are preempted by federal or state law;

(viii) an obligation that does not arise under the express written terms of the policy or contract issued by the member insurer to the enrollee, certificate holder, contract owner, or policy owner, including without limitation:

(A) claims based on marketing materials;

(B) claims based on side letters, riders, or other documents that were issued by the member insurer without meeting applicable policy or contract form filing or approval requirements;

(C) misrepresentations of or regarding policy or contract benefits;

(D) extra-contractual claims; or

(E) a claim for penalties or consequential or incidental damages;

(ix) a contractual agreement that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer;

(x) an unallocated annuity contract;

(xi) a portion of a policy or contract to the extent it provides for interest or other changes in value to be determined by the use of an index or other external reference stated in the policy or contract, but which have not been credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier. If a policy's or contract's interest or changes in value are credited less frequently than annually, then for purposes of determining the values that have been credited and are not subject to forfeiture, the interest or change in value determined by using the procedures defined in the policy or contract will be credited as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and will not be subject to forfeiture;

(xii) a policy or contract providing any hospital, medical, prescription drug, or other health care benefits pursuant to 42 U.S.C. Chapter 7, Subchapter XVIII, Part C or Part D; 42 U.S.C. Chapter 7, Subchapter XIX; or 42 U.S.C. Chapter 7; or any regulations issued pursuant thereto; or

(xiii) structured settlement annuity benefits to which a payee or beneficiary has transferred his rights in a structured settlement factoring transaction as defined in 26 U.S.C. Section 5891(c)(3)(A), regardless of when the transaction occurred before or after such section became effective.

(c) The exclusion from coverage referenced in subitem (iii) does not apply to any portion of a policy or contract, including a rider that provides long-term care or any other health insurance benefits.

(3) The benefits that the association may become obligated to cover may not exceed the lesser of:

(a) the contractual obligations for which the member insurer is liable or would have been liable if it were not an impaired or insolvent insurer; or

(b)(i) with respect to one life, regardless of the number of policies or contracts:

(A) $300,000 in life insurance death benefits, but not more than $300,000 in net cash surrender and net cash withdrawal values for life insurance;

(B) for health insurance benefits:

(1) $300,000 for coverages not defined as disability income insurance or health benefit plans or long-term care insurance, including any net cash surrender and net cash withdrawal values;

(2) $300,000 for disability income insurance and $300,000 for long-term care insurance;

(3) $500,000 for health benefit plans;

(C) $300,000 in the present value of annuity benefits, including net cash surrender and net cash withdrawal values;

(ii) with respect to each payee of a structured settlement annuity or beneficiary if the payee is deceased, $300,000 in present value annuity benefits, in the aggregate, including net cash surrender and net cash withdrawal values, if any;

(iii) the association is not obligated to cover more than an aggregate of $300,000 in benefits with respect to any one life except with respect to benefits for health benefit plans, in which case the aggregate liability of the association shall not exceed $500,000 with respect to any one individual or with respect to one owner of multiple nongroup policies of life insurance, whether the policy or contract owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, more than $5,000,000 in benefits, regardless of the number of policies and contracts held by the owner;

(iv) the limitations on the benefits for which the association is obligated before taking into account either its subrogation and assignment rights or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The costs of the association's obligations may be met by the use of assets attributable to covered policies or reimbursed to the association pursuant to its subrogation and assignment rights;

(v) for purposes of this chapter, benefits provided by a long-term care rider to a life insurance policy or annuity contract are

considered the same type of benefits as the base life insurance policy or annuity contract to which it relates.

(4) In performing its obligations to provide coverage, the association may not be required to guarantee, assume, reinsure, reissue, or perform, or cause to be guaranteed, assumed, reinsured, or reissued, or performed, the contractual obligations of the insolvent or impaired insurer under a covered policy or contract that does not materially affect the economic values or economic benefits of the covered policy or contract.

Section 38-29-50. (1) There is created a nonprofit legal entity to be known as the South Carolina Life and Accident and Health Insurance Guaranty Association. All member insurers are and must remain members of the association as a condition of their authority to transact insurance in this State. The association shall perform its functions under the plan of operation established and approved under Section 38-29-90 and shall exercise its powers through a board of directors established under Section 38-29-60. For purposes of administration and assessment, the association shall maintain three accounts:

(a) the accident and health insurance account;

(b) the life insurance account; and

(c) the annuity account.

(2) The association is under the immediate supervision of the department and is subject to the applicable insurance laws of this State.

Section 38-29-60. (1) The board of directors of the association shall consist of not less than five nor more than eleven members serving terms as established in the plan of operation. Member insurers shall select the members of the board subject to the director's approval. Any vacancies on the board must be filled for the remaining period of the term by a person elected by a majority vote of the remaining board members and subject to approval by the director.

(2) In approving selections or in appointing members to the board, the director shall consider, among other things, whether all member insurers are fairly represented.

(3) Members of the board may be reimbursed from the assets of the association for expenses incurred by them as members of the board of directors, but members of the board may not otherwise be compensated by the association for their services.

Section 38-29-70. In addition to the powers and duties enumerated in other sections of this chapter:

(1) If a member insurer is an impaired insurer, the association may, in its discretion, and subject to any conditions imposed by the association that do not impair the contractual obligations of the impaired insurer and that are approved by the director:

(a) guarantee, assume, reissue, or reinsure, or cause to be guaranteed, assumed, reissued, or reinsured, any or all of the covered policies or contracts of the impaired insurer; and

(b) provide such monies, pledges, loans, notes, guarantees, or other means as are proper and assure payment of the impaired insurer's pending contractual obligations.

(2) If a member insurer is an insolvent insurer, the association shall, in its discretion, either:

(a)(i)(A) guarantee, assume, reissue, or reinsure, or cause to be guaranteed, assumed, reissued, or reinsured, the policies or contracts of the insolvent insurer; or

(B) assure payment of the contractual obligations of the insolvent insurer; and

(ii) provide monies, pledges, loans, notes, guarantees, or other means reasonably necessary to discharge the association's duties; or

(b) provide benefits and coverages in accordance with the following provisions:

(i) with respect to policies and contracts, assure payment of benefits that would have been payable under the policies or contracts of the insolvent insurer, for claims incurred:

(A) with respect to group policies and contracts, no later than the earlier of the next renewal date under those policies or contracts or forty-five days, but in no event less than thirty days, after the date on which the association becomes obligated with respect to the policies and contracts;

(B) with respect to nongroup policies, contracts, and annuities no later than the earlier of the next renewal date, if applicable, under the policies or contracts or one year, but in no event less than thirty days, from the date on which the association becomes obligated with respect to the policies or contracts;

(ii) make diligent efforts to provide all known insureds, enrollees, or annuitants for nongroup policies and contracts, or group policy or contract owners with respect to group policies and contracts, thirty days' notice of the termination of the benefits provided;

(iii) with respect to nongroup policies and contracts covered by the association, make available to each known insured, enrollee, or annuitant, or owner if other than the insured or annuitant, and with respect to an individual formerly an insured, enrollee, or annuitant under

a group policy or contract who is not eligible for replacement group coverage, make available substitute coverage on an individual basis in accordance with the provisions of this section, if the insureds, enrollees, or annuitants had a right under law or the terminated policy, contract, or annuity to convert coverage to individual coverage or to continue an individual policy, contract, or annuity in force until a specified age or for a specified time, during which the insurer or health maintenance organization had no right unilaterally to make changes in any provision of the policy, contract, or annuity or had a right only to make changes in premium by class;

(iv)(A) in providing the substitute coverage, the association may offer either to reissue the terminated coverage or to issue an alternative policy or contract at actuarially justified rates;

(B) alternative or reissued policies or contracts must be offered without requiring evidence of insurability and may not provide for any waiting period or exclusion that would not have applied under the terminated policy or contract;

(C) the association may reinsure any alternative or reissued policy or contract;

(v)(A) alternative policies or contracts adopted by the association are subject to the approval of the director. The association may adopt alternative policies or contracts of various types for future issuance without regard to any particular impairment or insolvency;

(B) alternative policies or contracts must contain at least the minimum statutory provisions required in this State and provide benefits that shall not be unreasonable in relation to the premium charged. The association must set the premium in accordance with a table of rates that it adopts. The premium shall reflect the amount of insurance to be provided and the age and class of risk of each insured, but may not reflect any changes in the health of the insured after the original policy or contract was last underwritten;

(C) any alternative policy or contract issued by the association shall provide coverage of a type similar to that of the policy or contract issued by the impaired or insolvent insurer, as determined by the association;

(vi) if the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy or contract, the premium must be actuarially justified and set by the association in accordance with the amount of insurance or coverage provided and the age and class of risk;

(vii) the association's obligations with respect to coverage under any policy or contract of the impaired or insolvent insurer or under any

reissued or alternative policy or contract shall cease on the date the coverage or policy or contract is replaced by another similar policy or contract by the policy or contract owner, the insured, the enrollee, or the association;

(viii) when proceeding with respect to a policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with Section 38-29-40.

(3) Nonpayment of premiums within thirty-one days after the date required under the terms of any guaranteed, assumed, alternative, or reissued policy or contract or substitute coverage shall terminate the association's obligations under the policy, contract, or coverage under this chapter with respect to the policy, contract, or coverage, except with respect to any claims incurred or any net cash surrender value which may be due in accordance with the provisions of this chapter.

(4) Premiums due for coverage after entry of an order of liquidation of an insolvent insurer shall belong to and be payable at the direction of the association. If the liquidator of an insolvent insurer requests, the association must provide a report to the liquidator regarding such premium collected by the association. The association is liable for unearned premiums due to policy or contract owners arising after the entry of the order.

(5) The protection provided by this chapter does not apply where any guaranty protection is provided to residents of this State by the laws of the domiciliary state or jurisdiction of the impaired or insolvent insurer other than this State.

(6) In carrying out its duties, the association may, subject to approval by a court in this State, impose:

(a) permanent policy or contract liens in connection with a guarantee, assumption or reinsurance agreement, if the association finds that the amounts which can be assessed under this chapter are less than the amounts needed to assure full and prompt performance of the association's duties, or that the economic or financial conditions as they affect member insurers are sufficiently averse to render the imposition of such permanent policy or contract liens, to be in the public interest;

(b) temporary moratoriums or liens on payments of cash values and policy loans, or any other right to withdraw funds held in conjunction with policies or contracts, in addition to any contractual provisions for deferral of cash or policy loan value. In addition, in the event of a temporary moratorium or moratorium charge imposed by the receivership court on payment of cash values or policy loans, or on any other right to withdraw funds held in conjunction with policies or

contracts, out of the assets of the impaired or insolvent insurer, the association may defer the payment of cash values, policy loans, or other rights by the association for the period of the moratorium or moratorium charge imposed by the receivership court, except for claims covered by the association to be paid in accordance with a hardship procedure established by the liquidator or rehabilitator and approved by the receivership court.

(7) The association has no liability for any covered policy of a foreign or alien insurer whose domiciliary jurisdiction or state of entry provides by statute or regulation for residents of this State protection substantially similar to that provided by this chapter for residents of other states. In addition, the association has no liability under this chapter for covered policies of a domestic insurer for residents of another state unless the other state has a guaranty association that provides protection to South Carolina residents substantially similar to that provided by this chapter for residents of other states.

(8) A deposit in this State held pursuant to Sections 38-9-80 and 38-9-90 or otherwise required by the director for the benefit of South Carolina creditors, including policy or contract owners, must be released to the domiciliary receiver upon the entry of a final order of liquidation or order approving a rehabilitation plan of a member insurer in accordance with Section 38-9-150. The association is entitled to a portion of the deposit in an amount equal to the aggregate of policy or contract owners' claims for which the association has provided statutory benefits on behalf of the insurer and associated administrative expenses. The amount must be promptly paid to the association provided such payment does not prejudice the rights of a South Carolina policyholder or creditor of the insurer that is the subject of the liquidation or rehabilitation proceedings. Any amount so paid to the association and retained by it not used in fulfilling the association's obligations must be treated as a distribution of estate assets pursuant to applicable state receivership law dealing with early access disbursements. The director, the association, and other necessary parties are authorized to enter into agreements to effectuate the intent of this section.

(9) If the association fails to act within a reasonable period of time with respect to an insolvent insurer, the director shall have the powers and duties of the association under this chapter with respect to the insolvent insurer.

(10) The association may render assistance and advice to the director, upon the director's request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of an impaired or insolvent insurer.

(11) The association shall have standing to appear or intervene before a court or agency in this State with jurisdiction over an impaired or insolvent insurer concerning that which the association is or may become obligated to cover under this chapter or with jurisdiction over any person or property against that which the association may have rights through subrogation or otherwise. Standing shall extend to all matters germane to the powers and duties of the association including, but not limited to, proposals for reinsuring, reissuing, modifying, or guaranteeing the covered policies or contracts of the impaired or insolvent insurer and the determination of the policies or contracts and contractual obligations. The association also shall have the right to appear or intervene before a court or agency in another state with jurisdiction over an impaired or insolvent insurer for which the association is or may become obligated or with jurisdiction over any person or property against whom the association may have rights through subrogation or otherwise.

(12)(a) A person receiving benefits under this chapter is deemed to have assigned the rights under, and any causes of action against any person for losses arising under, resulting from or otherwise relating to, the covered policy or contract to the association to the extent of the benefits received because of this chapter, whether the benefits are payments of or on account of contractual obligations continuation of coverage or provision of substitute or alternative policies, contracts, or coverages. The association may require an assignment to it of such rights and cause of action by any enrollee, payee, policy or contract owner, beneficiary, insured, or annuitant as a condition precedent to the receipt of any rights or benefits conferred by this chapter upon that person.

(b) The subrogation rights of the association under this subsection shall have the same priority against the assets as that possessed by the person entitled to receive benefits under this chapter.

(c) The association has all common law rights of subrogation and any other equitable or legal remedy that would have been available to the impaired or insolvent insurer or owner, beneficiary, enrollee, or payee of a policy or contract with respect to the policy or contracts.

(d) If the preceding provisions are invalid or ineffective with respect to any person or claim for any reason, the amount payable by the association with respect to the related covered obligations must be reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies or contracts, or portion thereof, covered by the association.

(e) If the association has provided benefits with respect to a covered obligation and a person recovers amounts as to which the association has rights to, the person must pay to the association the

portion of the recovery attributable to the policies or contracts covered by the association.

(13) In addition to the rights and powers elsewhere in this chapter, the association may:

(a) enter into such contracts as are necessary or proper to carry out the provisions and purposes of this chapter;

(b) sue or be sued, including taking any legal actions necessary or proper for recovery of any unpaid assessments under Section 38-29-80 and to settle claims or potential claims against it;

(c) borrow money to effect the purposes of this chapter. Any notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic member insurers and may be carried as admitted assets;

(d) employ or retain such persons necessary or appropriate to handle the financial transactions of the association, and to perform such other functions as become necessary or proper under this chapter;

(e) take such legal action as may be necessary or appropriate to avoid or recover payment of improper claims;

(f) exercise, for the purposes of this chapter and to the extent approved by the director, the powers of a domestic life insurer, health insurer, or health maintenance organization, but in no case may the association issue policies or contracts other than those issued to perform its obligations under this chapter;

(g) organize itself as a corporation or in other legal form permitted by the laws of the State;

(h) request information from a person seeking coverage from the association in order to aid the association in determining its obligations under this chapter with respect to the person, and the person shall promptly comply with the request;

(i) unless prohibited by law, in accordance with the terms and conditions of the policy or contract, file for actuarially justified rates or premium increases for any policy or contract for which it provides coverage under this chapter; and

(j) take other necessary or appropriate action to discharge its duties and obligations under this chapter or to exercise its powers under this chapter.

(14) The association may join an organization of one or more other state associations of similar purposes to further the purposes and administer the powers and duties of the association.

(15)(a)(i) At any time within one hundred eighty days of the date of the order of liquidation, the association may elect to succeed to the rights and obligations of the ceding member insurer that relate to policies,

contracts, or annuities covered, in whole or in part, by the association, in each case under any one or more reinsurance contracts entered into by the insolvent insurer and its reinsurers and selected by the association. Any such assumption shall be effective as of the date of the order of liquidation. The election shall be effected by the association or the National Organization of Life and Health Insurance Guaranty Association (NOLHGA) on its behalf sending written notice, return receipt requested, to the affected reinsurers.

(ii) To facilitate the earliest practicable decision about whether to assume any of the contracts of reinsurance, and to protect the financial position of the estate, the receiver and each reinsurer of the ceding member insurer must make available upon request to the association or to NOLHGA on its behalf as soon as possible after commencement of formal delinquency proceedings copies of in-force contracts of reinsurance and all related files and records relevant to the determination of whether such contracts should be assumed, and notices of any defaults under the reinsurance contacts or any known event or condition which with the passage of time could become a default under the reinsurance contracts.

(iii) The following applies to reinsurance contracts assumed by the association:

(A) The association is responsible for all unpaid premiums due under the reinsurance contracts for periods both before and after the date of the order of liquidation, and is responsible for the performance of all other obligations to be performed after the date of the order of liquidation, in each case which relate to policies, contracts, or annuities covered, in whole or in part, by the association. The association may charge policies, contracts, or annuities covered in part by the association, through reasonable allocation methods, the costs for reinsurance in excess of the obligations of the association and must provide notice and an accounting of these charges to the liquidator.

(B) The association is entitled to any amounts payable by the reinsurer under the reinsurance contracts with respect to losses or events that occur in periods after the date of the order of liquidation and that relate to policies, contracts, or annuities covered, in whole or in part, by the association, provided that, upon receipt of any such amounts, the association is obliged to pay to the beneficiary under the policy, contract, or annuity on account of which the amounts were paid a portion of the amount equal to the lesser of:

(1) the amount received by the association; and

(2) the excess of the amount received by the association over the amount equal to the benefits paid by the association on account

of the policy, contract, or annuity less the retention of the insurer applicable to the loss or event.

(C) Within thirty days following the association's election, the association and each reinsurer under contracts assumed by the association must calculate the net balance due to or from the association under each reinsurance contract as of the election date with respect to policies, contracts, or annuities covered, in whole or in part, by the association, which calculation shall give full credit to all items paid by either the member insurer or its receiver or the reinsurer prior to the election date. The reinsurer shall pay the receiver any amounts due for losses or events prior to the date of the order of liquidation, subject to any set-off for premiums unpaid for periods prior to the date, and the association or reinsurer shall pay any remaining balance due the other, in each case within five days of the completion of the aforementioned calculation. Any disputes over the amounts due to either the association or the reinsurer shall be resolved by arbitration pursuant to the terms of the affected reinsurance contracts or, if the contract contains no arbitration clause, as otherwise provided by law. If the receiver has received any amounts due to the association, the receiver must remit the same to the association as promptly as practicable.

(D) If the association or receiver on the association's behalf, within sixty days of the election date, pays the unpaid premiums due for periods both before and after the election date that relate to policies, contracts, or annuities covered, in whole or in part, by the association, the reinsurer is not entitled to terminate the reinsurance contracts for failure to pay premiums insofar as the reinsurance contracts relate to policies, contracts, or annuities covered, in whole or in part, by the association, and is not entitled to set-off any unpaid amounts due under other contracts, or unpaid amounts due from parties other than the association, against amounts due the association.

(b) During the period from the date of the order of liquidation until the election date or until one hundred eighty days after the date of the order of liquidation if the election date does not occur:

(i)(A) the association or the reinsurer does not have any rights or obligations under reinsurance contracts that the association has the right to assume whether for periods prior to or after the date of the order of liquidation; and

(B) the reinsurer, the receiver, and the association shall, to the extent practicable, provide each other data and records reasonably requested;

(ii) provided that once the association has elected to assume a reinsurance contract, the parties' rights and obligations must be governed pursuant to this section.

(c) If the association does not elect to assume a reinsurance contract by the election date, the association has no rights or obligations, in each case for periods both before and after the date of the order of liquidation, with respect to the reinsurance contract.

(d) When policies, contracts, or annuities, or covered obligations with respect thereto, are transferred to an assuming insurer, reinsurance on the policies, contracts, or annuities also may be transferred by the association, in the case of contracts assumed, subject to the following:

(i) unless the reinsurer and the assuming insurer agree otherwise, the reinsurance contract transferred shall not cover any new policies of insurance, contracts, or annuities in addition to those transferred;

(ii) the obligations described in this section no longer apply with respect to matters arising after the effective date of the transfer; and

(iii) notice must be given in writing, return receipt requested, by the transferring party to the affected reinsurer no less than thirty days prior to the effective date of the transfer.

(e) The provisions of this section supersede the provisions of any state law or of any affected reinsurance contract that provides for or requires any payment of reinsurance proceeds, on account of losses or events that occur in periods after the date of the order of liquidation, to the receiver of the insolvent insurer or any other person. The receiver remains entitled to any amounts payable by the reinsurer under the reinsurance contracts with respect to losses or events that occur in periods prior to the date of the order of liquidation, subject to applicable set-off provisions.

(f) Except as otherwise provided in this section, nothing in this section alters or modifies the terms and conditions of any reinsurance contract. Nothing in this section abrogates or limits any rights of any reinsurer to claim that it is entitled to rescind a reinsurance contract. Nothing in this section gives a policyholder, contract owner, enrollee, certificate holder, or beneficiary an independent cause of action against a reinsurer that is not otherwise set forth in the reinsurance contract. Nothing in this section limits or affects the association's rights as a creditor of the estate against the assets of the estate. Nothing in this section applies to reinsurance agreements covering property or casualty risks.

(16) The board of directors of the association shall have discretion and may exercise reasonable business judgment to determine the means by

which the association is to provide the benefits of this chapter in an economical and efficient manner.

(17) Where the association has arranged or offered to provide the benefits of this chapter to a covered person under a plan or arrangement that fulfills the association's obligations under this chapter, the person is not entitled to benefits from the association in addition to or other than those provided under the plan or arrangement.

(18) Venue in a suit against the association arising under the chapter is in Richland County. The association may not be required to give an appeal bond in an appeal that relates to a cause of action arising under this chapter.

(19) In carrying out its duties in connection with guaranteeing, assuming, reissuing, or reinsuring policies or contracts, the association may issue substitute coverage for a policy or contract that provides an interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value by issuing an alternative policy or contract in accordance with the following provisions:

(a) in lieu of the index or other external reference provided for in the original policy or contract, the alternative policy or contract provides for a fixed interest rate, a payment of dividends with minimum guarantees, or a different method for calculating interest or changes in value;

(b) there is no requirement for evidence of insurability, waiting period, or other exclusion that would not have applied under the replaced policy or contract; and

(c) the alternative policy or contract is substantially similar to the replaced policy or contract in all other material terms.

Section 38-29-80. (1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at times and for amounts as the board finds necessary. Payment is due thirty days after written notice to the member insurers and shall accrue interest as set forth in the plan of operation.

(2) There are two classes of assessments, as follows:

(a) Class A assessments are made for the purpose of meeting administrative costs and other general expenses not related to a particular impaired insurer.

(b) Class B assessments are made to the extent necessary to carry out the powers and duties of the association under Section 38-29-70 with regard to an insolvent or impaired insurer.

(3)(a) The amount of any Class A assessment for each account must be determined by the board and may be authorized and called on a pro rata or non pro rata basis. If called on a pro rata basis, the board may provide that the assessment must be credited against future Class B assessments.

(b) The amount of a Class B assessment, except for assessments related to long-term care insurance, must be allocated for assessment purposes between the accounts pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer or any other standard deemed by the board in its sole discretion as being fair and reasonable under the circumstances.

(c) The amount of the Class B assessment for long-term care insurance written by the impaired or insolvent insurer must be allocated according to a methodology included in the plan of operation and approved by the director. The methodology must provide for fifty percent of the assessment to be allocated to accident and health member insurers and fifty percent to be allocated to life and annuity member insurers.

(d) Class B assessments against member insurers for each account must be in proportion to the premiums received on business in this State by each assessed member insurer on policies or contracts covered by each account for the three most recent calendar years for which information is available preceding the year in which the member insurer became insolvent. In the case of an assessment of an impaired insurer, the assessment must be in proportion to the premiums received on business in this State for those calendar years by all assessed member insurers.

(e) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer may not be authorized or called until necessary to implement the purposes of this chapter. Classification and computation of assessments under this subsection must be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. The association shall notify each member insurer of its anticipated pro rata share of an authorized assessment not yet called within one hundred eighty days after the assessment is authorized.

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to

fulfill its contractual obligations. In the event an assessment against a member insurer is abated or deferred, in whole or in part, the amount by which the assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. Once the conditions that caused a deferral have been removed or rectified, the member insurer must pay all assessments that were deferred pursuant to a repayment plan approved by the association.

(5)(a)(i) The total of all assessments authorized by the association with respect to a member insurer for each account shall not in one calendar year exceed four percent of that member insurer's average annual premiums received in this State on the policies and contracts covered by the account during the three calendar years preceding the year in which the member insurer became an impaired or insolvent insurer.

(ii) If two or more assessments are authorized in one calendar year with respect to member insurers that become impaired or insolvent in different calendar years, the average annual premiums for purposes of the aggregate assessment percentage limitation must be equal and limited to the higher of the three-year average annual premiums for the applicable account as calculated pursuant to this section.

(iii) If the maximum assessment, together with the other assets of the association in any account, does not provide in any one year in any account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds must be assessed as soon as permitted by this chapter.

(b) The board may provide in the plan of operation a method of allocating funds among claims, whether relating to one or more impaired or insolvent insurers, when the maximum assessment will be insufficient to cover anticipated claims.

(c) If the maximum assessment for the life or annuity account in one year does not provide an amount sufficient to carry out the responsibilities of the association, then the board shall assess the other accounts for the necessary additional amount, subject to the maximum provided in this section.

(6) The board may, by an equitable method established in the plan of operation, refund to member insurers in proportion to the contribution of each member insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from assignment, subrogation, net realized gains, and income from investments. A reasonable amount

may be retained in any account to provide funds for the continuing expenses of the association and for future claims.

(7) It is proper for any member insurer, in determining its premium rates and policy owner dividends as to any kind of insurance or health maintenance organization business within the scope of this chapter, to consider the amount reasonably necessary to meet its assessment obligations under this chapter.

(8) The association must issue to each member insurer paying an assessment under this chapter, other than a Class A assessment, a certificate of contribution, in a form prescribed by the director, for the amount of the assessments so paid. All outstanding certificates must be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the member insurer in its financial statement as an asset in the form and for the amount and for a period of five years.

(9)(a) A member insurer that wishes to protest all or part of an assessment shall pay when due the full amount of the assessment as set forth in the notice provided by the association. The payment must be available to meet association obligations during the pendency of the protest or any subsequent appeal. Payment shall be accompanied by a statement in writing that the payment is made under protest and setting forth a brief statement of the grounds for the protest.

(b) Within sixty days following the payment of an assessment under protest by a member insurer, the association shall notify the member insurer in writing of its determination with respect to the protest unless the association notifies the member insurer that additional time is required to resolve the issues raised by the protest.

(c) Within thirty days after a final decision has been made, the association shall notify the protesting member insurer in writing of that final decision. Within sixty days of receipt of notice of the final decision, the protesting member insurer may appeal that final action to the director.

(d) In the alternative to rendering a final decision with respect to a protest based on a question regarding the assessment base, the association may refer protests to the director for a final decision, with or without a recommendation from the association.

(e) If the protest or appeal on the assessment is upheld, the amount paid in error or excess must be returned to the member insurer. Interest on a refund due a protesting member insurer shall be paid at the rate actually earned by the association.

(10) The association may request information of member insurers in order to aid in the exercise of its power under this section and member insurers shall promptly comply with a request.

Section 38-29-90. (1) The association shall submit to the department a plan of operation and any amendments necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments become effective upon the written approval of the director or his designee or thirty days after submission if the plan of operation and any amendments have not been rejected by the director. If the association fails to submit suitable amendments to the plan, the director or his designee shall, after notice and hearing, adopt and promulgate reasonable amendments necessary or advisable to effectuate the provisions of this chapter. These amendments must continue in force until modified by the director or his designee or superseded by amendments submitted by the association and approved by the director or his designee.

(2) All member insurers shall comply with the plan of operation.

(3) The plan of operation shall, in addition to requirements enumerated elsewhere in this chapter:

(a) establish procedures for handling the assets of the association;

(b) establish the amount and method of reimbursing members of the board of directors under Section 38-29-60;

(c) establish regular places and times for meetings of the board of directors;

(d) establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors;

(e) establish the procedure whereby selections for the board of directors must be made and submitted to the department director;

(f) establish any additional procedures for assessments under Section 38-29-80;

(g) contain additional provisions necessary or proper for the execution of the powers and duties of the association;

(h) establish procedures whereby a member of the board of directors may be removed for cause including a case where a member insurer director becomes an impaired or insolvent insurer;

(i) require the board of directors to establish a policy and procedures for addressing conflicts of interest.

(4) The plan of operation may provide that any or all powers and duties of the association, except those under Section 38-29-70(13)(c) and Section 38-29-80, are delegated to a corporation, association, or other organization which performs or will perform functions similar to those

of this association, or its equivalent, in two or more states. Such a corporation, association, or organization must be reimbursed for any payments made on behalf of the association and must be paid for its performance of any function of this association. A delegation under this subsection takes effect only with the approval of both the board of directors and the department director or his designee and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by this chapter.

Section 38-29-100. In addition to the duties and powers enumerated elsewhere in this chapter:

(1) The director or his designee:

(a) shall notify the board of directors of the existence of an impaired insurer no later than three days after a determination of impairment is made or he receives notice of impairment;

(b) shall, upon request of the board of directors, provide the association with a statement of the premiums written in this State and any other appropriate state for each member insurer;

(c) shall, when an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time. Notice to the impaired insurer constitutes notice to its shareholders, if any. The failure of the insurer to comply promptly with the demand does not excuse the association from the performance of its powers and duties under this chapter.

(2) The director or his designee may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this State of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the director or his designee may levy a forfeiture on a member insurer that fails to pay an assessment when due. The forfeiture may not exceed five percent of the unpaid assessment per month but may not be less than one hundred dollars a month.

(3) A final action of the board of directors or the association may be appealed to the director as provided by law by any member insurer if the appeal is taken within sixty days of receipt of notice of the final action being appealed. A final action or order of the director is subject to judicial review in a court of competent jurisdiction in accordance with the laws of this State.

(4) The liquidator, rehabilitator, or conservator of an impaired or insolvent insurer may notify all interested persons of the effect of this chapter.

Section 38-29-110. To aid in the detection and prevention of insurer impairments and insolvencies:

(1) It is the duty of the director:

(a) to notify the commissioners of all the other states and territories of the United States and the District of Columbia within thirty days following an action taken or the date the action occurs, when the director takes any of the following actions against a member insurer:

(i) revocation of license;

(ii) suspension of license; or

(iii) makes a formal order that the member insurer restrict its premium writing, obtain additional contributions to surplus, withdraw from the State, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of policy owners, contract owners, certificate holders, or creditors;

(b) to report to the board of directors when the director has taken any of the actions set forth in subitem (a) or has received a report from any other director indicating that any such action has been taken in another state. The report to the board of directors shall contain all significant details of the action taken or the report received from another commissioner;

(c) to report to the board of directors when the director has reasonable cause to believe from an examination, whether completed or in process, of any member insurer that the insurer may be an impaired or insolvent insurer;

(d) to furnish to the board of directors the National Association of Insurance Commissioners' (NAIC) Insurance Regulatory Information System (IRIS) ratios and listings of companies not included in the ratios developed by the NAIC, and the board may use the information contained therein in carrying out its duties and responsibilities under this section. The report and the information contained therein must be kept confidential by the board of directors until such time as made public by the director or other lawful authority.

(2) The director may seek the advice and recommendations of the board of directors concerning any matter affecting the duties and responsibilities of the director regarding the financial condition of member insurers, insurers, or health maintenance organizations seeking admission to transact business in this State.

(3) The board of directors may, upon majority vote, make reports and recommendations to the director upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of a member insurer or germane to the solvency of any insurer or health maintenance organization seeking to do business in this State. These reports and recommendations may not be considered public documents.

(4) The board of directors may, upon majority vote, notify the director of any information indicating a member insurer may be an impaired or insolvent insurer.

(5) The board of directors may, upon majority vote, make recommendations to the director for the detection and prevention of member insurer insolvencies.

Section 38-29-120. The association may recommend the appointment of a person to serve as a special deputy to act for the director or his designee and under his supervision in the liquidation, rehabilitation, or conservation of a member insurer.

Section 38-29-130. (1) Nothing in this chapter may be construed to reduce the liability for unpaid assessments of the insureds of an impaired or insolvent insurer operating under a plan with assessment liability.

(2) Records must be kept of all negotiations and meetings of the board of directors to discuss the activities of the association in carrying out its powers and duties under Section 38-29-70. Records of these meetings must be made public only upon the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurer, upon the termination of the impairment or insolvency of the insurer, or upon the order of a court of competent jurisdiction. Nothing in this subsection limits the duty of the association to render a report of its activities under Section 38-29-140.

(3) For the purpose of carrying out its obligations under this chapter, the association is considered to be a creditor of the impaired or insolvent insurer to the extent of assets attributable to covered policies reduced by any amounts to which the association is entitled as subrogee pursuant to Section 38-29-70(12). All assets of the impaired or insolvent insurer attributable to covered policies must be used to continue all covered policies and pay all contractual obligations of the impaired or insolvent insurer as required by this chapter. Assets attributable to covered policies, as used in this subsection, are that proportion of the assets which the reserves that should have been established for those policies bear to the reserve that should have been established for all policies of insurance written by the impaired or insolvent insurer.

(4) As a creditor of the impaired or insolvent insurer as established in this section and consistent with Section 38-27-530, the association and other similar associations are entitled to receive a disbursement of assets out of the marshaled assets, from time to time as the assets become available to reimburse it, as a credit against contractual obligations under this chapter. If the liquidator has not, within one hundred twenty days of a final determination of insolvency of a member insurer by the receivership court, made an application to the court for the approval of a proposal to disburse assets out of marshaled assets to guaranty associations having obligations because of the insolvency, then the association is entitled to make application to the receivership court for approval of its own proposal to disburse these assets.

(5)(a) Prior to the termination of any liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the association, the shareholders, policy and contract owners, certificate holders, and enrollees of the impaired or insolvent insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of the impaired or insolvent insurer. In this determination, consideration must be given to the welfare of the policy and contract owners, certificate holders, and enrollees of the continuing or successor insurer.

(b) No distribution to stockholders, if any, of an impaired or insolvent insurer may be made until and unless the total amount of assessments levied by the association with respect to the insurer plus interest has been fully recovered by the association.

(6) The recovery procedure shall provide that:

(a) If an order for liquidation or rehabilitation of a domestic insurer has been entered, the receiver appointed under the order has a right to recover on behalf of the insurer, from any affiliate that controlled it, the amount of distributions, other than stock dividends paid by the member insurer on its capital stock, made at any time during the five years preceding the petition for liquidation or rehabilitation subject to the limitations of items (b), (c), and (d) of this subsection.

(b) No such distribution is recoverable if the insurer shows that when paid the distribution was lawful and reasonable and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(c) Any person who was an affiliate that controlled the insurer at the time the distributions were paid is liable up to the amount of distributions he received. Any person who was an affiliate that controlled

the insurer at the time the distributions were declared is liable up to the amount of distributions he would have received if they had been paid immediately. If two or more persons are liable with respect to the same distributions, they are jointly and severally liable.

(d) The maximum amount recoverable under this section is the amount needed in excess of all other available assets of the impaired insurer to pay the contractual obligations of the impaired insurer.

(e) If any person liable under item (c) is insolvent, all its affiliates that controlled it at the time the dividend was paid are jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

Section 38-29-140. The association is subject to examination and regulation by the department. The board of directors shall annually submit to the department, by May first, a financial report for the preceding calendar year in a form approved by the director or his designee and a report of its activities during the preceding calendar year.

Section 38-29-150. The association is exempt from payment of all fees and all state, county, and municipal taxes.

Section 38-29-160. (1) Unless a longer period has been allowed by the director or his designee, a member insurer, at its option, has the right to show a certificate of contribution as an asset in the form approved by the director or his designee pursuant to Section 38-29-80(8) at percentages of the original face amount approved by the director or his designee, for calendar years as follows:

(a) one hundred percent for the calendar year of issuance;

(b) eighty percent for the first calendar year after the year of issuance;

(c) sixty percent for the second calendar year after the year of issuance;

(d) forty percent for the third calendar year after the year of issuance;

(e) twenty percent for the fourth calendar year after the year of issuance; and

(f) zero percent for the fifth calendar year after the year of issuance and thereafter.

(2) The insurer may offset the amount written off by it in a calendar year under subsection (1) against its premium, or income, tax liability to this State accrued with respect to business transacted in that year.

(3) Any sums acquired by refund, pursuant to Section 38-29-80(6), from the association which have previously been written off by contributing insurers and offset against premium (or income) taxes as provided in subsection (2) of this section and are not then needed for purposes of this chapter must be paid by the association to the department and by him deposited with the State Treasurer for credit to the general fund of this State.

Section 38-29-170. There is no liability on the part of, and no cause of action of any nature may arise against, any member insurer or its agents or employees, the association's agents or employees, members of the board of directors, or the director or his representatives for any action taken or omission by them in the authorized performance of their powers and duties under this chapter. This section does not relieve the association of any of its statutory obligations. The immunity extends to the participation in an organization of one or more state associations of similar purposes and to such organization, its agents, and employees.

Section 38-29-180. All proceedings in which the impaired or insolvent insurer is a party in any court in this State must be stayed one hundred eighty days from the date an order of liquidation, rehabilitation, or conservation is final to permit proper legal action by the association on any matters germane to its powers or duties. As to a judgment under any decision, order, verdict, or finding based on default the association may apply to have the judgment set aside by the same court that made the judgment and must be permitted to defend against the suit on the merits.

Section 38-29-190. For domestic insolvencies, the court shall fix a date, no less than four months from the date of the order, as the last day for the filing of claims, together with proper proofs thereof, with the association and shall prescribe the notice that must be given to insureds and claimants of the date. Prior to the date fixed the court may extend the time for the filing of claims.

Section 38-29-200. (1) No person, including a member insurer, agent, or affiliate of a member insurer shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or social media, or in any other way, an advertisement,

announcement, or statement, written or oral, which uses the existence of the South Carolina Life and Accident and Health Insurance Guaranty Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance or other coverage covered by this chapter. However, this section shall not apply to the South Carolina Life and Accident and Health Insurance Guaranty Association or any other entity which does not sell or solicit insurance or coverage by a health maintenance organization.

(2) Within one hundred eighty days of July 1, 2020, the association shall prepare a summary document describing the general purposes and current limitations of the chapter and complying with this section. This document must be submitted to the director for approval. At the expiration of the sixtieth day after the date on which the director approves the document, a member insurer may not deliver a policy or contract to a policy owner, contract owner, certificate holder, or enrollee unless the summary document is delivered to the policy owner, contract owner, certificate holder, or enrollee at the time of delivery of the policy or contract. The document must be made available upon request by a policy owner, contract owner, certificate holder, or enrollee. The distribution, delivery, or contents or interpretation of this document does not guarantee that either the policy or the contract or the policy owner, contract owner, certificate holder, or enrollee is covered in the event of the impairment or insolvency of a member insurer. The description document must be revised by the association as amendments to the chapter may require. Failure to receive this document does not give the policy owner, contract owner, certificate holder, enrollee, or insured any greater rights than those stated in this chapter.

(3) The document shall contain a clear and conspicuous disclaimer on its face. The director shall establish the form and content of the disclaimer. The disclaimer shall:

(a) state the name and address of the South Carolina Life and Accident and Health Insurance Guaranty Association and insurance department;

(b) prominently warn the policy owner, contract owner, certificate holder, or enrollee that the South Carolina Life and Accident and Health Insurance Guaranty Association may not cover the policy or contract or, if coverage is available, it will be subject to substantial limitations and exclusions and conditioned on continued residence in this State;

(c) state the types of policies or contracts for which guaranty funds will provide coverage;

(d) state the member insurer and its agents are prohibited by law from using the existence of the South Carolina Life and Accident and

Health Insurance Guaranty Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance or health maintenance organization coverage;

(e) state that the policy owner, contract owner, certificate holder, or enrollee should not rely on coverage under the South Carolina Life and Accident and Health Insurance Guaranty Association when selecting an insurer or health maintenance organization;

(f) explain rights available and procedures for filing a complaint to allege a violation of any provisions of this chapter; and

(g) provide other information as directed by the director including, but not limited to, sources for information about the financial condition of insurers provided that the information is not proprietary and is subject to disclosure under that state's public records law.

(4) A member insurer shall retain evidence of compliance for so long as the policy or contract for which the notice is given remains in effect.

Section 38-29-210. This chapter must be liberally construed to effect the purpose under Section 38-29-30 which constitutes an aid and guide to interpretation."

B. The amendments made by this act do not apply to a member insurer that has been placed under an order of rehabilitation or liquidation before July 1, 2020.

Time effective

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

Ratified the 19th day of March, 2020.

Approved the 24th day of March, 2020.

No. 122

(R124, S919)

AN ACT TO AMEND SECTION 7-7-110, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN BEAUFORT COUNTY, SO AS TO ADD THE NEW RIVER, PALMETTO BLUFF, AND SANDY

POINTE VOTING PRECINCTS, TO UPDATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE, AND TO CORRECT AN OUTDATED REFERENCE TO THE FORMER OFFICE OF RESEARCH AND STATISTICS.

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

Designation of Beaufort County voting precincts

SECTION 1. Section 7-7-110 of the 1976 Code is amended to read:

"Section 7-7-110. (A) In Beaufort County there are the following voting precincts:

Beaufort 1
Beaufort 2
Beaufort 3
Belfair
Bluffton 1A
Bluffton 1B
Bluffton 1C
Bluffton 1D
Bluffton 2A
Bluffton 2B
Bluffton 2C
Bluffton 2D
Bluffton 2E
Bluffton 3
Bluffton 4A
Bluffton 4B
Bluffton 4C
Bluffton 4D
Bluffton 5A
Bluffton 5B
Burton 1A
Burton 1B
Burton 1C
Burton 1D
Burton 2A
Burton 2B
Burton 2C

Burton 3
Chechessee 1
Chechessee 2
Dale Lobeco
Daufuskie
Hilton Head 1A
Hilton Head 1B
Hilton Head 2A
Hilton Head 2B
Hilton Head 2C
Hilton Head 3
Hilton Head 4A
Hilton Head 4B
Hilton Head 4C
Hilton Head 4D
Hilton Head 5A
Hilton Head 5B
Hilton Head 5C
Hilton Head 6
Hilton Head 7A
Hilton Head 7B
Hilton Head 8
Hilton Head 9A
Hilton Head 9B
Hilton Head 10
Hilton Head 11
Hilton Head 12
Hilton Head 13
Hilton Head 14
Hilton Head 15A
Hilton Head 15B
Ladys Island 1A
Ladys Island 1B
Ladys Island 2A
Ladys Island 2B
Ladys Island 2C
Ladys Island 3A
Ladys Island 3B
Ladys Island 3C
Moss Creek
Mossy Oaks 1A
Mossy Oaks 1B

Mossy Oaks 2
New River
Palmetto Bluff
Port Royal 1
Port Royal 2
Rose Hill
Sandy Pointe
Seabrook 1
Seabrook 2
Seabrook 3
Sheldon 1
Sheldon 2
St. Helena 1A
St. Helena 1B
St. Helena 1C
St. Helena 2A
St. Helena 2B
St. Helena 2C
Sun City 1
Sun City 2
Sun City 3
Sun City 4
Sun City 5
Sun City 6
Sun City 7
Sun City 8

(B) The precinct lines defining the above precincts are as shown on the official map prepared by and on file with the Revenue and Fiscal Affairs Office designated as document P-13-19 and as shown on copies provided to the Board of Voter Registration and Elections of Beaufort County by the Revenue and Fiscal Affairs Office.

(C) The polling places for the precincts provided in this section must be established by the Board of Voter Registration and Elections of Beaufort County subject to the approval of a majority of the Beaufort County Delegation."

Time effective

SECTION 2. This act takes effect March 15, 2020.

Ratified the 19th day of March, 2020.

Approved the 24th day of March, 2020.

No. 123

(R125, S920)

AN ACT TO AMEND SECTION 7-7-330, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN JASPER COUNTY, SO AS TO ADD TWO PRECINCTS, AND 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:

Designation of Jasper County voting precincts

SECTION 1. Section 7-7-330 of the 1976 Code is amended to read:

"Section 7-7-330. (A) In Jasper County there are the following voting precincts:

Coosawhatchie
Gillisonville
Grahamville 1
Grahamville 2
Grays
Hardeeville 1
Hardeeville 2
Hardeeville 3
Levy
Okatie
Okatie 2
Pineland
Ridgeland 1
Ridgeland 2
Ridgeland 3
Sun City
Tillman

(B) The precinct lines defining the precincts in subsection (A) are as shown on maps filed with the clerk of court of the county and also on file with the State Election Commission as provided and maintained by the Revenue and Fiscal Affairs Office designated as document P-53-19.

(C) The polling places for the precincts listed in subsection (A) must be determined by the Board of Voter Registration and Elections of Jasper County with the approval of a majority of the Jasper County Legislative Delegation."

Time effective

SECTION 2. This act takes effect March 15, 2020.

Ratified the 19th day of March, 2020.

Approved the 24th day of March, 2020.

No. 124

(R126, S1003)

AN ACT TO AMEND SECTION 7-7-360, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN LAURENS COUNTY, SO AS TO ELIMINATE THE BREWERTON AND PRINCETON VOTING PRECINCTS, TO ESTABLISH THE BREWERTON-PRINCETON VOTING PRECINCT, AND TO UPDATE THE MAP NUMBER ON WHICH THE NAMES AND BOUNDARIES OF THE LAURENS COUNTY VOTING 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:

Designation of Laurens County voting precincts

SECTION 1. Section 7-7-360 of the 1976 Code is amended to read:

"Section 7-7-360. (A) In Laurens County there are the following precincts:

Bailey
Barksdale-Narnie
Brewerton-Princeton
Clinton Mill
Clinton 1
Clinton 2
Clinton 3
Cooks
Cross Hill
Ekom
Gray Court
Greenpond
Hickory Tavern
Joanna
Jones
Laurens 1
Laurens 2
Laurens 3
Laurens 4
Laurens 5
Laurens 6
Long Branch
Lydia Mill
Madden
Martins-Poplar Springs
Mount Olive
Mountville
Ora-Lanford
Owings
Trinity Ridge
Waterloo
Wattsville
Youngs

(B) The precinct lines defining the precincts in subsection (A) are as shown on the official map designated as P-59-20 and on file with the Revenue and Fiscal Affairs Office and as shown on certified copies provided to the Board of Voter Registration and Elections of Laurens County.

(C) The polling places for the precincts listed in subsection (A) must be established by the Board of Voter Registration and Elections of Laurens County with the approval of a majority of the Laurens County Legislative Delegation."

Time effective

SECTION 2. This act takes effect March 15, 2020.

Ratified the 19th day of March, 2020.

Approved the 24th day of March, 2020.

No. 125

(R127, H3357)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56-3-115 SO AS TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES MAY ADD A NOTATION TO A PRIVATE PASSENGER-CARRYING MOTOR VEHICLE REGISTRATION TO INDICATE THE VEHICLE OWNER MAY BE DEAF OR HARD OF HEARING.

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

Deaf or hard of hearing notation added to a motor vehicle registration

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

"Section 56-3-115. The Department of Motor Vehicles may add a notation to a private passenger-carrying motor vehicle registration to indicate that the driver may be deaf or hard of hearing. The application for this special motor vehicle registration notation must include an original certificate from a licensed physician, as defined in Section 40-47-5, or licensed audiologist, as defined in Section 40-67-220, that certifies that the applicant has a permanent, uncorrectable hearing loss of forty decibels or more in one or both ears. The 'deaf or hard of hearing' notation would only appear when a law enforcement check is run on the vehicle's license plate through the department's online

interface with law enforcement to alert the officer that the driver may be deaf or hard of hearing."

Time effective

SECTION 2. This act takes effect one year after approval by the Governor.

Ratified the 19th day of March, 2020.

Approved the 24th day of March, 2020.

No. 126

(R128, H3695)

AN ACT TO AMEND SECTION 12-37-2680, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ASSESSED VALUE OF A VEHICLE, SO AS TO REQUIRE THAT THE VALUE GUIDES INCLUDE ADJUSTMENTS FOR HIGH MILEAGE AND TO PROVIDE THAT IF HIGH MILEAGE DATA IS NOT AVAILABLE FOR MOTORCYCLES AND MOTORCYCLE THREE-WHEEL VEHICLES, THE ADJUSTMENT FOR SUCH MOTORCYCLES SHALL EQUAL TWO-THIRDS OF THE ADJUSTMENT FOR OTHER MOTOR VEHICLES.

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

Taxation, high mileage and motorcycles

SECTION 1. Section 12-37-2680 of the 1976 Code is amended to read:

"Section 12-37-2680. The assessed value of the vehicle must be determined as of the first day of the month preceding the beginning of the tax year for the vehicles. The assessed values must be published in guides or manuals by the South Carolina Department of Revenue and provided to the auditor of each county as often as may be necessary to provide for current values, to include appropriate adjustments to those values to reflect high mileage. If the department determines that specific

high mileage adjustments for motorcycles or motorcycle three-wheel vehicles are not reasonably available from a specific source, the high mileage threshold requirements for motorcycles, or motorcycle three-wheel vehicles are deemed to be two-thirds of the average of such adjustments for other private passenger motor vehicles for which such information is available, as determined by the department. When the value of any vehicle is not set forth in the guide or manual the auditor shall determine the value from other available information."

Time effective

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

Ratified the 19th day of March, 2020.

Approved the 24th day of March, 2020.

No. 127

(R130, H4246)

AN ACT TO AMEND ACT 60 OF 2017, RELATING TO CRIMINAL BACKGROUND CHECKS BY THE REAL ESTATE COMMISSION, SO AS TO CHANGE THE TIME EFFECTIVE DATE TO JULY 1, 2020, AND TO LIMIT APPLICABILITY OF THIS REVISED TIME EFFECTIVE DATE WITH RESPECT TO LICENSE RENEWALS.

Whereas, in Act 60 of 2017, the South Carolina General Assembly enacted various provisions concerning criminal background checks for licensees of the South Carolina Real Estate Commission, effective three years after approval by the Governor; and

Whereas, the Governor approved Act 60 of 2017 on May 19, 2017, which makes May 19, 2020, the effective date of that act; and

Whereas, the May 19, 2020, effective date falls during a licensee renewal period, which would make the criminal background check provisions applicable to some applicants for license renewal but not others, creating

a disparate effect and unnecessarily complicating the renewal process for these hardworking professionals; and

Whereas, the General Assembly finds it necessary to revise the effective date of Act 60 of 2017 to occur immediately after the conclusion of this license renewal period. Now, therefore,

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

Act 60 of 2017 effective date changed, applicability

SECTION 1. SECTION 5 of Act 60 of 2017 is amended to read:

"SECTION 5. This act takes effect on July 1, 2020, and with respect to license renewals is only applicable to renewals initially due after June 30, 2020."

Time effective

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

Ratified the 19th day of March, 2020.

Approved the 24th day of March, 2020.

No. 128

(R132, H4702)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 55-11-440 SO AS TO PROVIDE THE RICHLAND-LEXINGTON AIRPORT COMMISSION MAY MAKE APPLICATION FOR THE PURPOSE OF ESTABLISHING AND MAINTAINING FOREIGN-TRADE ZONES IN CERTAIN COUNTIES, SELECT AND DESCRIBE THE LOCATION OF THE ZONES FOR WHICH APPLICATION MAY BE MADE, PROMULGATE CERTAIN REGULATIONS, OWN, ERECT, MAINTAIN, AND OPERATE BUILDINGS IN A FOREIGN-TRADE ZONE, AND

DO ALL THINGS NECESSARY AND PROPER TO ACHIEVE COMPLIANCE WITH THE FOREIGN-TRADE ZONES ACT.

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

Richland-Lexington Airport Commission

SECTION 1. Article 5, Chapter 11, Title 55 of the 1976 Code is amended by adding:

"Section 55-11-440. Notwithstanding another provision of law, the Richland-Lexington Airport Commission may make application to the Foreign-Trade Zones Board for the purpose of establishing, operating, and maintaining foreign-trade zones in Aiken, Allendale, Bamberg, Barnwell, Calhoun, Clarendon, Edgefield, Fairfield, Kershaw, Lee, Lexington, McCormick, Newberry, Richland, Saluda, and Sumter counties, under the act of Congress known as the Foreign-Trade Zones Act, which provides for the establishment, operation, and maintenance of foreign-trade zones in the United States.

The commission shall select and describe the location of the zones for which application may be made and shall make such regulations concerning the operation, maintenance, and policing of them as may be necessary to insure compliance with the Foreign-Trade Zones Act and for other appropriate purposes.

The commission has the authority to own, erect, maintain, and operate or lease any structures or buildings or enclosures as may be necessary or proper for establishing, operating, and maintaining such foreign-trade zones within Aiken, Allendale, Bamberg, Barnwell, Calhoun, Clarendon, Edgefield, Fairfield, Kershaw, Lee, Lexington, McCormick, Newberry, Richland, Saluda, and Sumter counties.

The authority granted to the commission confers the right, duty, and power to do all things necessary and proper to achieve compliance with the Foreign-Trade Zones Act and to carry into effect the establishing, operating, and maintaining of foreign-trade zones within Aiken, Allendale, Bamberg, Barnwell, Calhoun, Clarendon, Edgefield, Fairfield, Kershaw, Lee, Lexington, McCormick, Newberry, Richland, Saluda, and Sumter counties."

Time effective

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

Ratified the 19th day of March, 2020.

Approved the 24th day of March, 2020.

No. 129

(R134, H4811)

AN ACT TO AMEND SECTION 48-39-290, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PROHIBITION ON EROSION CONTROL STRUCTURES OR DEVICES SEAWARD OF THE SETBACK LINE, SO AS TO ALLOW FOR THE PLACEMENT OF SHORELINE PERPENDICULAR WINGWALLS THAT EXTEND LANDWARD FROM THE ENDS OF EXISTING EROSION CONTROL STRUCTURES OR DEVICES.

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

Erosion control structures, wingwalls

SECTION 1. Section 48-39-290(B)(2)(a) of the 1976 Code is amended to read:

"(a) No new erosion control structures or devices are allowed seaward of the setback line except:

(i) structures or devices to protect a public highway that existed on June 25, 1990; and

(ii) shoreline perpendicular wingwalls that extend landward at a ninety degree angle from the ends of existing erosion control structures or devices that are consistent in height and composition with the existing erosion control structures to which they are attached subject to any special conditions imposed by the department."

Time effective

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

Ratified the 19th day of March, 2020.

Approved the 24th day of March, 2020.

No. 130

(R135, H4944)

AN ACT TO AMEND SECTION 7-7-490, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN SPARTANBURG COUNTY, SO AS TO ADD TWO PRECINCTS, TO ELIMINATE TWO PRECINCTS, AND 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:

Designation of Spartanburg County voting precincts

SECTION 1. Section 7-7-490 of the 1976 Code is amended to read:

"Section 7-7-490. (A) In Spartanburg County there are the following voting precincts:

Abner Creek Baptist
Anderson Mill Baptist
Anderson Mill Elementary
Apalache Baptist
Arcadia Elementary
Beaumont Methodist
Beech Springs Intermediate
Ben Avon Methodist
Bethany Baptist
Bethany Wesleyan
Boiling Springs Elementary
Boiling Springs High School
Boiling Springs Intermediate
Boiling Springs Jr. High
Boiling Springs 9th Grade

Broome High School
Canaan
Cannons Elementary
Carlisle Fosters Grove
Carlisle Wesleyan
Cavins Hobbysville
C.C. Woodson Recreation
Cedar Grove Baptist
Chapman Elementary
Chapman High School
Cherokee Springs Fire Station
Chesnee Elementary
Cleveland Elementary
Converse Fire Station
Cooley Springs Baptist
Cornerstone Baptist
Cowpens Depot Museum
Cowpens Fire Station
Croft Baptist
Cross Anchor Fire Station
Cudd Memorial
D. R. Hill Middle School
Daniel Morgan Technology Center
Drayton Fire Station
Duncan United Methodist
Eastside Baptist
Ebenezer Baptist
Enoree First Baptist
E.P. Todd Elementary
Fairforest Elementary
Fairforest Middle School
Gable Middle School
Glendale Fire Station
Gramling Methodist
Greater St. James
Hayne Baptist
Hendrix Elementary
Holly Springs Baptist
Hope
Jesse Bobo Elementary
Jesse Boyd Elementary
Lake Bowen Baptist

Landrum High School
Landrum United Methodist
Lyman Elementary
Lyman Town Hall
Mayo Elementary
Morningside Baptist
Motlow Creek Baptist
Mt. Calvary Presbyterian
Mt. Moriah Baptist
Mt. Zion Full Gospel Baptist
Oakland Elementary
Pacolet Elementary School
Park Hills Elementary
Pauline Glenn Springs Elementary
Pelham Fire Station
Poplar Springs Fire Station
Powell Saxon Una
R.D. Anderson Vocational
Reidville Elementary
Reidville Fire Station
River Ridge Elementary
Roebuck Bethlehem
Roebuck Elementary
Southside Baptist
Spartanburg High School
Startex Fire Station
St. John's Lutheran
Swofford Career Center
Travelers Rest Baptist
Trinity Methodist
Trinity Presbyterian
Victor Mill Methodist
Wellford Fire Station
Holy Communion
West View Elementary
White Stone Methodist
Whitlock Jr. High
Woodland Heights Recreation Center
Woodruff Elementary
Woodruff Fire Station
Woodruff Leisure Center

(B) Precinct lines defining the precincts in subsection (A) are as shown on the official map on file with the Revenue and Fiscal Affairs Office, and as shown on copies provided to the Board of Voter Registration and Elections of Spartanburg County by the Revenue and Fiscal Affairs Office designated as document P-83-20A.

(C) Polling places for the precincts listed in subsection (A) must be determined by the Board of Voter Registration and Elections of Spartanburg County with the approval of a majority of the Spartanburg County Legislative Delegation."

Time effective

SECTION 2. This act takes effect March 15, 2020.

Ratified the 19th day of March, 2020.

Approved the 24th day of March, 2020.

No. 131

(R136, H4439)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 53-3-250 SO AS TO DESIGNATE THE SIXTEENTH DAY OF JULY OF EACH YEAR AS "ATOMIC VETERANS DAY" IN SOUTH CAROLINA.

Whereas, throughout the history of this great State and nation, brave South Carolinians, answering the call of duty and service, have defended our freedoms as members of the United States Armed Forces; and

Whereas, more than two hundred thousand American service members, including South Carolinians, participated in aboveground nuclear tests between 1945 and 1962, served with the United States military occupation forces in or around Hiroshima and Nagasaki before 1946, or were held as prisoners of war in or near Hiroshima or Nagasaki; and

Whereas, with the aid of American service members, the United States conducted the Trinity nuclear test, the world's first detonation of a

nuclear device, in New Mexico on July 16, 1945, as a result of the Manhattan Project; and

Whereas, all these atomic veterans may have been exposed to radiation during their military service and, due to that exposure, may have developed cancer or other medical conditions; and

Whereas, many atomic veterans were prevented by secrecy laws or oaths from seeking medical care or disability compensation from the United States Department of Veterans Affairs (VA) for conditions they may have developed as a result of radiation exposure; and

Whereas, in 1996, the United States Congress repealed the Nuclear Radiation and Secrecy Agreements Act, thus freeing atomic veterans to describe their military involvement in nuclear testing in order to file for VA benefits; and

Whereas, atomic veterans may be eligible for free medical care from the VA and compensation in the form of a partial or full service-connected disability allowance, including potential payments to a surviving spouse or children; and

Whereas, the National Association of Atomic Veterans was formed in 1979 to help atomic veterans obtain medical care and assistance; and

Whereas, it is altogether fitting and proper that atomic veterans be recognized for their service and sacrifice. Now, therefore,

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

Atomic Veterans Day

SECTION 1. Chapter 3, Title 53 of the 1976 Code is amended by adding:

"Section 53-3-250. The sixteenth day of July of each year is designated as 'Atomic Veterans Day' in South Carolina".

Time effective

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

Ratified the 8th day of April, 2020.

Approved the 10th day of April, 2020.

No. 132

(R137, H4743)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 4-3-312 SO AS TO ALTER THE COUNTY LINES OF HORRY AND GEORGETOWN COUNTIES BY ANNEXING A CERTAIN PORTION OF GEORGETOWN TO HORRY COUNTY AND TO MAKE PROVISIONS FOR LEGAL RECORDS.

Whereas, pursuant to the Governor's Executive Order No. 2019-23, dated August 26, 2019, an election was held on November 5, 2019, in an affected area within Georgetown County, consisting of at least one hundred ninety-nine parcels, whose owners erroneously believed their properties were located in Horry County; and

Whereas, the purpose of this election was to determine whether or not the qualified electors residing in that portion of Georgetown County described below wished to have such area annexed to Horry County; and

Whereas, in this election in Georgetown County more than two-thirds of the votes cast were in favor of this annexation; and

Whereas, the constitutional and statutory requirements for this annexation have been complied with. Now, therefore,

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

Transfer of property to Horry County

SECTION 1. Chapter 3, Title 4 of the 1976 Code is amended by adding:

"Section 4-3-312. (A) The following described portion of Georgetown County is transferred and annexed to Horry County:

'All that certain piece, parcel, or tract of land consisting of 210.32 acres or 0.3286 square miles described as commencing at a point in the center of the Waccamaw River, being that point defined in Sections 4-3-270, 4-3-310, and 4-3-311, Code of Laws of South Carolina, 1976, as amended, at Latitude 33° 34' 22.623" N, Longitude 79° 06' 03.848" W (North American Datum 1983), this being the same point positioned at Latitude N 33° 34' 22.6126", Longitude W 79° 06' 03.8429" (North American Datum 1983/2011) on the below referenced plat, and thence running along the Statutory Boundary for Georgetown and Horry counties N 89° 06' 55" E for a distance of 4,165.38 feet to a calculated point labeled 'B', this being the Point of Beginning: From the Point of Beginning, a point labeled 'B' and thence running along a line through points labeled 'B' through 'AR' on the Proposed Boundary Line for Georgetown and Horry counties, 'AR' being on the Statutory Boundary of Georgetown and Horry counties thence turning and running S 89° 06' 55" W for a distance of 23,067.40 feet along the Statutory Boundary of Georgetown and Horry counties to the calculated point labeled 'B', the Point of Beginning. Reference is made to this plat for a more complete and accurate description of the metes, bounds, and location of this property.'

(B) This tract measures and contains 210.32 acres of land or 0.3286 square miles, more or less, and is clearly shown on a 'Plat of a Portion of Georgetown County Proposed to be Annexed to Horry County', by South Carolina Geodetic Survey, AECOM, and Glenn Associates Surveying, Inc., dated January 9, 2019, and signed and sealed by David K. Ballard PLS#26946, Jason M. Forsberg PLS#28135, and Michael R. Mills PLS#11606 on January 17, 2019, and recorded with the Horry County Registrar of Deeds in Plat Book 287, Page 153.

(C) The proper proportion of the existing Georgetown County indebtedness of the area transferred is assumed by Horry County."

Certified copies to be furnished

SECTION 2. Upon application, the Clerk of Court, Register of Deeds, Sheriff, and Probate Judge of Georgetown County shall furnish certified copies of any judgment roll, entry on abstract of judgment book, will, record, execution, decree, deed, mortgage, or other papers signed or recorded in the office of such officers, upon payment of proper fees and when a certified copy is filed or recorded in the proper office of Horry County, the same has the same force and effect in Horry County that it had in Georgetown County and any record not transferred continues in force and effect and each has the same force and effect in Horry County

as if it had been transferred and made a record in the proper office of Horry County.

Time effective

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

Ratified the 8th day of April, 2020.

Approved the 10th day of April, 2020.

No. 133

(R138, S635)

AN ACT TO AMEND SECTION 7-13-35, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE NOTICE OF GENERAL, MUNICIPAL, SPECIAL, AND PRIMARY ELECTIONS, SO AS TO REQUIRE THE NOTICE TO STATE THAT THE PROCESS OF EXAMINING THE RETURN-ADDRESSED ENVELOPES CONTAINING THE ABSENTEE BALLOTS MAY BEGIN AT 9:00 A.M. ON THE CALENDAR DAY IMMEDIATELY PRECEDING ELECTION DAY; TO AMEND SECTION 7-15-420, RELATING TO THE RECEIPT, TABULATION, AND REPORTING OF ABSENTEE BALLOTS, SO AS TO PROVIDE THAT THE PROCESS OF EXAMINING THE RETURN-ADDRESSED ENVELOPES THAT HAVE BEEN RECEIVED BY THE COUNTY BOARD OF VOTER REGISTRATION AND ELECTIONS MAY BEGIN AT 9:00 A.M. ON THE CALENDAR DAY IMMEDIATELY PRECEDING ELECTION DAY; TO AMEND SECTION 7-15-470, RELATING TO ABSENTEE BALLOTS OTHER THAN PAPER BALLOTS, SO AS TO MODIFY THE REQUIREMENTS NEEDED TO OBTAIN THE STATE ELECTION COMMISSION CERTIFICATION BEFORE USING A NONPAPER-BASED VOTING MACHINE OR VOTING SYSTEM FOR IN-PERSON ABSENTEE VOTING; TO REQUIRE THE STATE ELECTION COMMISSION TO IMPLEMENT A SOFTWARE UPDATE TO ITS ELECTRONIC VOTING MACHINES TO ALLOW FOR CHALLENGES TO ABSENTEE VOTES CAST USING THE

MACHINES IN AN EQUIVALENT MANNER TO CHALLENGES TO ABSENTEE VOTES CAST ON ELECTRONIC VOTING MACHINES IN THE 2018 GENERAL ELECTION; TO AMEND SECTION 7-15-330, RELATING TO THE TIME OF APPLICATION FOR ABSENTEE BALLOTS AND APPLICATIONS IN PERSON, SO AS TO REQUIRE THE BOARD OF VOTER REGISTRATION AND ELECTIONS TO KEEP A RECORD OF THE DATE AND METHOD UPON WHICH THE ABSENTEE BALLOT IS RETURNED; TO AMEND SECTION 7-15-440, RELATING TO THE LIST OF PERSONS ISSUED AND WHO MAY CAST ABSENTEE BALLOTS, SO AS TO CLARIFY THAT THE LIST IS IN ADDITION TO THE INFORMATION PROVIDED PURSUANT TO SECTION 7-15-330; BY ADDING SECTION 7-13-825 SO AS TO PROVIDE THAT THE STATE ELECTION COMMISSION AND EACH COUNTY BOARD OF VOTER REGISTRATION AND ELECTIONS MUST POST THE REQUIREMENTS TO CHALLENGE A BALLOT IN A CONSPICUOUS LOCATION IN THEIR RESPECTIVE OFFICES AND WEBSITES; TO REPEAL CERTAIN SUBSECTIONS OF SECTION 1 OF THE ACT ON DECEMBER 31, 2021; AND TO PROVIDE THAT A QUALIFIED ELECTOR MUST BE PERMITTED TO VOTE BY ABSENTEE BALLOT IN AN ELECTION IF THE QUALIFIED ELECTOR'S PLACE OF RESIDENCE OR POLLING PLACE IS LOCATED IN AN AREA SUBJECT TO A STATE OF EMERGENCY DECLARED BY THE GOVERNOR AND THERE ARE FEWER THAN FORTY-SIX DAYS REMAINING UNTIL THE DATE OF THE ELECTION AND PROVIDE THAT THIS PROVISION EXPIRES ON JULY 1, 2020.

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

Elections, absentee ballots, examination of absentee ballots

SECTION 1.A. Section 7-13-35 of the 1976 Code is amended to read:

"Section 7-13-35. The authority charged by law with conducting an election must publish two notices of general, municipal, special, and primary elections held in the county in a newspaper of general circulation in the county or municipality, as appropriate. Included in each notice must be a reminder of the last day persons may register to be eligible to vote in the election for which notice is given, notification of

the date, time, and location of the hearing on ballots challenged in the election, a list of the precincts involved in the election, the location of the polling places in each of the precincts, and notification that the process of examining the return-addressed envelopes containing absentee ballots may begin at 9:00 a.m. on the calendar day immediately preceding election day at a place designated in the notice by the authority charged with conducting the election. The first notice must appear no later than sixty days before the election and the second notice must appear no later than two weeks after the first notice."

B. Section 7-15-420 of the 1976 Code is amended to read:

"Section 7-15-420. (A) The county board of voter registration and elections, municipal election commission, or executive committee of each municipal party in the case of municipal primary elections is responsible for the tabulation and reporting of absentee ballots.

(B) At 9:00 a.m. on the calendar day immediately preceding election day, the managers appointed pursuant to Section 7-5-10, and in the presence of any watchers who have been appointed pursuant to Section 7-13-860, may begin the process of examining the return-addressed envelopes that have been received by the county board of voter registration and elections making certain that each oath has been properly signed and witnessed and includes the address of the witness. All return-addressed envelopes received by the county board of voter registration and elections before the time for closing the polls must be examined in this manner. A ballot may not be counted unless the oath is properly signed and witnessed nor may any ballot be counted which is received by the county board of voter registration and elections after time for closing of the polls. The printed instructions required by Section 7-15-370(2) to be sent each absentee ballot applicant must notify him that his vote will not be counted in either of these events. If a ballot is not challenged, the sealed return-addressed envelope must be opened by the managers, and the enclosed envelope marked 'Ballot Herein' removed and placed in a locked box or boxes.

(C) After all return-addressed envelopes have been emptied, but no earlier than 9:00 a.m. on election day, the managers shall remove the ballots contained in the envelopes marked 'Ballot Herein', placing each one in the ballot box provided for the applicable contest.

(D) Beginning at 9:00 a.m. on election day, the absentee ballots may be tabulated, including any absentee ballots received on election day before the polls are closed. If any ballot is challenged, the return-addressed envelope must not be opened, but must be put aside and

the procedure set forth in Section 7-13-830 must be utilized; but the absentee voter must be given reasonable notice of the challenged ballot. Results of the tabulation must not be publicly reported until after the polls are closed."

C. Section 7-15-470 of the 1976 Code is amended to read:

"Section 7-15-470. (A) Notwithstanding the provisions of this chapter, a county board of voter registration and elections may use other methods of voting by absentee ballot instead of by paper ballot. No voting machine or voting system, other than a paper-based system, may be used for in-person absentee voting that has not received written certification from the State Election Commission that:

(1) the voting machine or voting system meets all statutory requirements for use in the State;

(2) the voting machine or voting system can be secured against voting at times other than business hours of the county board of voter registration and elections; and

(3) the results of elections can be held secure from release until the time for counting ballots at any polling place.

(B) The State Election Commission must develop standards and guidelines for these purposes."

D. The State Election Commission is directed to implement a software update to its electronic voting machines to allow for challenges to absentee votes cast using the machines in an equivalent manner to challenges to absentee votes cast on electronic voting machines in the 2018 General Election.

E. Section 7-15-330 of the 1976 Code is amended to read:

"Section 7-15-330. To vote by absentee ballot, a qualified elector or a member of his immediate family must request an application to vote by absentee ballot in person, by telephone, or by mail from the county board of voter registration and elections, or at an extension office of the board of voter registration and elections as established by the county governing body, for the county of the voter's residence. A person requesting an application for a qualified elector as the qualified elector's authorized representative must request an application to vote by absentee ballot in person or by mail only and must himself be a registered voter and must sign an oath to the effect that he fits the statutory definition of a representative. This signed oath must be kept on file with the board of

voter registration and elections until the end of the calendar year or until all contests concerning a particular election have been finally determined, whichever is later. A candidate or a member of a candidate's paid campaign staff, including volunteers reimbursed for time expended on campaign activity, is not allowed to request applications for absentee voting for any person designated in this section unless the person is a member of the immediate family. A request for an application to vote by absentee ballot may be made anytime during the calendar year in which the election in which the qualified elector desires to be permitted to vote by absentee ballot is being held. However, completed applications must be returned to the county board of voter registration and elections in person or by mail before 5:00 p.m. on the fourth day before the day of the election. Applications must be accepted by the county board of voter registration and elections until 5:00 p.m. on the day immediately preceding the election for those who appear in person and are qualified to vote absentee pursuant to Section 7-15-320. A member of the immediate family of a person who is admitted to a hospital as an emergency patient on the day of an election or within a four-day period before the election may obtain an application from the board on the day of an election, complete it, receive the ballot, deliver it personally to the patient who shall vote, and personally carry the ballot back to the board of voter registration and elections. The board of voter registration and elections shall serially number each absentee ballot application form and keep a record book in which must be recorded the number of the form, the name, home address, and absentee mailing address of the person for whom the absentee ballot application form is requested; the name, address, voter registration number, and relationship of the person requesting the form, if other than the applicant; the date upon which the form is requested; the date upon which the form is issued; and the date and method upon which the absentee ballot is returned. This information becomes a public record at 9:00 a.m. on the day immediately preceding the election, except that forms issued for emergency hospital patients must be made public by 9:00 a.m. on the day following an election. A person who violates the provisions of this section is subject to the penalties provided in Section 7-25-170."

F. Section 7-15-440 of the 1976 Code is amended to read:

"Section 7-15-440. The county board of voter registration and elections shall, after each election, prepare a list of all persons to whom absentee ballots were issued and all persons who cast absentee ballots. The list so compiled shall be made available for public inspection upon

request. This list is in addition to the information provided pursuant to Section 7-15-330."

G. Article 7, Chapter 13, Title 7 of the 1976 Code is amended by adding:

"Section 7-13-825. The State Election Commission and each county board of voter registration and elections must post the requirements to challenge a ballot pursuant to the provisions of Section 7-13-810 in a conspicuous location in their respective offices and on their respective websites."

H. The amendments contained in subsections A., B., and C. of this SECTION are repealed on December 31, 2021, and the text of these code sections therefore shall revert back to the language as contained in the South Carolina Code of Laws as of January 23, 2020.

Elections, absentee ballots during the state of emergency, expiring on July 1, 2020

SECTION 2. A. A qualified elector must be permitted to vote by absentee ballot in an election if the qualified elector's place of residence or polling place is located in an area subject to a state of emergency declared by the Governor and there are fewer than forty-six days remaining until the date of the election.

B. This SECTION takes effect upon approval by the Governor and expires on July 1, 2020.

Time effective

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

Ratified the 12th day of May, 2020.

Approved the 13th day of May, 2020.

No. 134

(R139, H3309)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 15 TO CHAPTER 3, TITLE 23 SO AS TO PROVIDE THAT THE STATE LAW ENFORCEMENT DIVISION SHALL CREATE AND OPERATE A STATEWIDE SEXUAL ASSAULT KIT TRACKING SYSTEM.

Whereas, the General Assembly recognizes the deep pain and suffering experienced by victims of sexual assault. Sexual assault is an extreme violation of a person's body and sense of self and safety. Sexual violence is a pervasive social problem. National studies indicate that approximately one in four women will be sexually assaulted in their lifetimes. Survivors often turn to hospitals and local law enforcement for help, and many volunteer to have professionals collect a sexual assault kit to preserve physical evidence from their bodies. The process of collecting a sexual assault kit is extremely invasive and difficult; and

Whereas, the General Assembly finds that, when forensic analysis is completed, the biological evidence contained inside sexual assault kits can be an incredibly powerful tool for law enforcement to solve and prevent crime. Forensic analysis of all sexual assault kits sends a message to survivors that they matter. It sends a message to perpetrators that they will be held accountable for their crimes. The General Assembly is committed to bringing healing and justice to survivors of sexual assault; and

Whereas, the General Assembly recognizes the laudable and successful efforts of law enforcement in the utilization of forensic analysis of sexual assault kits in the investigation and prosecution of crimes in South Carolina. The General Assembly intends to continue building on its efforts through the establishment of the statewide sexual assault kit tracking system. The system will be designed to track all sexual assault kits in this State, regardless of when they were collected, in order to further empower survivors with information, assist law enforcement with investigations and crime prevention, and create transparency and foster public trust. Now, therefore,

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

Statewide Sexual Assault Kit Tracking System

SECTION 1. Chapter 3, Title 23 of the 1976 Code is amended by adding:

"Article 15

Statewide Sexual Assault Kit Tracking System

Section 23-3-1300. (A) The State Law Enforcement Division (SLED) shall create and operate a statewide sexual assault kit tracking system. SLED may contract with state or nonstate entities including, but not limited to, private software and technology providers, for the creation, operation, and maintenance of the system.

(B) All medical facilities, law enforcement agencies, forensic laboratories, or other persons or entities that collect evidence for, or receive, store, analyze, maintain, or preserve sexual assault kits, must participate in the statewide sexual assault kit tracking system for the purpose of tracking the location and status of all sexual assault kits in their custody. Participation must begin according to the implementation schedule established by SLED.

(C) The statewide sexual assault kit tracking system must:

(1) track the location and status of sexual assault kits throughout the criminal justice process, including the initial collection in examinations performed at medical facilities, receipt and storage at law enforcement agencies, receipt and analysis at forensic laboratories, and storage and any destruction after completion of analysis;

(2) allow participating entities who have custody of sexual assault kits to update and track the status and location of the kits;

(3) allow victims of sexual assault to anonymously track or receive updates regarding the status of their sexual assault kits; and

(4) use electronic or other technologies which allow for continuous access.

(D) SLED may use a phased implementation process in order to launch the system and facilitate entry and use of the system for entities required to participate pursuant to subsection (B). SLED may phase in initial participation according to region, volume, or other appropriate classifications. All entities must participate fully in the system no later than June 1, 2022. SLED shall submit a report on the current status and plan for launching the system, including the plan for phased implementation, to the House and Senate Judiciary committees and the Governor by January 1, 2021.

(E) SLED shall submit a semiannual report on the statewide sexual assault kit tracking system to the House and Senate Judiciary committees and the Governor. SLED may publish the current report on its website. The first report is due July 31, 2022, and subsequent reports are due January thirty-first and July thirty-first of each year. The report must include the:

(1) total number of sexual assault kits in the system statewide and by jurisdiction;

(2) total and semiannual number of sexual assault kits where forensic analysis has been completed statewide and by jurisdiction;

(3) number of sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(4) total and semiannual number of sexual assault kits where forensic analysis has been requested but not completed statewide and by jurisdiction;

(5) average and median length of time for sexual assault kits to be submitted for forensic analysis after being added to the system, including separate sets of data for all sexual assault kits in the system statewide and by jurisdiction and for sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(6) average and median length of time for forensic analysis to be completed on sexual assault kits after being submitted for analysis, including separate sets of data for all sexual assault kits in the system statewide and by jurisdiction and for sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(7) total and semiannual number of sexual assault kits destroyed or removed from the system statewide and by jurisdiction;

(8) total number of sexual assault kits, statewide and by jurisdiction, where forensic analysis has not been completed and six months or more have passed since those sexual assault kits were added to the system; and

(9) total number of sexual assault kits, statewide and by jurisdiction, where forensic analysis has not been completed and one year or more has passed since those sexual assault kits were added to the system.

(F) For the purpose of reports under subsection (E), a sexual assault kit must be assigned to the jurisdiction associated with the law enforcement agency anticipated to receive the sexual assault kit or otherwise in custody of the sexual assault kit.

(G) SLED shall establish guidelines to ensure that the statewide sexual assault kit tracking system protects victim information from disclosure to nonparticipating entities. Except as otherwise required for

reporting under subsection (E), information maintained in the statewide sexual assault kit tracking system is confidential and not a public record as defined in Section 30-4-20(C)."

Time effective

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

Ratified the 12th day of May, 2020.

Approved the 14th day of May, 2020.

No. 135

(R140, H3411)

AN ACT TO MAKE APPROPRIATIONS AND TO PROVIDE REVENUES TO MEET THE ORDINARY EXPENSES OF STATE GOVERNMENT FOR THE FISCAL YEAR BEGINNING JULY 1, 2020, IN THE EVENT THAT THE GENERAL APPROPRIATIONS ACT FOR FISCAL YEAR 2020-2021 HAS NOT BEEN ENACTED BY THAT DATE AND TO REGULATE THE EXPENDITURE OF SUCH FUNDS, TO MAKE SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2019-2020 TO COMBAT THE COVID-19 VIRUS, AND TO FURTHER PROVIDE FOR THE OPERATION OF STATE GOVERNMENT DURING THE PUBLIC HEALTH CRISIS CAUSED BY THE COVID-19 VIRUS.

Whereas, the most solemn duty of each member of the General Assembly is to exercise his or her constitutional duty to annually provide for the recurring expenses of our state's government; and

Whereas, the public health emergency associated with the 2019 Novel Coronavirus (COVID-19) has made satisfying that duty more difficult this year, nevertheless, the General Assembly will not fail in its duty to the residents of South Carolina; and

Whereas, given the extraordinary challenges facing our State, our nation, and the world due to COVID-19, it is necessary to take emergency measures to combat the spread of this deadly virus; and

Whereas, by enacting this legislation the General Assembly is ensuring that the functions of our state government will continue unabated during this challenging time so that we as a State can combat the spread and address the impact of COVID-19; and

Whereas, it is the intent of the General Assembly that the provisions of this act are temporary and that this act shall be replaced with a comprehensive general appropriations act when we reconvene. Now, therefore,

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

PART I

Continuing to Fund the Ordinary Expenses of State Government

SECTION 1. (A)(1) If the 2020-2021 state fiscal year begins with no annual general appropriations act in effect for that year, the authority to pay the recurring expenses of state government continues at the level of amounts appropriated in Act 91 of 2019 for the recurring expenses of state government for Fiscal Year 2020-2021 except as provided in subsection (A)(2).

(2) The effective dates of Parts IA and IB of Act 91 of 2019 are extended until the effective date for appropriations made in a general appropriations act for Fiscal Year 2020-2021, after which appropriations made pursuant to this joint resolution are deemed to have been made pursuant to the general appropriations act for Fiscal Year 2020-2021.

(B) Notwithstanding debt service appropriations in Act 91 of 2019 and until the effective date of the appropriations made in a general appropriations act for Fiscal Year 2020-2021, there is appropriated whatever amount is necessary for timely debt service on state obligations and other amounts constitutionally required to be appropriated, including the General Reserve Fund, the Capital Reserve Fund, and to conduct the 2020 primary, runoff, and general elections, to include expenses to provide for protection of the health and safety of voters, poll workers, and employees of county election commissions. The General Reserve Fund is established in the amount required by law. The Executive Budget Office shall, in conjunction with the Comptroller

General and the State Treasurer, implement the necessary and appropriate accounting transactions to implement the provisions in this paragraph.

PART II

Specific Provisions Related to the Operation of State Government

SECTION 2. (A)(1) The State of South Carolina desires to procure professional grant management services for oversight and compliance of funds received through the 'Coronavirus Aid, Relief, and Economic Security Act' (CARES Act) and any other available source of federal COVID-19 relief funds. It is intended that the procurement will result in a contract for professional grant management services that can assist the State with grant management to include, but not be limited to: understanding the requirements and funding streams related to the CARES Act and federal relief funds; creating a framework for grant management from application for funds to disbursement of funds to include the development of processes and controls, data collection, evaluation of requests, and reporting; and creating a system of monitoring for compliance and detecting possible fraud, waste, and abuse.

(2) It is vital to the state's interest that a contract be awarded for such professional grant management services in the most expeditious manner possible and time is of the essence. Accordingly, this procurement should be done pursuant to the provisions of Section 11-35-1570 of the 1976 Code. The Executive Director of the South Carolina Department of Administration shall coordinate the process used to procure the professional grant management services needed and shall be responsible for the development of specifications to be included in any contract awarded. The State Fiscal Accountability Authority shall serve as the procuring officer for the procurement process and is responsible for administrative duties related to the process and the contract awarded pursuant to it. The State Fiscal Accountability Authority shall assign such personnel as requested by the Executive Director of the Department of Administration to assist the Department of Administration in carrying out its duties under this act.

(B) State boards, commissions, agencies, departments, and institutions of higher learning are authorized to receive funds directly from the federal government in response to the 2019 Novel Coronavirus (COVID-19). Funds so received shall be expended for COVID-19 preparedness and response and in accordance with applicable federal

laws and regulations. Any state board, commission, agency, department, or institution of higher learning that receives funds must submit an expenditure plan to the Governor, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee. Beginning on June 1, 2020, and on the first day of each month thereafter, the recipient shall provide a detailed accounting of the expenditure of all federal relief funds to the Governor and the General Assembly. The detailed accounting must be made available on the Governor's website. Unexpended funds, without limitation, may be carried forward into the succeeding fiscal year and expended for the same purpose.

(C) The Governor is authorized to receive on behalf of the State of South Carolina federal funds designated for the Coronavirus Relief Fund.

(D) The Executive Budget Office shall establish the Coronavirus Relief Fund as a federal fund account separate and distinct from all other accounts. All federal appropriations received by the Governor pursuant to subsection (C), must be credited to the Coronavirus Relief Fund account. No other funds may be credited to this account and funds in the account may be expended only by appropriation or authorization by the General Assembly.

(E) Nothing herein limits any state board, commission, agency, department, or institution receiving funds from the Coronavirus Relief Fund from continuing to expend funds from other sources, including state appropriated funds, that are necessary to address the state's response to COVID-19. Any unexpended funds from the Coronavirus Relief Fund, without limitation, may be carried forward into the succeeding fiscal year and expended for the same purpose.

SECTION 3. (A) From the Fiscal Year 2018-2019 Contingency Reserve Fund, there is appropriated:

(1) $175,000,000 to the Office of the State Treasurer. From the funds appropriated herein, the Treasurer shall credit $20,000,000 to the Disaster Trust Fund to be used for disaster relief assistance for a federally declared disaster or a state of emergency declared by the Governor. The Treasurer shall establish a COVID-19 Response Reserve account which shall be separate and distinct from other accounts. From the funds appropriated herein, the Treasurer shall credit $155,000,000 to the COVID-19 Response Reserve account.

(2) $25,000,000 to the Medical University of South Carolina for statewide community COVID-19 testing.

(3) $1,500,000 to the Department of Administration for oversight and compliance of state spending of federal COVID-19 relief funds.

(B)(1) The Governor may direct the expenditure of funds from the COVID-19 Response Reserve account to protect the health, safety, and welfare of the public as a result of the COVID-19 pandemic. Prior to any expenditure, the Governor must submit the planned expenditure to the Joint Bond Review Committee for its review and comment. Thereafter the Governor may direct the Executive Budget Office to release the funds for the purposes identified in the Governor's plan. Any recipient of funds from the COVID-19 Response Reserve account must provide an accounting of the expenditures to the Governor and the Joint Bond Review Committee as soon as practicable.

(2) The Governor may direct reimbursement to local governmental entities and hospitals for expenses related to the state's COVID-19 response, to include, but not be limited to, emergency needs for hospitals to prevent closure or violation of bond covenants. Priority should be given to expenses related to the participation of first responders.

(3) The Governor also may direct the expenditure of up to $15,000,000 from the COVID-19 Response Reserve account to underwrite the cost for protection of the health and safety of voters, poll workers, and employees of a county election commission related to conducting the 2020 primary, runoff, and general elections.

(C)(1) The Medical University of South Carolina, in consultation with the Department of Health and Environmental Control and the South Carolina Hospital Association, shall develop and deploy a statewide COVID-19 testing plan within ten days of the effective date of this act. The plan must emphasize testing in rural communities and communities with a high prevalence of COVID-19 and/or with demographic characteristics consistent with risk factors for COVID-19 including, but not limited to, communities with higher proportions of seniors, African Americans, or individuals with chronic lung disease, asthma, serious heart conditions, severe obesity, compromised immune systems, diabetes, liver disease, or who are on dialysis.

(2)(a) The Department of Health and Environmental Control shall provide financial and administrative support to assist with the implementation of the statewide COVID-19 testing plan, including collaboration with hospitals, medical providers and other stakeholders, providing access to information on hotspots and contact tracing, coordination of all testing efforts, and supplementing efforts with resources, testing kits, and other supplies available to the department.

(b) Within fourteen days of the effective date of this act, the department shall allocate funds to hospitals in support of the statewide COVID-19 testing plan. After making these allocations, the department shall provide the Governor and the Joint Bond Review Committee with a written explanation of its methodology. Up to twenty-five percent of a hospital's allocation may be used to expand or improve the COVID-19 testing capabilities of its laboratories; all remaining funds must be used in direct support of providing COVID-19 testing. The department shall require that a hospital receiving funds pursuant to this section commit those funds to the provision of community testing, in consultation with the department and in alignment with the statewide testing plan. Any hospital receiving funds pursuant to this section shall report testing results to the department in a manner and form to be specified by the department.

(c) Where appropriate and feasible, medical providers and hospitals receiving grants or reimbursement for COVID-19 testing pursuant to this section also shall seek reimbursement from private health insurers, Medicare, Medicaid, and the Health Resources and Services Administration for COVID-19 diagnostic services covered pursuant to Division F of the Families First Coronavirus Response Act (FFCRA) as amended by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) or any subsequent relevant congressional action.

(d) The department shall, no later than June 1, 2020, identify no fewer than 1,000 contact tracers through its own staff and/or community partners that include, but are not limited to, furloughed healthcare workers, students, school nurses, teachers, retirees, faith-based organizations, and others with relevant skills or experience. In identifying these contact tracers, the department shall take care to identify individuals who are best suited to interact, in a manner that is culturally appropriate and in the required languages, with populations that have been disproportionately affected by COVID-19.

(3) To support implementation of the statewide COVID-19 testing plan, the Department of Health and Environmental Control shall utilize funds appropriated in subsection (A) and all available state and federal funding sources including, but not limited to:

(a) any funds available pursuant to Act 116 of 2020;

(b) the Coronavirus Relief Fund established pursuant to Section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act); and

(c) funds received from the Public Health and Social Services Emergency Fund pursuant to Title I, Division B of the Paycheck Protection Program and Health Care Enhancement Act.

(4) The Department of Health and Environmental Control must submit to the Joint Bond Review Committee, for its review and comment, any plan for expenditure under the provisions of this act or any expenditure of federal funds for COVID-19 pandemic response.

SECTION 4. (A) The Superintendent of Education is authorized to exercise the following emergency powers if she determines that any, or all, of them are necessary and appropriate measures in response to the COVID-19 public health emergency:

(1) waive statutory requirements concerning testing, assessments, and reporting including, but not limited to, those requirements contained in Chapter 18, Title 59; Article 3, Chapter 18, Title 59; and Section 59-155-160 of the 1976 Code;

(2) include all days of distance learning during which instruction was provided in good faith pursuant to a school district's distance learning plan as an instructional day required to meet the one hundred eighty instructional day requirement contained in Section 59-1-425; and

(3) provide maximum programmatic and financial flexibility including, but not limited to, the authority to carry forward any cash balances to local school districts adjusting to operations in response to COVID-19.

(B) The State Superintendent of Education is authorized to promote and encourage districts to use summer reading camps and all other available tools to ensure appropriate time is spent by students to keep them on grade level and satisfy their learning needs.

(C) The State Superintendent of Education is authorized to carry forward any cash balances maintained by the Department of Education. The superintendent is further authorized to transfer any appropriations within the department to assist local school districts adjusting operations in response to COVID-19.

(D) The state teacher minimum salary schedule will remain at the Fiscal Year 2019-2020 level. Step increases are suspended until the annual general appropriations act for Fiscal Year 2020-2021 is enacted.

(E) On or before August 1, 2020, the State Superintendent of Education shall provide a report to the Senate Finance Committee, the House of Representatives Ways and Means Committee, the Senate Education Committee, and the House of Representatives Education and Public Works Committee concerning the emergency powers exercised in subsection (A). The report shall identify the statutory requirements

waived and the reason for which the waiver was granted and identify and describe any actions taken in regards to subsection (A)(3).

SECTION 5. (A) In order to provide maximum flexibility to a state agency or institution of higher learning during the state's COVID-19 response, an agency or institution experiencing significant decreases in revenue sources or significant unanticipated expenditures as a result of the COVID-19 response may implement a mandatory furlough subject to the review and approval of the Department of Administration Division of State Human Resources. Approved furloughs must comply with all federal laws. Implementation of furloughs should be in a manner similar to furloughs authorized in Chapter 11, Title 8, exceptions may be approved by the Division of State Human Resources.

(B) During a furlough, affected employees shall be entitled to participate in the same state benefits as otherwise available to them except for receiving their salaries. As to those benefits that require employer and employee contributions including, but not limited to, contributions to the South Carolina Retirement System or the optional retirement program, the state agencies, institutions, and departments are responsible for making both employer and employee contributions if coverage would otherwise be interrupted, and as to those benefits which require only employee contributions, the employee remains solely responsible for making those contributions.

(C) The division shall report to the President of the Senate, Speaker of the House of Representatives, the Chairman of Senate Finance Committee, and the Chairman of House Ways and Means Committee when any furloughs are implemented. This information also shall be published on the division's website.

SECTION 6. In order to provide maximum flexibility to a state agency or institution of higher learning during the state's COVID-19 response, agencies and institutions are authorized to spend earmarked and restricted revenue sources to maintain critical programs impacted by the state's COVID-19 response. Any spending authorization for these purposes must receive the prior approval of the Executive Budget Office and must be reported to the Governor, Senate Finance Committee, and the House Ways and Means Committee. The Comptroller General is authorized to implement the procedures necessary to comply with this directive. This provision is provided notwithstanding any other provision of law restricting the use of earned revenue. Appropriation transfers may exceed twenty percent of the program budget upon approval of the Executive Budget Office in consultation with the

Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee.

SECTION 7. The Executive Budget Office is authorized to approve agency requests for federal and other fund authorization adjustments. Requests will be approved and reported by the Executive Budget Office pursuant to Chapter 65, Title 2, the "South Carolina Federal and Other Funds Oversight Act".

SECTION 8. The Comptroller General is directed to accrue into Fiscal Year 2019-2020 General Fund revenues previously due for remittance to the Department of Revenue by April fifteenth or June fifteenth but allowed to be remitted as late as July fifteenth pursuant to federal directive or the Governor's Executive Order 2020-12 including, but not limited to, individual and corporate income tax returns and quarterly estimated declarations.

SECTION 9. The increase in the employer contribution rate imposed by Section 9-1-1085 and Section 9-11-225 for Fiscal Year 2020-2021, respectively, is suspended. The employer contribution rate for the South Carolina Retirement Systems and the Police Officers Retirement Systems during Fiscal Year 2020-2021, expressed as a percentage of earnable compensation, shall remain at the same rate imposed for Fiscal Year 2019-2020.

SECTION 10. All voluntary support payments made by an employer to a furloughed employee as a result of the COVID-19 crisis shall be classified as a form of severance pay, are not wages, and are not subject to repayment by the furloughed employee. Any provision of law that conflicts with this section is suspended until July 31, 2020.

SECTION 11. (A) Unless otherwise allowed herein, the South Carolina Public Service Authority (Santee Cooper) may not take any action which would impair, hinder, or otherwise undermine from an economic, operational, feasibility, or any other perspective the ability of the General Assembly to complete its consideration regarding Santee Cooper's status.

(B) Santee Cooper is prohibited from:

(1) entering into any contracts with a duration of longer than one year, except those contracts necessary in the ordinary course of business; and

(2) entering into employment contracts with executive management with a duration longer than six months, or extension of existing executive management contracts for a period longer than six months.

(C) There is established the Santee Cooper Oversight Committee consisting of the Governor, the President of the Senate, the Speaker of the House, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee. The Santee Cooper Oversight Committee shall meet in public session. Santee Cooper and any party having made an appropriate request under this subsection will be provided prior notice and an opportunity to be heard at any meeting of the committee. The committee will convene only for the following:

(1) consideration and authorization of any contract of a duration longer than one year or in excess of a duration contained in this section that is not otherwise specifically authorized by this section;

(2) consideration and clarification of any portion of subsection (E) as requested by Santee Cooper or any party, including Central Electric Power Cooperative (Central), with a direct contractual and financial interest in the contract at issue, prior to the execution of the contract; and

(3) consideration and clarification of any matter discovered by the Office of Regulatory Staff (ORS) pursuant to subsection (E) that the Office of Regulatory Staff determines is in violation of the terms contained in subsection (E).

All decisions, authorizations, or clarifications of the Santee Cooper Oversight Committee shall require the vote of a majority of the membership of the committee and shall be issued as soon as practicable after any written request is received, but in no case more than forty-five days after such a written request is received by each member of the Committee.

(D) Santee Cooper will conduct resource and strategic planning discussions with Central Electric Power Cooperative.

(E) Nothing in this section prohibits Santee Cooper from:

(1) doing those things necessary for closing and decommissioning the Winyah Generating Station including, but not limited to, planning, permitting, and securing by purchase or lease one hundred megawatts of combustion turbines and minor transmission upgrades, subject to the consent of Central pursuant to the Power System Coordination and Integration Agreement between Santee Cooper and Central, as amended (the Coordination Agreement). In no event will this include constructing a natural gas combined cycle or other major generation resource;

(2) doing all those things necessary for deploying up to 500 megawatts of new solar generation, within the structure described in the

Santee Cooper Act 95 Reform Plan Appendix 8.2.4, subject to consent of Central pursuant to the Coordination Agreement;

(3) entering into operational efficiency and joint dispatch agreements with neighboring utilities for a period of up to one year, with annual renewals and reciprocal cancellation clauses thereafter;

(4) renegotiating existing and entering into new coal supply, transportation, and related agreements that produce savings and for terms not to exceed five years or such longer period of time as may be approved by the Santee Cooper Oversight Committee;

(5) entering into natural gas hedging arrangements for terms not to exceed five years, or such longer period of time as may be approved by the Santee Cooper Oversight Committee;

(6) conducting the planning, permitting, engineering and feasibility studies to develop natural gas transportation and power transmission to ensure a reliable power supply;

(7) entering into purchase power arrangements needed for, but not in excess of, anticipated load for a term not to exceed the rate freeze period of the Cook Settlement, and supportive thereof;

(8) defeasing debt, issuing or refunding debt under existing bond resolutions and agreements, and entering into financing arrangements consistent with existing bank facilities, all as necessary to manage day-to-day operations and financing needs, including converting variable rate debt to fixed rate debt. Refunding of existing debt is permitted if it achieves present value savings or mitigates risk and does not extend the average life of the debt;

(9) resolving outstanding lawsuits and claims;

(10) taking whatever steps are prudent and consistent with good utility practice to address the impact of the COVID-19 pandemic; and

(11) freezing rates as provided in the settlement of Cook v. Santee Cooper, et al.

Through the time period designated in subsection (G), Santee Cooper will be subject to monthly reviews by the Office of Regulatory Staff for actions taken under this subsection. Within thirty days of this resolution, ORS will provide to Santee Cooper a reasonable process for reviews.

(F) Nothing in this section alters or amends the powers and duties pursuant to Section 58-31-360 of the 1976 Code, including the state's covenant to not alter, limit, or restrict Santee Cooper's power to fix, establish, maintain and collect rents, tolls, rates, and charges for the use of the facilities of or for the services rendered or for any commodities furnished by Santee Cooper, at least sufficient to provide for payment of all Santee Cooper's expenses, the conservation, maintenance, and operation of its facilities and properties and the payment of the principal

of and interest on its notes, bonds, evidences of indebtedness, or other obligations, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such notes, bonds, evidences of indebtedness, or obligations heretofore or hereafter issued or incurred.

(G) The provisions of this section shall remain in effect through the earlier of May 31, 2021, or until an act of the General Assembly expressly supersedes this provision.

SECTION 12. On June 30, 2020, the following provisos contained in Act 91 of 2019, the general appropriations act for Fiscal Year 2019-2020, are deleted:

112.1. (DS: Excess Debt Service);
117.112. (GP: Employee Compensation);
118.16. (SR: Nonrecurring Revenue);
117.155. (GP: Higher Education Tuition Mitigation).

PART III

Miscellaneous Provisions

SECTION 13. Any provisions contained in Act 91 of 2019 that are in conflict with provisions contained in this act are superseded by the provisions contained herein.

SECTION 14. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 15. The provisions of this act take effect upon approval of the Governor.

Ratified the 12th day of May, 2020.

Approved the 18th day of May, 2020.

No. 136

(R141, H3967)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 24-13-35 SO AS TO PROVIDE REQUIREMENTS CONCERNING THE TREATMENT OF FEMALE INMATES, AND TO PROVIDE REQUIREMENTS FOR THE AUTHORIZATION OF PERIODIC VISITS BETWEEN SUCH INMATES AND THEIR MINOR DEPENDENTS.

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

Inmate rights, limitation of liability

SECTION 1. Article 1, Chapter 13, Title 24 of the 1976 Code is amended by adding:

"Section 24-13-35. (A) Notwithstanding another provision of law, a person officially charged with safekeeping of inmates, whether the inmates are awaiting trial or have been sentenced and confined in a state correctional facility, local detention facility, or prison camp or work camp shall not restrain by leg, waist, or ankle restraints an inmate with a clinical diagnosis of pregnancy.

(B) Wrist restraints may be used during any internal escort or external transport. The wrist restraints only shall be applied in the front and in a way that the pregnant inmate may be able to protect herself and the fetus in the event of a fall. This provision also applies to inmates not in labor or suspected labor who are escorted out for Ultrasound Addiction Therapy for Pregnant Women or other routine services. The director of the facility must be notified anytime an inmate is transported externally for delivery.

(C) The following inmates must not be placed in any restraints, including wrist restraints, unless there are reasonable grounds to believe the inmate presents an immediate, serious threat of hurting herself, staff, or others, including her fetus or child, or that she presents an immediate, credible risk of escape that cannot be reasonably contained through other methods:

(1) an inmate who is in labor, which is defined as occurring at the onset of contractions;

(2) an inmate who is delivering her baby;

(3) an inmate who is identified by medical staff as in postpartum recuperation;

(4) an inmate who is transported or housed in an outside medical facility for treating labor and delivery;

(5) an inmate for induction once the intravenous line has been placed and the induction medication has been started;

(6) an inmate who is being transported from the holding room to the operating room for C-section; or

(7) an inmate during initial bonding with a newborn child, including nursing and skin-to-skin contact. If restraints are required, they should allow for the mother's safe handling of her infant.

(D) When the use of restraints during labor occurs, officers must immediately notify the director of the facility of the reasons why restraints were applied and an incident report must be completed.

(E) Upon medical discharge, wrist restraints must be applied for transport back to the facility. Leg restraints may be applied when there are reasonable grounds to believe the inmate presents an immediate, serious threat of hurting herself, staff, or others, or that she presents an immediate, credible risk of escape that cannot be reasonably contained through other methods.

(F) Waist restraints shall not be used at any time during pregnancy or postdelivery, to include transport back to the facility.

(G) If a state correctional facility, local detention facility, prison camp or work camp, or the employees of these facilities are unaware that an inmate is either pregnant or has been clinically diagnosed as pregnant, then neither the facility nor its employees are legally liable or responsible for any loss or damage suffered by the inmate under this section.

(H) Correctional facility, local detention facility, and prison or work camp employees, other than certified healthcare professionals, must not conduct invasive body cavity searches of known pregnant inmates unless there is a reasonable belief the inmate is concealing contraband.

(I) Correctional facilities, local detention facilities, and prison or work camps must ensure known pregnant inmates are provided sufficient food and dietary supplements as ordered by a physician, physician staff member, or a facility nutritionist to meet generally accepted prenatal nutritional guidelines.

(J) Correctional facilities, local detention facilities, and prison or work camps must not place a known pregnant inmate, or any female inmate who has given birth within the previous thirty days, in restrictive

housing unless there is a reasonable belief the inmate will harm herself, the fetus, or another person, or pose a substantial flight risk. This subsection does not apply if protective custody is requested by a known pregnant inmate or any female inmate who has given birth within the previous thirty days.

(K) Correctional facilities, local detention facilities, and prison or work camps must not assign a known pregnant inmate to any bed that is elevated more than three feet from the facility's floor.

(L) Correctional facilities, local detention facilities, and prison or work camps must ensure that sufficient menstrual hygiene products are available at each facility for all women under their care who have an active menstrual cycle. Indigent inmates must be provided the hygiene products at no cost.

(M) Correctional facilities, local detention facilities, and prison or work camps must limit, when practical, bodily inspections of a female inmate by male officers when the female inmate is naked or only partially clothed.

(N) To the extent practicable, the Department of Corrections must authorize minor dependents to visit inmates with low or minimum-security classifications at least once per week, and authorize contact visits for these inmates with the minor dependents."

Time Effective

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

Ratified the 12th day of May, 2020.

Approved the 14th day of May, 2020.

No. 137

(R142, H3998)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "WORKFORCE AND SENIOR AFFORDABLE HOUSING ACT" BY ADDING SECTION 12-6-3795 SO AS TO ALLOW A TAXPAYER ELIGIBLE FOR THE FEDERAL HOUSING TAX CREDIT TO CLAIM A SOUTH CAROLINA HOUSING TAX CREDIT.

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

Citation

SECTION 1. This act may be cited as the "Workforce and Senior Affordable Housing Act".

South Carolina housing tax credit

SECTION 2. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

"Section 12-6-3795. (A) As used in this section:

(1) 'Eligibility statement' means a statement authorized and issued by the South Carolina Housing and Finance Development Authority certifying that a given project qualifies for the South Carolina housing tax credit.

(2) 'Federal housing tax credit' means the federal tax credit as provided in Section 42 of the Internal Revenue Code of 1986, as amended.

(3) 'Median income' means those incomes that are determined by the federal Department of Housing and Urban Development guidelines and adjusted for family size.

(4) 'Project' means a housing project that has restricted rents that do not exceed thirty percent of income for at least forty percent of its units occupied by persons or families having incomes of sixty percent or less of the median income, or at least twenty percent of the units occupied by persons or families having incomes of fifty percent or less of the median income.

(5) 'Qualified project' means a qualified low-income building as that term is defined in Section 42 of the Internal Revenue Code of 1986, as amended, that is located in South Carolina and receives approval for tax credits from the South Carolina Housing and Finance Development Authority provided pursuant to this section.

(6) 'Taxpayer' means a sole proprietor, partnership, corporation of any classification, limited liability company, or association taxable as a business entity that is subject to South Carolina taxes pursuant to Section 12-6-510, Section 12-6-530, Chapter 11, Title 12, or Chapter 7, Title 38.

(B)(1) A state tax credit pursuant to this section may be claimed against income taxes imposed by Section 12-6-510 or 12-6-530, bank

taxes imposed pursuant to Chapter 11, Title 12, corporate license fees imposed pursuant to Chapter 20, Title 12, and insurance premium and retaliatory taxes imposed pursuant to Chapter 7, Title 38, to be termed the South Carolina housing tax credit, and is allowed with respect to each qualified project placed in service after January 1, 2020, and before December 31, 2030, in an amount equal to the federal housing tax credit allowed with respect to such qualified project. In computing a tax payable by a taxpayer pursuant to Section 38-7-90, the credit allowed pursuant to this section must be treated as a premium tax paid pursuant to Section 38-7-20.

(2)(a) If under Section 42 of the Internal Revenue Code of 1986, as amended, a portion of any federal housing tax credit taken on a project is required to be recaptured, the taxpayer claiming any state tax credit with respect to such project also is required to recapture a portion of any state tax credit authorized by this section. The state recapture amount is equal to the proportion of the state tax credit claimed by the taxpayer that equals the proportion the federal recapture amount bears to the original federal housing tax credit amount subject to recapture.

(b) In the event that recapture of any South Carolina housing tax credit is required, any amended return submitted to the department, as provided in this section, shall include the proportion of the state tax credit required to be recaptured, the identity of each taxpayer subject to the recapture, and the amount of tax credit previously allocated to such taxpayer.

(3) The total amount of the tax credit allowed by this section for a taxable year may not exceed the taxpayer's income tax liability. Any unused tax credit may be carried forward to apply to the taxpayer's next five succeeding years' tax liability. The taxpayer may not apply the credit against any prior tax years' tax liability.

(4) The tax credit allowed by this section, and any recaptured tax credit, must be allocated among some or all of the partners, members, or shareholders of the entity owning the project in any manner agreed to by such persons, regardless of whether such persons are allocated or allowed any portion of the federal housing tax credit with respect to the project.

(C)(1) The authority shall promulgate rules establishing criteria upon which the eligibility statements are issued which must include consideration of evidence of local support for the project. The eligibility statement must specify the amount of the South Carolina housing tax credit allowed.

(2) The authority may not issue an eligibility statement until the taxpayer provides a report to the authority detailing how the state credit

authorized by this section will benefit the tenants of the project, once placed in service including, but not limited to, reduced rent, or why the state credit authorized by this section is necessary to undertake the project.

(D) The department, in consultation with the South Carolina State Housing Finance and Development Authority, may adopt rules and policies necessary to implement and administer the provisions of this section."

Severability

SECTION 3. 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 4. This act takes effect upon approval by the Governor and first applies to qualified projects that receive an eligibility statement pursuant to Section 12-6-3795 thereafter.

Ratified the 12th day of May, 2020.

Approved the 14th day of May, 2020.

No. 138

(R143, S76)

AN ACT TO AMEND SECTION 48-52-870, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ENERGY EFFICIENT MANUFACTURED HOMES INCENTIVE PROGRAM, SO AS TO EXTEND THE PROGRAM FIVE

ADDITIONAL YEARS; TO AMEND SECTION 12-36-2110, RELATING TO THE MAXIMUM SALES TAX, SO AS TO EXTEND A PROVISION RELATED TO ENERGY EFFICIENT MANUFACTURED HOMES; AND TO AMEND ACT 80 OF 2013, RELATING TO THE HIGH GROWTH SMALL BUSINESS JOB CREATION ACT, SO AS TO REAUTHORIZE THE ACT FOR AN ADDITIONAL SIX YEARS.

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

Extension of Energy Efficient Manufactured Homes Incentive Program

SECTION 1. Section 48-52-870(A) of the 1976 Code is amended to read:

"(A) The Energy Efficient Manufactured Homes Incentive Program is established to provide financial incentives for the purchase and installation of energy efficient manufactured homes in South Carolina. Any person who purchases a manufactured home designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each agency's energy saving efficiency requirements or which has been designated as meeting or exceeding such requirements under each agency's ENERGY STAR program from a retail dealership licensed by the South Carolina Manufactured Housing Board for use in this State is eligible for a nonrefundable income tax credit equal to seven hundred fifty dollars. The credit may be claimed beginning July 1, 2009, and no later than July 1, 2024."

Extension of maximum sales tax provision on manufactured homes

SECTION 2. The first undesignated paragraph after the last item of Section 12-36-2110(B) of the 1976 Code is amended to read:

"However, a manufactured home is exempt from any tax in excess of three hundred dollars that may be due as a result of the calculation in item (4) if it meets these energy efficiency levels: storm or double pane glass windows, insulated or storm doors, a minimum thermal resistance rating of the insulation only of R-11 for walls, R-19 for floors, and R-30 for ceilings. However, variations in the energy efficiency levels for walls, floors, and ceilings are allowed and the exemption on tax due

above three hundred dollars applies if the total heat loss does not exceed that calculated using the levels of R-11 for walls, R-19 for floors, and R-30 for ceilings. The edition of the American Society of Heating, Refrigerating, and Air Conditioning Engineers Guide in effect at the time is the source for heat loss calculation. Notwithstanding the provisions of this subsection, from July 1, 2009, to July 1, 2024, a manufactured home is exempt from any tax that may be due as a result of the calculation in this subsection if it has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each agency's energy saving efficiency requirements or has been designated as meeting or exceeding such requirements under each agency's ENERGY STAR program. The dealer selling the manufactured home must maintain records, on forms provided by the State Energy Office, on each manufactured home sold that meets the energy efficiency levels provided for in this subsection. These records must be maintained for three years and must be made available for inspection upon request of the Department of Consumer Affairs or the State Energy Office."

Extension of High Growth Small Business Job Creation Act

SECTION 3. A. Section 1.B. of Act 80 of 2013 is amended to read:

"B. The provisions of Chapter 44, Title 11, contained in this act are repealed on December 31, 2025. Any carry forward credits shall continue to be allowed until the ten-year time period in Section 11-44-40(B) is completed."

B. This SECTION takes effect upon approval by the Governor and applies to tax years beginning after 2019. The provisions of Chapter 44, Title 11, as they existed on December 31, 2019, are re-enacted, and the tax credits earned pursuant to this SECTION shall be earned and claimed under the same terms and conditions as they existed on December 31, 2019. This SECTION shall continue to apply until such time as Chapter 44, Title 11, or parts thereof, are otherwise repealed, mutatis mutandis.

Time effective

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

Ratified the 21st day of May, 2020.

Approved the 26th day of May, 2020.

No. 139

(R144, S455)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "ARMED SERVICES MEMBERS AND SPOUSES PROFESSIONAL AND OCCUPATIONAL LICENSING ACT" BY ADDING SECTION 27-1-170 SO AS TO PROVIDE CONDITIONS UNDER WHICH ACTIVE DUTY UNITED STATES ARMED FORCES MEMBERS' SPOUSES WHO ARE CREDENTIALED IN PROFESSIONS OR OCCUPATIONS IN OTHER JURISDICTIONS AND SUBSEQUENTLY RELOCATE TO THIS STATE UNDER OFFICIAL MILITARY ORDERS MAY CONTINUE TO WORK IN SUCH PROFESSIONS OR OCCUPATIONS IN THIS STATE, AND TO PROVIDE RELATED REQUIREMENTS AND PROCEDURES FOR IMPLEMENTING THESE PROVISIONS, AMONG OTHER THINGS; TO AMEND SECTION 40-1-630, RELATING TO THE ISSUANCE OF TEMPORARY PROFESSIONAL AND OCCUPATIONAL LICENSES BY STATE REGULATORY BOARDS, SO AS TO MAKE THE ISSUANCE OF SUCH TEMPORARY LICENSES MANDATORY IN CERTAIN CIRCUMSTANCES; TO AMEND SECTION 40-1-640, RELATING TO THE DISCRETIONARY ACCEPTANCE OF MILITARY EDUCATION, TRAINING, AND EXPERIENCE TO SATISFY PROFESSIONAL AND OCCUPATIONAL LICENSURE REQUIREMENTS OF CERTAIN STATE REGULATORY BOARDS, SO AS TO MANDATE THE ACCEPTANCE OF SUCH EDUCATION, TRAINING, AND EXPERIENCE IN CERTAIN CIRCUMSTANCES; AND TO AMEND SECTION 40-33-20, AS AMENDED, AND SECTION 40-33-34, AS AMENDED, BOTH RELATING TO CERTIFICATION REQUIREMENTS FOR CERTIFIED REGISTERED NURSE ANESTHETISTS, SO AS TO REVISE ACADEMIC REQUIREMENTS FOR SUCH CERTIFICATION.

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 "Armed Services Members and Spouses Professional and Occupational Licensing Act".

Licenses and certificates for spouses licensed in the other jurisdictions

SECTION 2. Article 1, Chapter 1, Title 25 of the 1976 Code is amended by adding:

"Section 25-1-170. (A) Except as provided in subsection (G), and notwithstanding other provisions of law, this section applies to a board, agency, commission, or other entity providing professional licenses or certificates, or both, for the purpose of employment in the State of South Carolina. A board, commission, or agency providing professional licenses or certificates, or both, may promulgate rules in conformity with this section for the purpose of implementing its requirements.

(B) Except as provided in subsection (G), and notwithstanding another provision of law, this section applies to individuals who:

(1) are married to and living with an active duty member of the United States Armed Forces who is relocated to and stationed in this State under official military orders;

(2) have not committed or participated in an act that would constitute grounds for refusal, suspension, or revocation of a professional license or certificate;

(3) have not been disciplined by an authorized entity or are under investigation, in any jurisdiction, in relation to a professional license or certificate; and

(4) pay any required fee and submit to any required criminal or other background check by an authorized board, commission, or agency in this State.

(C) An eligible individual under subsection (B) who possesses a valid professional or occupational license or certificate in another state, district, or territory of the United States with licensing or certification requirements greater than or substantially similar to the licensing or certification requirements of the appropriate board, commission, or agency in this State must be approved to continue work in that profession or occupation upon relocation to this State for such time as normally

allotted with receipt of a license or certificate from the appropriate board, commission, or agency.

(D) Upon completion of an application that documents compliance with the receiving agency's requirements for a certificate or license, an authorized board, commission, or agency shall process the application and issue a license within fifteen business days after receipt of the application.

(E) In addition to general personal information about the applicant, and other documentation satisfying the receiving agency's requirements for a certificate or license, the application must include proof that he:

(1) is married to and living with an active duty member of the United States Armed Forces who is relocated to and stationed in this State under official military orders;

(2) possesses a valid license or certificate in another state, district, or territory of the United States; and

(3) holds the license in subsection (B) in 'good standing' as evidenced by a certificate of good standing from the state, district, or territory of the United States that issued the license.

(F) A board, commission, or agency in this State may establish reciprocity with other states for military spouse professional licensing and certification.

(G) This section does not apply to:

(1) the practice of law or the regulation of attorneys; and

(2) educators.

(H) A license or certificate issued pursuant to this section is valid for the same period of time as a license or certificate issued pursuant to the requirements of the applicable title for the particular profession or occupation.

(I) Nothing in this section prevents a board, commission, or agency from revoking, penalizing, or suspending a license pursuant to the appropriate code sections regulating the particular profession."

Temporary professional licenses

SECTION 3. Section 40-1-630(A) of the 1976 Code is amended to read:

"(A) A board or commission that regulates the licensure of a profession or occupation under Title 40 shall issue a temporary professional license for a profession or occupation it regulates to the spouse of an active duty member of the United States Armed Forces if the member is assigned to a duty station in this State pursuant to the

official active duty military orders of the member. Nothing in this section should be construed as requiring a board or commission to grant licensure to the spouse of an active duty member of the United States Armed Forces absent evidence that all state law requirements for licensure have been met."

Military education, experience, and training

SECTION 4. Section 40-1-640(A) of the 1976 Code is amended to read:

"(A) A professional or occupational board or commission governed by this title shall accept the education, training, and experience completed by an individual as a member of the Armed Forces or Reserves of the United States, National Guard of any state, the Military Reserves of any state, or the Naval Militias of any state and apply this education, training, and experience in the manner most favorable toward satisfying the qualifications for issuance of the requested license or certification or approval for license examination in this State, subject to the receipt of evidence considered satisfactory by the board or commission."

CRNA academic requirements

SECTION 5. Section 40-33-20(19)(a) of the 1976 Code, as amended by Act 234 of 2018, is further amended to read:

"(a) has successfully completed an advanced, organized formal CRNA education program at a minimum of the master's level accredited by the national accrediting organization of this specialty area and that is recognized by the board;"

CRNA academic requirements

SECTION 6. Section 40-33-34(A)(3)(b) of the 1976 Code is amended to read:

"(b) graduated before December 31, 2003, from an advanced, organized formal education program for nurse anesthetists accredited by the national accrediting organization of that specialty. CRNAs who graduate after December 31, 2003, must graduate with a minimum of a master's degree from a formal CRNA education program for nurse anesthetists accredited by the national accreditation organization of the

CRNA specialty. An advanced practice registered nurse must achieve and maintain national certification, as recognized by the board, in an advanced practice registered nursing specialty;"

Time effective

SECTION 7. This act takes effect upon approval by the Governor.

Ratified the 21st day of May, 2020.

Approved the 26th day of May, 2020.

No. 140

(R145, S601)

AN ACT TO AMEND SECTION 63-7-2350, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CRIMINAL BACKGROUND RESTRICTIONS ON FOSTER CARE OR ADOPTION PLACEMENTS, SO AS ALSO TO APPLY TO EMPLOYEES OF RESIDENTIAL FACILITIES IN WHICH FOSTER CHILDREN ARE PLACED AND TO ADD BACKGROUND CHECK REQUIREMENTS FOR SUCH EMPLOYEES.

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

Criminal background restrictions, foster and adoptive homes and residential facilities

SECTION 1. Section 63-7-2350 of the 1976 Code, as last amended by Act 146 of 2018, is further amended to read:

"Section 63-7-2350. (A) No child in the custody of the Department of Social Services may be placed in a foster home, adoptive home, or residential facility with a person if the person or anyone eighteen years of age or older residing in the home or a person working in the residential facility:

(1) has a substantiated history of child abuse or neglect; or

(2) has pled guilty or nolo contendere to or has been convicted of:

(a) an 'Offense Against the Person' as provided for in Chapter 3, Title 16;

(b) an 'Offense Against Morality or Decency' as provided for in Chapter 15, Title 16;

(c) contributing to the delinquency of a minor as provided for in Section 16-17-490;

(d) the common law offense of assault and battery of a high and aggravated nature when the victim was a person seventeen years of age or younger;

(e) criminal domestic violence as defined in Section 16-25-20;

(f) criminal domestic violence of a high and aggravated nature as defined in Section 16-25-65;

(g) a felony drug-related offense under the laws of this State;

(h) unlawful conduct toward a child as provided for in Section 63-5-70;

(i) cruelty to children as provided for in Section 63-5-80;

(j) child endangerment as provided for in Section 56-5-2947; or

(k) criminal sexual conduct with a minor in the first degree as provided for in Section 16-3-655(A).

(B) A person who has been convicted of a criminal offense similar in nature to a crime enumerated in subsection (A) when the crime was committed in another jurisdiction or under federal law is subject to the restrictions set out in this section.

(C) At a minimum, the department shall require that all persons referenced in subsection (A) undergo a fingerprint review to be conducted by the State Law Enforcement Division and a fingerprint review to be conducted by the Federal Bureau of Investigation. The department also shall check the State Central Registry of Child Abuse and Neglect, department records, the equivalent registry system for each state in which the person has resided for five years preceding an application for licensure as a foster parent, the National Sex Offender Registry, and the state sex offender registry for applicants and all persons twelve years of age and older residing in the home of an applicant.

(D) This section does not prevent placement in a foster home, adoptive home, or residential facility when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in subsection (A) has been pardoned. However, notwithstanding the entry of a pardon, the department or other entity making placement or licensing decisions may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to

determine whether the applicant is unfit or otherwise unsuited to provide foster care services.

(E) For the purposes of this section, 'residential facility' means a group home, residential treatment center, or other facility that, pursuant to a contract with or a license or permit issued by the department, provides residential services to children in the custody of the department. This includes, but is not limited to, child caring institutions, emergency shelters, group homes, wilderness therapeutic camps, and organizations with supervised individual living facilities."

Time effective

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

Ratified the 21st day of May, 2020.

Approved the 26th day of May, 2020.

No. 141

(R146, H3200)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "SOUTH CAROLINA LACTATION SUPPORT ACT" BY ADDING SECTION 41-1-130 SO AS TO PROVIDE NECESSARY DEFINITIONS, TO PROVIDE EMPLOYERS DAILY SHALL PROVIDE EMPLOYEES WITH REASONABLE UNPAID BREAK TIME OR SHALL PERMIT EMPLOYEES TO USE PAID BREAK TIME OR MEAL TIME TO EXPRESS BREAST MILK, TO PROVIDE EMPLOYERS SHALL MAKE REASONABLE EFFORTS TO PROVIDE CERTAIN AREAS WHERE EMPLOYEES MAY EXPRESS BREAST MILK, TO PROVIDE EMPLOYERS MAY NOT DISCRIMINATE AGAINST EMPLOYEES FOR CHOOSING TO EXPRESS BREAST MILK IN THE WORKPLACE IN COMPLIANCE WITH THE PROVISIONS OF THIS ACT, TO ALLOW NONCOMPLIANCE WHEN AN UNDUE HARDSHIP ON THE EMPLOYER WOULD RESULT FROM COMPLIANCE, AND TO PROVIDE REMEDIES FOR VIOLATIONS; TO PROVIDE RELATED OBLIGATIONS OF

THE HUMAN AFFAIRS COMMISSION; TO PROVIDE RELATED FINDINGS AND EXPRESS THE INTENTION OF THE GENERAL ASSEMBLY; AND TO PROVIDE A THIRTY-DAY COMPLIANCE PERIOD FOR EMPLOYERS.

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 Lactation Support Act".

Intent

SECTION 2. It is the intent of the General Assembly, by this act, to promote public health and to support those who wish to express breast milk at work by requiring employers to make reasonable efforts to provide workers with reasonable unpaid break time and space to express milk at work. This act will not require employers to compensate employees for breaks taken to express breast milk unless the employer already provides compensated breaks and does not require employers to create a permanent or dedicated space for use by pumping employees. South Carolina ranks far lower than the national average of breastfed infants. Providing workers reasonable support to express milk on the job is a crucial health measure and will benefit South Carolina's economy by keeping nursing employees in the workforce.

Break times, definitions, remedies

SECTION 3. Chapter 1, Title 41 of the 1976 Code is amended by adding:

"Section 41-1-130. (A) As used in this section, 'employer' means a person or entity that employs one or more employees and includes the State and its political subdivisions.

(B) An employer shall provide an employee with reasonable unpaid break time or shall permit an employee to use paid break time or meal time each day to express breast milk. The employer shall make reasonable efforts to provide a room or other location, other than a toilet stall, in close proximity to the work area, where an employee may express milk in privacy. An employer may not discriminate against an employee for choosing to express breast milk in the workplace in

compliance with the provisions of this section. The break time must, if possible, run concurrently with any break time already provided to the employee. The employee shall make reasonable efforts to minimize disruption to the employer's operations. The employer must be held harmless if it makes reasonable efforts to comply with this subsection. This section does not require an employer to provide break time if doing so would create an undue hardship on the operations of the employer. Nothing in this section shall be construed to require an employer to build a room for the primary purpose of expressing breast milk.

(C) The procedures for seeking redress for violations of this chapter are provided in Section 1-13-90."

Human Affairs Commission directives

SECTION 4. Within thirty days after approval by the Governor of this act, the South Carolina Human Affairs Commission shall post on its website information to educate employers, employees, and employment agencies about their rights and responsibilities under this act. The website must include a phone number for employers to call to receive information about this act and assistance in complying with the provisions of this act, and a link to additional information on this act on the commission's website.

Employer compliance

SECTION 5. Employers have thirty days after the South Carolina Human Affairs Commission posts the required information in SECTION 4 to its website before they must comply with the provisions of this act.

Construction

SECTION 6. Nothing in this act may be construed to preempt, limit, diminish, or otherwise affect another provision of federal, state, or local law, or to invalidate or limit the remedies, rights, and procedures of a federal, state, or local law that provides greater or equal protection for an employee affected by pregnancy, childbirth, or a related condition.

Time effective

SECTION 7. This act takes effect thirty days after approval by the Governor.

Ratified the 25th day of June, 2020.

Approved the 25th day of June, 2020.

No. 142

(R148, H5202)

A JOINT RESOLUTION TO AUTHORIZE THE EXPENDITURE OF FEDERAL FUNDS DISBURSED TO THE STATE IN THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT, AND TO SPECIFY THE MANNER IN WHICH THE FUNDS MAY BE EXPENDED.

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

PART I

Expenditure Authorizations and Reimbursement

SECTION 1. The source of revenue authorized for expenditure in SECTION 3 is the federal funds disbursed to the State pursuant to the federal "Coronavirus Aid, Relief, and Economic Security Act" (hereinafter referred to as the CARES Act) currently on deposit in the Coronavirus Relief Fund established and maintained by the Executive Budget Office pursuant to Act 135 of 2020.

SECTION 2. (A) The expenditure authorizations contained in this act are for the maximum amounts that may be reimbursed by the Executive Budget Office from the Coronavirus Relief Fund. State agencies, institutions of higher learning, including technical colleges, counties, municipalities, special purpose districts, and hospitals shall maximize the use of federal funds made available in this act wherever possible within the allowable uses. If any reimbursement to any recipient, or subrecipient, resulting from an authorization contained herein is disallowed by federal law, then the recipient or subrecipient shall promptly return the funds disbursed to the Executive Budget Office for deposit in the Coronavirus Relief Fund.

(B) To maximize the benefit of all funds received by the State, all state agencies, institutions of higher learning, including technical

colleges, counties, municipalities, special purpose districts, and hospitals, are directed to coordinate expenditure reimbursements through, and in consultation with, the Department of Administration and the grant manager. State agencies and institutions of higher learning, including technical colleges, shall submit to the Executive Budget Office a detailed budget plan for any funding received that is related to COVID-19, regardless of the source. Counties, municipalities, special purpose districts, and hospitals shall submit to the Executive Budget Office information sufficient to identify other COVID-19-related funding that they are receiving, regardless of the source, and provide a detailed accounting of how the funding is being used.

SECTION 3. State agencies are authorized to expend federal funds in the Coronavirus Relief Fund if the expenditure is in compliance with the CARES Act. The Executive Budget Office is authorized to reimburse from the Coronavirus Relief Fund, up to the amounts listed below in each category, expenditures compliant with the CARES Act by the following sectors: state agencies, institutions of higher learning, counties, municipalities, special purpose districts, and public and private hospitals.

(A) Department of Employment and Workforce Unemployment Trust Fund……..……..$500,000,000

(B) State Department of Education Academic Recovery Camps, Five Days of Academic Instruction and Food Services……..……..…$222,700,000

(C) Department of Administration State and Local Government Expenditures…….……..$270,000,000

(D) Department of Health and Environmental Control Statewide Testing and Monitoring……..……...$ 42,437,873

(E) Adjutant General - Emergency Management Division Personal Protective Equipment Stockpile and Supply Chain……..……$ 16,804,115

(F) Department of Administration - Executive Budget Office Hospital Relief Fund……..$125,000,000

(G) Office of Regulatory Staff Broadband Mapping and Planning, Infrastructure and Mobile Hotspots…….……...…$ 50,000,000

(H) Department of Administration - Executive Budget Office Grant Management Oversight and Compliance……...……..……..$ 10,000,000

Part II

Directives to Receiving Entities

SECTION 4. (A) The Department of Employment and Workforce shall develop a methodology, in coordination with the Department of Administration and the grant manager procured through SECTION 12 of this act and Part II, Section 2 of Act 135 of 2020, to determine the amount of benefits paid from the Department of Employment and Workforce's Unemployment Trust Fund resulting from unemployment attributable to COVID-19. Once calculated, the Department of Administration shall reimburse the Unemployment Trust Fund in a cumulative amount not to exceed $500,000,000.

(B) The Department of Employment and Workforce shall provide a weekly report for the duration of the CARES Act to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, and the Chairman of the House of Representatives Ways and Means Committee. The report shall include the Unemployment Trust Fund balance, the number of covered workers receiving benefits, new covered workers receiving benefits, and any other measurements the Department of Employment and Workforce selects.

SECTION 5. (A) The Department of Education is authorized to reimburse public school districts up to $12,000,000 for the additional cost of cafeteria workers' salaries and the cost of meals to students that are not reimbursed by the United States Department of Agriculture.

(B) The Department of Education is authorized to reimburse public school districts up to $210,700,000 for the cost of providing unbudgeted instructional support beyond the number of days and hours required by state law. The additional support is to focus on face-to-face instruction for (1) any at-risk students in kindergarten through third grade residing in the school district for Academic Recovery Camps in reading and mathematics during the summer and (2) students in 4K through eighth grade for five additional instructional days at the start of the school year.

(C) School districts utilizing Academic Recovery Camps will assess students at the beginning and end of the camp. The results of the pre- and post-assessments must be submitted to the Department of Education which, in turn, must provide the information to the Education Oversight Committee for evaluation of the impact the recovery camps had on student learning and the impact of the interventions on student learning.

(D) School districts are required to utilize the additional instructional days and to assess each student enrolled in 4K through eighth grade in reading and mathematics. The assessment shall utilize a pre- and post-formative assessment from the state-approved list.

(E) All students will be assessed during the first two weeks of school to identify students needing additional support and the support to be provided. All students will be assessed again prior to the end of the 2020 Calendar Year to measure the impact of the intervention provided. The results of the pre- and post-assessments must be submitted to the Department of Education which, in turn, must provide the information to the Education Oversight Committee for evaluation of the pandemic's impact on student learning and the impact of the interventions on student learning.

(F) Each district is required to identify the strategies used and document the services received by each student. Districts must report the expenditure of funds to the Department of Education pursuant to a uniform reporting mechanism developed by the department.

(G) To help recoup extensive instruction time lost when our public schools closed in Spring 2020 due to the COVID-19 pandemic:

(1) the State Department of Education shall seek a waiver from all federal accountability-related testing requirements and concomitant accountability, school identification, and reporting requirements for the 2020-2021 School Year; and

(2) all state-mandated public school accountability testing requirements and concomitant requirements are suspended for the 2020-2021 School Year unless prohibited by federal law.

SECTION 6. (A) State agencies, institutions of higher learning, counties, municipalities, and special purpose districts are authorized to apply for reimbursement of expenditures incurred March 1, 2020, through June 30, 2020, that were necessary for the response to the COVID-19 public health emergency.

(B) The Executive Budget Office, in consultation with the grant manager procured through SECTION 11 of this act and Part II, Section 2 of Act 135 of 2020, will develop an application process for reimbursement of eligible expenditures. All entities applying for reimbursement must include an attestation that the expenditures are not eligible for reimbursement from any other funding source. Expenditures approved for reimbursement must comply with all federal requirements and are subject to immediate repayment by the recipient or subrecipient if disallowed.

(C) If the Executive Budget Office determines the amount of eligible expenditures through June 30, 2020, exceeds the authorization in SECTION 3(C), the Executive Budget Office, with notification to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, and the Chairman of the House of Representatives Ways and Means Committee, may increase the authorization to a total of $320,000,000.

SECTION 7. (A) Funds authorized in SECTION 3(D) are to be used for the necessary expenses of the Statewide Testing Plan for COVID-19 developed and implemented by the Medical University of South Carolina, the Department of Health and Environmental Control, and the South Carolina Hospital Association. Funds also shall be used for the support of the statewide nursing home and congregate living facilities testing program.

(B) Funds authorized in SECTION 3(D) may be utilized to support the monitoring of positive COVID-19 cases, which may include contact tracing. However, participation by individuals in the contact-tracing program shall be solely on a voluntary basis. The Department of Health and Environmental Control and any individual conducting contact-tracing collection are prohibited from using any applications created for such purpose on a cellular device. Any contact-tracing technologies utilized for data collection must be restricted for the collection of public health information only and must be carried and maintained in a decentralized manner. Access to any information collected will be used for public health information purposes only and will comply with all confidentiality requirements contained in the Health Insurance Portability and Accountability Act. Contact tracers must be properly trained and certified by the Department of Health and Environmental Control. The department shall conduct a public awareness campaign to explain the use of contact tracing and that individuals may decline to participate.

SECTION 8. (A) The Emergency Management Division, in consultation with the Department of Administration and the State Fiscal Accountability Authority, shall procure and maintain a statewide, twenty-eight day supply of personal protective equipment. The State Fiscal Accountability Authority is authorized to include a resident vendor preference for the procurement of personal protective equipment, if allowable under the CARES Act.

(B) The statewide stockpile is intended for use by state and local governments, law enforcement, first responders, hospitals, and other medical providers.

(C) The Emergency Management Division is directed to procure a vendor for the development of a supply chain plan and long-term strategy for acquiring personal protective equipment.

SECTION 9. The Executive Budget Office is authorized to establish a Hospital Relief Fund of up to $125,000,000.

(1) Hospitals that are not eligible for the employee retention credit provided for in the CARES Act may submit an application to the Executive Budget Office for reimbursement of expenditures incurred through June 30, 2020, for the implementation of an employee retention plan due to the COVID-19 public health emergency, subject to the limits of the CARES Act Employee Retention Credit.

(2) Funds remaining after reimbursements provided in item (1) shall be allocated to hospitals based on the pro-rata percentage of the annual hospital tax assessment pursuant to Section 12-23-810 for the fiscal year ending June 30, 2020. The amount allocated is the maximum amount available per hospital for reimbursement of expenditures incurred due to the COVID-19 public health emergency.

(3) Applications for reimbursement shall be submitted to the Executive Budget Office for review in consultation with the grant manager to determine expenditures that are compliant with all federal requirements.

(4) Each hospital submitting an application for reimbursement from the Cornavirus Relief Fund must include an attestation that the expenditures are not eligible for reimbursement from any other funding source.

SECTION 10. (A) The Office of Regulatory Staff is directed to secure a vendor for the development of a broadband statewide county-by-county mapping plan and to secure a vendor for the development of a statewide broadband infrastructure plan. The infrastructure plan shall identify and prioritize communities in the State where access to broadband has impeded the delivery of distance learning, telework, and telehealth for the most vulnerable population of South Carolinians impacted by COVID-19. The plan must identify the role that public and private broadband operators can play in addressing the state’s broadband plans.

(B)(1) The Office of Regulatory Staff, in consultation with the State Department of Education and the Commission on Higher Education,

shall procure mobile hotspots and monthly service through December 2020 for distribution to a minimum of one hundred thousand households. Eligibility shall be limited to households with an annual income of two hundred fifty percent or less of federal poverty guidelines that also have an individual attending a public or private K-12 school or a public or private college, university, or technical college. School districts, private schools, and institutions of higher learning will be responsible for distributing the hotspots and ensuring that appropriate security measures are installed on each hotspot. Priority should be given to households in counties that contain a school district that has been defined by the Department of Education as having a poverty rate greater than or equal to eighty-six percent.

(2) Expansion of broadband infrastructure shall emphasize services to rural communities and communities with a high prevalence of COVID-19 or with demographic characteristics consistent with risk factors for COVID-19. Reimbursable expenditures for infrastructure expansion must be necessary for the COVID-19 public health emergency and must increase capacity for distance learning, telework, or telehealth. Entities seeking reimbursement of broadband infrastructure expenditures shall submit an application for reimbursement to the Executive Budget Office.

(C) It is vital to the state's interest that contracts be awarded for the mapping and infrastructure plans and mobile hotspots in the most expeditious manner possible. Accordingly, this procurement should be done pursuant to the provisions of Section 11-35-1570 of the 1976 Code. The Executive Director of the Office of Regulatory Staff shall coordinate the process used to procure the mapping and infrastructure services and mobile hotspots needed and shall be responsible for the development of specifications to be included in any contract awarded. The State Fiscal Accountability Authority shall serve as the procuring officer for the procurement process and is responsible for administrative duties related to the process and the contract awarded. The State Fiscal Accountability Authority shall assign such personnel as necessary to assist the Office of Regulatory Staff in carrying out its duties under this act.

SECTION 11. As directed in Act 135 of 2020, Part II, Section 2, the Department of Administration shall procure professional grant management services for oversight and compliance of funds received through the CARES Act and any other available source of federal COVID-19 relief funds. An amount up to $10,000,000 contained in this SECTION 3(H) is authorized to enable the Department of Administration to fulfill this requirement.

Part III

Miscellaneous Matters

SECTION 12. Reimbursements authorized pursuant to this act may be applied to qualifying expenditures incurred between March 1, 2020, and December 30, 2020, except as provided in SECTION 6 and SECTION 9(1).

SECTION 13. The Executive Budget Office shall report on the first of each month the reimbursements made during the previous month together with the aggregate totals, by category, of reimbursements made to date. The report shall include the amount of funds reimbursed to each recipient, the nature of the expenditure that qualified for reimbursement, and the total amount remaining for reimbursement, in the aggregate and by category. The report shall be provided to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, the Chairman of the House of Representatives Ways and Means Committee, and published on the Executive Budget Office's website.

SECTION 14. This act takes effect upon approval of the Governor.

Ratified the 25th day of June, 2020.

Approved the 25th day of June, 2020.

No. 143

(R149, H5305)

AN ACT TO ESTABLISH COVID-19 VOTING-RELATED PROCEDURES FOR THE 2020 GENERAL ELECTION; TO AUTHORIZE ABSENTEE VOTING FOR ALL QUALIFIED ELECTORS RESIDING OR VOTING IN AN AREA SUBJECT TO A DECLARED STATE OF EMERGENCY; TO ESTABLISH A TIMELINE FOR THE RECEIPT OF COMPLETED ABSENTEE BALLOT APPLICATIONS; TO DELINEATE HOW QUALIFIED ELECTORS MAY SUBMIT COMPLETED

ABSENTEE BALLOTS TO THE COUNTY BOARD OF VOTER REGISTRATION AND ELECTIONS; TO ESTABLISH A START DATE FOR IN-OFFICE ABSENTEE VOTING; TO ESTABLISH A TIMELINE FOR THE EXAMINATION OF RETURN-ADDRESSED ENVELOPES AND THE TABULATION OF ABSENTEE BALLOTS; TO REQUIRE THAT CERTAIN INFORMATION BE INCLUDED IN THE PUBLIC NOTICE REQUIRED PURSUANT TO SECTION 7-13-35; TO REQUIRE THE STATE ELECTION COMMISSION TO DEVELOP RECOMMENDATIONS TO REDUCE THE SPREAD OF COVID-19 DURING THE 2020 GENERAL ELECTION; TO REQUIRE THE STATE ELECTION COMMISSION TO DEVELOP A VOTER EDUCATION PROGRAM; AND TO PROVIDE THE PROVISIONS OF THIS ACT SHALL APPLY ONLY TO THE 2020 GENERAL ELECTION AND THE PROCESSES NECESSARY TO FINALIZE THE RESULTS.

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

2020 General Election COVID-19 voting procedures

SECTION 1. Due to the significant health threat and risks associated with 2019 Novel Coronavirus, also referred to as COVID-19, the following SECTIONS are changes for the 2020 General Election.

Absentee voting authorized for all qualified electors residing or voting in an area subject to a declared state of emergency

SECTION 2. A qualified elector must be permitted to vote by absentee ballot in an election if the qualified elector's place of residence or polling place is located in an area subject to a state of emergency declared by the Governor and there are fewer than forty-six days remaining until the date of the General Election to be held on November 3, 2020.

Timeline for receipt of completed absentee ballot applications

SECTION 3. Completed applications for absentee ballots must be received by the county board of elections and voter registration before: (a) 5:00 p.m. on Saturday, October 24, 2020, if submitted by mail; (b) 5:00 p.m. on Friday, October 30, 2020, if submitted in-person, or by the qualified elector's authorized representative; or (c) 5:00 p.m. on Monday, November 2, 2020, for a qualified elector who appears in

person. In addition, if a qualified elector is admitted to a hospital as an emergency patient from Friday, October 30, 2020, through Tuesday, November 3, 2020, an immediate family member of the qualified elector may obtain an application from the board on the day of the election, complete it, receive the ballot, deliver it personally to the patient who shall vote, and the immediate family member personally carry the ballot back to the board of voter registration and elections.

Submission of absentee ballots

SECTION 4. A qualified elector must submit an absentee ballot to the county board of elections and voter registration either: (a) by mail; or (b) by returning the sealed envelope containing the ballot during office hours, either personally or by authorized representative with the appropriate form as required by law. If the envelope containing an absentee ballot is returned in person, the envelope must be submitted to staff or an official at the county board of elections and voter registration or at a satellite office where the election staff or officials receive the envelope at the time of delivery and examine the envelope, and the authorization form, if applicable. The county board of elections and voter registration shall ensure that returned absentee ballots are secured in a locked box within the office in accordance with Section 7-15-385.

Start date for in-office absentee voting

SECTION 5. Beginning on October 5, 2020, each county board of elections and voter registration must provide for in-office absentee voting for the November 3, 2020, General Election.

Timeline for examination of return-addressed envelopes and tabulation of absentee ballots

SECTION 6. (A) The process of examining the return-addressed envelopes containing absentee ballots, in accordance with the requirements of Section 7-15-420, may begin at 7:00 a.m. on Sunday, November 1, 2020, at a place designated in the notice by the authority charged with conducting the election.

(B) After all return-addressed envelopes have been emptied, but no earlier than 7:00 a.m. on November 3, 2020, the managers shall remove the ballots contained in the envelopes marked “Ballot Herein”, placing each ballot in the ballot box provided for the applicable contest.

(C) Beginning at 7:00 a.m. on November 3, 2020, the absentee ballots may be tabulated.

(D) Results of the absentee ballot tabulation must not be publicly reported until after the polls are closed.

Public notice requirements

SECTION 7. The authority charged by law with conducting an election must include in the public notice pursuant to Section 7-13-35 that the process of examining the return-addressed envelopes containing absentee ballots may begin at 7:00 a.m. on Sunday, November 1, 2020.

State Election Commission to develop recommendations to reduce the spread of COVID-19 during 2020 General Election

SECTION 8. The State Elections Commission is encouraged to develop recommendations for local county offices to reduce the spread of COVID-19 during in-person absentee voting and personal delivery of absentee ballots prior to the November 3, 2020, election and with in-person voting on November 3, 2020. The personal delivery of absentee ballots prior to November 2, 2020, must, to the extent practicable, be physically segregated from the in-person absentee voting process.

State Election Commission to establish voter education program

SECTION 9. The State Elections Commission must establish an aggressive voter education program concerning the provisions contained in this legislation. The State Elections Commission must educate the public as follows:

(1) Post information concerning the items in this legislation in a conspicuous location at each county board of elections and voter registration, each satellite office, the State Elections Commission office, and their respective websites.

(2) Train poll managers and poll workers to answer questions by electors concerning the changes in this legislation.

(3) Coordinate with local media outlets to disseminate information concerning the changes in the legislation.

(4) Post requests that registered electors ensure their current contact information including, but not limited to, at least one phone number and an email address, is provided to the appropriate county board of elections and voter registration. This request, and instructions on how qualified

electors can check or update contact information, must be posted in a conspicuous location at each county board of elections and voter registration, each satellite office, the State Elections Commission office, and their respective websites, as well as coordinate with local media outlets.

(5) The State Elections Commission may implement additional educational programs in its discretion.

Exclusive applicability to 2020 General Election and time effective

SECTION 10. (A) The provisions of this act only apply to the 2020 General Election, scheduled for November 3, 2020, and the processes to finalize the results of the 2020 General Election. The provisions of this act must not be applied to any other election or election process other than the 2020 General Election.

(B) The provisions of this act take effect upon approval by the Governor.

Ratified the 16th day of September, 2020.

Approved the 16th day of September, 2020.

No. 144

(R150, S181)

AN ACT TO AMEND SECTION 63-9-80, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REQUIRED DISCLOSURE OF INFORMATION TO A PROSPECTIVE ADOPTIVE PARENT, SO AS TO ALLOW A BIOLOGICAL PARENT TO PROVIDE PERSONAL MEDICAL HISTORY AT THE TIME OF ADOPTION CONSENT OR RELINQUISHMENT, AND TO REQUIRE THAT SUCH INFORMATION BE DISCLOSED TO THE PROSPECTIVE ADOPTIVE PARENT AND TO THE ADOPTEE UPON REACHING THE AGE OF MAJORITY OR PRIOR TO THE AGE OF MAJORITY FOR GOOD CAUSE SHOWN.

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

Biological parent medical history, disclosure to prospective adoptive parent and adoptee

SECTION 1. Section 63-9-80 of the 1976 Code, as added by Act 165 of 2018, is amended to read:

"Section 63-9-80. (A) Prior to and at the time the department places a child with a prospective adoptive parent for purposes of adoption, the department shall disclose to the prospective adoptive parent all information known by the person making the placement or reasonably accessible to the person making the placement that is necessary to provide adequate care and supervision for the child and to protect the health and safety of the child and the prospective adoptive parent's family. The information that must be disclosed to the prospective adoptive parent pursuant to this section includes, but is not limited to, medical and mental health conditions and history of the child, the nature of abuse or neglect to which the child has been subjected, behavioral strengths and challenges, and matters related to the child's educational needs. If the department does not have this information at the time of making the placement, a member of the child's casework team or the child's caseworker shall contact the prospective adoptive parent and provide the information known to the casework team or reasonably accessible during the first working day following the placement. The child's caseworker shall research the child's record and shall supplement the information provided to the prospective adoptive parent no later than the end of the first week of placement if additional information is found. When the child's caseworker acquires new information which is likely to affect either the ability of the prospective adoptive parent to provide adequate care and supervision for the child or is likely to place the health and safety of the child or the prospective adoptive parent's family at risk, the department shall disclose that information to the prospective adoptive parent. The obligation to provide this information continues until the adoption is finalized.

(B)(1) In addition to the information disclosed to the prospective adoptive parent in subsection (A), a medical history of the adoptee's biological parents also shall be disclosed if the biological parents elected to provide that information as provided in item (2).

(2) At the time that consent or relinquishment for the purpose of adoption is given by a person required to do so pursuant to Section 63-9-310(A)(2)-(5), the person giving consent or relinquishment may provide a medical history of the adoptee's biological parents. The

medical history must be in a form that does not disclose any personally identifiable information of the biological parents.

(3) If a medical history is disclosed pursuant to item (1), then the medical history may be disclosed to the adoptee upon reaching the age of majority or under circumstances prior to the adoptee reaching the age of majority for good cause shown."

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 145

(R151, S207)

AN ACT TO AMEND SECTION 12-43-220, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROGRAMS AND UNIFORM ASSESSMENT RATIOS FOR COUNTY EQUALIZATION AND REASSESSMENT, SO AS TO PROVIDE THAT AN OWNER ELIGIBLE FOR AND RECEIVING THE SPECIAL ASSESSMENT PURSUANT TO SECTION 12-43-220 WHO IS RESIDING AT A NURSING HOME RETAINS THE SPECIAL ASSESSMENT RATIO OF FOUR PERCENT FOR AS LONG AS THE OWNER REMAINS IN THE NURSING HOME; TO AMEND SECTION 12-37-220, RELATING TO GENERAL PROPERTY TAX EXEMPTIONS, SO AS TO PROVIDE AN EXEMPTION FOR CERTAIN LEASEHOLD INTERESTS IN AND IMPROVEMENTS TO PROPERTY OWNED BY AN ENTITY THAT PROVIDES CERTAIN HOUSING ACCOMMODATIONS TO LOW INCOME PERSONS; AND TO AMEND SECTION 31-6-30, RELATING TO HOUSING AND REDEVELOPMENT DEFINITIONS, SO AS TO PROVIDE THAT A REDEVELOPMENT PROJECT INCLUDES AFFORDABLE HOUSING PROJECTS WHERE ALL OR A PART OF NEW PROPERTY TAX REVENUES GENERATED IN THE TAX INCREMENT FINANCING DISTRICT ARE USED TO

PROVIDE OR SUPPORT PUBLICLY AND PRIVATELY OWNED AFFORDABLE HOUSING IN THE DISTRICT OR IS USED TO PROVIDE INFRASTRUCTURE PROJECTS TO SUPPORT PUBLICLY AND PRIVATELY OWNED AFFORDABLE HOUSING IN THE DISTRICT.

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

Special property tax assessment ratio for nursing home residents

SECTION 1. Section 12-43-220(c)(2) of the 1976 Code is amended by adding a subitem at the end to read:

"(ix) If an owner who is entitled to the special assessment ratio for owner-occupied residential property allowed pursuant to this subsection (c), becomes a patient at a nursing home or a community residential care facility, then the owner retains the four percent assessment ratio and applicable exemptions for as long as the owner remains in the home or facility so long as the owner otherwise qualifies, has an intention of returning to the property, and the property is not rented in excess of the amount allowed by this item (c)(2). For purposes of this item, nursing home and community residential care facility have the same meaning as provided in Section 44-7-130."

Property tax exemption for certain leasehold interests and improvements

SECTION 2.A. Section 12-37-220(B)(11)(e) of the 1976 Code is 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 and improvements to 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;"

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

Definition of redevelopment project

SECTION 3. Section 31-6-30(6) of the 1976 Code is amended to read:

"(6) 'Redevelopment project' means any buildings, improvements, including street, road, and highway improvements, water, sewer and storm drainage facilities, parking facilities, tourism and recreation-related facilities, energy production or transmission infrastructure, communications technology, and public transportation infrastructure including, but not limited to, rail and airport facilities. Any project or undertaking authorized under Section 6-21-50 also may qualify as a redevelopment project under this chapter. All the projects are to be publicly owned. A redevelopment may be located outside of the redevelopment area provided the municipality makes specific findings of benefit to the redevelopment project area and the project area is located within the municipal limits. A redevelopment project for purposes of this chapter also includes affordable housing projects where all or a part of new property tax revenues generated in the tax increment financing district are used to provide or support publicly and privately owned affordable housing in the district or is used to provide infrastructure projects to support publicly and privately owned affordable housing in the district. The term 'affordable housing' as used herein means residential housing for rent or sale that is appropriately priced for rent or sale to a person or family whose income does not exceed eighty percent of the median income for the local area, with adjustments for household size, according to the latest figures available from the United States Department of Housing and Urban Development (HUD)."

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 146

(R152, S217)

AN ACT TO AMEND SECTION 6-1-730, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE EXPENDITURE OF LOCAL HOSPITALITY TAX REVENUE, SO AS TO ALLOW THE REVENUE ALSO TO BE USED FOR THE CONTROL AND REPAIR OF FLOODING AND DRAINAGE WITHIN OR ON TOURISM-RELATED LANDS OR AREAS AND FOR SITE PREPARATION FOR CERTAIN ITEMS INCLUDING, BUT NOT LIMITED TO, DEMOLITION, REPAIR, OR CONSTRUCTION; TO CLARIFY THAT EXPENDITURES TO CONTROL AND REPAIR FLOODING AND DRAINAGE WITHIN OR ON TOURISM-RELATED LANDS OR AREAS MUST BE DESIGNED TO ELIMINATE OR MITIGATE THE ADVERSE EFFECTS OF RECURRENT NUISANCE FLOODING, AND TO PROVIDE EXAMPLES AND LIMITATIONS; AND TO EXTEND THE DEADLINE FOR THE SUBMISSION OF CERTAIN LOCAL GOVERNMENT COMPREHENSIVE PLANS DUE TO COVID-19.

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

Additional permissible uses of revenue from local hospitality tax

SECTION 1. Section 6-1-730(A) of the 1976 Code is amended by adding new items to read:

"(7) control and repair of flooding and drainage within or on tourism-related lands or areas; or

(8) site preparation for items in this section including, but not limited to, demolition, repair, or construction."

Public works projects to eliminate or mitigate recurrent nuisance flooding, limitations

SECTION 2. Section 6-1-730 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

"( ) If applying the provisions of subsection (A)(7), then the revenues must be expended exclusively on public works projects designed to eliminate or mitigate the adverse effects of recurrent nuisance flooding, including that which is attributable to sea-level rise, or other recurrent flooding. Such adverse effects include road closures and other transportation disruptions, stormwater drainage issues, and compromised public infrastructure. The public works projects must be within or on tourism-related lands or areas. Revenues must not be used to pay claims or otherwise settle litigation that may arise from time to time due to the harmful impacts of nuisance or other flooding."

Deadline to submit local government comprehensive plans extended

SECTION 3. Due to interruptions and delays in local government operations caused by the COVID-19 pandemic, any local government that has a comprehensive plan due December 31, 2020, may delay submission of the plan until December 31, 2021.

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 147

(R155, S545)

AN ACT TO AMEND SECTION 12-39-70, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE APPRAISAL AND ASSESSMENT OF PERSONAL PROPERTY, SO AS TO REQUIRE THE COUNTY AUDITOR TO USE A SPECIFIC

FORM; TO AMEND SECTION 12-6-40, AS AMENDED, 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 2019, 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 SPECIFICALLY NOT ADOPT CERTAIN TAX PROVISIONS; AND TO SPECIFY THE TAX CONSEQUENCES OF A PAYCHECK PROTECTION PROGRAM LOAN AND THE EXPENSE THEREOF.

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

Appraisal and assessment of property

SECTION 1. Section 12-39-70 of the 1976 Code is amended to read:

"Section 12-39-70. For the purpose of appraising and assessing personal property of businesses and other entities under the jurisdiction of the county auditor, the county auditor must use the department's Form PT-100 and shall follow the classification of the most recent North American Industry Classification System Manual, as follows:

(1) Sector 11, subsectors 111, 112, 113, 114, and 115, unless exempt;

(2) Sector 52, subsectors 522, 523, 524, and 525; Sector 53, subsectors 531 and 533; and Sector 55, subsector 551, unless exempt;

(3) Sector 51, subsector 512; Sector 54, subsector 541; Sector 61, subsector 611; Sector 62, subsectors 621, 622, 623, and 624; Sector 71, subsector 712; Sector 72, subsector 721; and Sector 81, subsectors 813 and 814, unless exempt."

Taxation of paycheck protection program loans

SECTION 2.A. For tax year 2020, to the extent loans under the paycheck protection program in Section 1102 of Public Law 116-136, Title 1 are forgiven and excluded from gross income for federal income tax purposes under Section 1106 of Public Law 116-136, Title 1, 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.

B. This SECTION takes effect upon approval by the Governor.

Internal Revenue Code conformity

SECTION 3.A. Section 12-6-40(A)(1)(a) and (c) of the 1976 Code, as last amended by Act 16 of 2019, 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, 2019, 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, 2019, are extended, but otherwise not amended, by congressional enactment during 2020, 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. Notwithstanding any other provision of law, for purposes of any law that provides for taxes administered by the Department of Revenue, the State specifically does not adopt the provisions of Section 204(a) of the Taxpayer Certainty and Disaster Tax Relief Act of 2019 as it pertains to individuals. In administering taxes, the Department of Revenue shall account for the nonadoption set forth in this section.

C. This SECTION takes effect upon approval by the Governor.

Time effective

SECTION 4. This act takes effect upon approval by the Governor and applies to property tax returns due after December 31, 2020.

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 148

(R157, S719)

AN ACT TO AMEND SECTION 33-57-140, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO STANDARDS FOR RAFFLES CONDUCTED BY NONPROFIT ORGANIZATIONS, SO AS TO INCREASE THE MAXIMUM FAIR MARKET VALUE OF AN INDIVIDUAL PRIZE; TO AMEND SECTION 33-57-150, RELATING TO ALLOWABLE EXPENSES FOR A RAFFLE, SO AS TO ADJUST CERTAIN RECORDING REQUIREMENTS AND ALLOW A NONPROFIT ORGANIZATION TO SUBMIT A SINGLE REPORT FOR ALL RAFFLES CONDUCTED; AND TO REPEAL SECTION 33-57-200 RELATING TO THE REPEAL OF CHAPTER 57, TITLE 33.

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

Raffle prize value increased

SECTION 1. Section 33-57-140(L) of the 1976 Code is amended to read:

"(L) An individual prize awarded to each winner in a raffle shall not exceed a maximum fair market value of eighty thousand dollars. No real property shall be offered as a prize in a raffle. For each raffle event, the total fair market value of all prizes offered by any nonprofit organization shall not exceed three hundred thousand dollars."

Raffle allowable expenses

SECTION 2. Section 33-57-150 of the 1976 Code is amended to read:

"Section 33-57-150. (A) Expenses that are reasonable and necessary to operate and conduct raffles, as authorized by this chapter, are allowable.

(B) Allowable expenses include only reasonable and necessary expenses incurred for:

(1) advertising, including the cost of printing raffle tickets and gift certificates, provided that costs of advertising are reasonable and the services are not provided, directly or indirectly, in connection with any

other service related to operating or conducting a nonprofit raffle regardless of whether those services are compensated;

(2) office supplies, copying, and minor office equipment costs incurred in conducting or operating a nonprofit raffle;

(3) reasonable postage, parking, and shipping costs;

(4) costs of food and beverages, including corkage and gratuity fees, provided to the attendees and volunteers of the event;

(5) costs of materials and supplies for decorating a facility used for a nonprofit raffle drawing;

(6) entertainment-related costs, such as disc jockeys, music bands, auctioneers, waiters, bartenders, and wait staff incurred during the conducting or operating of a nonprofit raffle drawing;

(7) repairs to premises and equipment related to conducting or operating a nonprofit raffle;

(8) door prizes or raffle prizes;

(9) stated premises' rental or insurance expenses;

(10) security expenses incurred in conducting or operating a nonprofit raffle;

(11) bookkeeping, accounting, or legal services utilized in connection with a nonprofit raffle including, but not limited to, the registration fees and the required financial reports;

(12) permit costs, fees, or taxes required by local or state government to conduct and operate a nonprofit raffle; and

(13) janitorial services and supplies incurred in conducting or operating a nonprofit raffle.

(C) A report shall be submitted annually to the secretary no later than the fifteenth day of the fifth month after the end of the nonprofit organization's fiscal year. The report must be signed under penalty of perjury and must contain the following information for each raffle conducted within the preceding year:

(1) the amount of the gross receipts;

(2) the amount of adjusted gross receipts;

(3) the total amount of expenses incurred in conducting the raffle;

(4) the amount of the net receipts;

(5) the total value of cash prizes awarded;

(6) the total value of noncash prizes awarded; and

(7) the number of tickets sold.

(D) A nonprofit organization that has affiliates or subsidiaries that are registered to conduct raffles pursuant to the provisions of this chapter may submit a single report that contains all of the required information for each raffle conducted by the affiliate or subsidiary to the secretary

provided that the report is submitted in a format authorized by the secretary.

(E) Records required by this chapter shall be preserved for three years, and organizations shall make available their records relating to operations of raffles at any time at the request of a member of the organization, or investigators from the secretary or from law enforcement. For each raffle conducted, the nonprofit organization must maintain records of the following information:

(1) a list of prizes offered and given with an estimate of their respective values;

(2) an itemized list of expenses incurred or paid, including the name of each person, company, or governmental entity to whom an expense was paid;

(3) each item of an expenditure made or to be made, with a detailed description of the merchandise purchased or the services rendered, and the name of each person, company, or governmental entity to whom the expenditure is to be made; and

(4) the use to which the net receipts have been applied.

(F) No new registration shall be issued to an organization that fails to file its report as required by this section until all reports are filed, and the secretary has confirmed that the information in the reports is in compliance with the provisions of this chapter. An organization that fails to file a timely annual report required by this section may be assessed by the secretary administrative fines of ten dollars for each day of noncompliance for each delinquent report not to exceed two thousand dollars for each separate violation. In addition to the assessed fines, the secretary may revoke an organization's registration for failure to file an annual report and bring an action before an administrative law judge to enjoin the organization from conducting raffles until the required reports are filed with the secretary."

Repeal

SECTION 3.A. Section 33-57-200 of the 1976 Code is repealed.

B. This SECTION takes effect upon approval by the Governor. The provisions of Chapter 57, Title 33 of the 1976 Code, as they existed on June 30, 2020, are reenacted. The reenactment discharges, releases, and extinguishes any penalty, forfeiture, or liability incurred after July 1, 2020, but before the effective date of this SECTION. This SECTION shall continue to apply until such time as Chapter 57, Title 33, or parts thereof, are otherwise repealed, mutatis mutandis.

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 149

(R158, S753)

AN ACT TO AMEND SECTION 38-7-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INSURANCE PREMIUM TAXES, SO AS TO TRANSFER ONE PERCENT OF THE REVENUES TO THE V-SAFE PROGRAM; AND TO TRANSFER CERTAIN FUNDS TO THE V-SAFE PROGRAM.

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

Insurance premium tax revenues transferred to V-SAFE program

SECTION 1. Section 38-7-20(B)(2) of the 1976 Code, as last amended by Act 6 of 2019, is further amended to read:

"(2) one percent must be transferred to the V-SAFE program pursuant to Section 23-9-25;"

Transfer to V-SAFE program

SECTION 2. Upon the effective date of this act, the State Treasurer shall transfer to the V-SAFE Program any funds in the aid to fire districts account that are attributable to insurance premium taxes credited to the account pursuant to Section 38-7-20.

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 150

(R161, S977)

AN ACT TO ADOPT REVISED CODE VOLUMES 11A AND 20 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO THE EXTENT OF THEIR CONTENTS, AS THE ONLY GENERAL PERMANENT STATUTORY LAW OF THE STATE AS OF JANUARY 1, 2020.

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

Revised Code volumes, authorization

SECTION 1. (A) Section 2-13-90 of the 1976 Code authorizes the Legislative Council and the Code Commissioner to contract to be prepared and published under their supervision and direction revised volumes of the Code of Laws.

(B) The Legislative Council and the Code Commissioner have determined that Volumes 11A and 20 are appropriate for revision.

(C) Section 2-13-90 of the 1976 Code also provides that the revised volumes must be submitted to the General Assembly for its consideration.

Revised Code volumes, adopted

SECTION 2. (A) Revised Volume 11A containing Titles 34 and 35, Code of Laws of South Carolina, 1976, is substituted for original Volume 11A which contained Titles 34 and 35.

(B) Revised Volume 20 containing Title 59, Code of Laws of South Carolina, 1976, is substituted for original Volume 20 which contained Title 59.

(C) Revised Volumes 11A and 20 are adopted as part of the Code of Laws and, to the extent of their contents, are the only general permanent statutory law of the State as of January 1, 2020.

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 151

(R163, S1048)

AN ACT TO AMEND SECTION 13-1-1030, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MEMBERS SERVING ON THE AERONAUTICS COMMISSION, SO AS TO PROVIDE THAT A RESIDENT COMMISSION MEMBER MAY NOT SERVE FOR MORE THAN TWO CONSECUTIVE TERMS; AND TO AMEND SECTION 13-1-1050, RELATING TO THE TERMS OF THE AERONAUTICS COMMISSION, SO AS TO MAKE CONFORMING CHANGES.

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

Aeronautics Commission, consecutive terms

SECTION 1. Section 13-1-1030(B) of the 1976 Code is amended to read:

"(B) Notwithstanding any other provision of law, no county within a commission district shall have a resident commission member for more than two consecutive terms and in no event shall any two persons from the same county serve as a commission member simultaneously."

Aeronautics Commission, conforming changes

SECTION 2. Section 13-1-1050(A) of the 1976 Code is amended to read:

"(A) Notwithstanding any other provision of law, beginning February 15, 2005, commissioners must be elected by the legislative delegation of each congressional district. For the purposes of electing a commission member, a legislator only shall vote in the congressional district in which he resides. All commission members must serve for a term of office of four years that expires on February fifteenth of the appropriate year, unless appointed to serve for a second term. Commissioners shall continue to serve until their successors are elected and qualify, provided that a commissioner only may serve until their successors are elected and qualify, and provided that a commissioner only may serve in a hold-over capacity for a period not to exceed six months after the first term or second term if appointed. Any second term extension or vacancy occurring in the office of commissioner must be filled by election in the manner provided in this article for the unexpired term only. No person is eligible to serve as a commission member who is not a resident of that district at the time of his appointment, except that the at-large commission member may be appointed from any county in the State regardless of whether another commissioner is serving from that county. Failure by a commission member to maintain residency in the district for which he is elected shall result in the forfeiture of his office. The at-large commission member, upon confirmation by the Senate, shall serve as chairman of the commission."

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 152

(R164, S1068)

AN ACT TO AMEND SECTION 50-1-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CLASSIFICATION OF BIRDS, ANIMALS, AND FISH, SO AS TO CLASSIFY CERTAIN BIRDS AS MIGRATORY WATERFOWL; TO AMEND SECTION 50-9-920, AS AMENDED, RELATING TO REVENUES FROM THE SALE OF LICENSES, PERMITS, AND TAGS, SO AS TO PROVIDE THAT REVENUES FROM THE SALE OF RESIDENT AND NONRESIDENT MIGRATORY WATERFOWL PERMITS ARE TO BE USED FOR THE DEVELOPMENT, PROTECTION, AND PROPAGATION OF WATERFOWL IN THIS STATE; TO REPEAL SECTION 50-11-20 RELATING TO THE MIGRATORY WATERFOWL COMMITTEE; AND TO REPEAL SECTION 50-9-670 RELATING TO MIGRATORY WATERFOWL PERMITS.

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

Migratory waterfowl classified

SECTION 1. Section 50-1-30 of the 1976 Code is amended by adding an appropriately numbered item to read:

"( ) Migratory waterfowl: members of the family 'Anatidae' including brants, ducks, geese, and swans."

Migratory waterfowl permit revenue

SECTION 2. Section 50-9-920(B) of the 1976 Code, as last amended by Act 51 of 2019, is further amended by adding an appropriately numbered item to read:

"( ) resident and nonresident migratory waterfowl permit shall be used for the management of waterfowl habitats and for the development, protection, and propagation of waterfowl in this State, provided that no revenue generated from the sale of a waterfowl permit may be expended for administrative salaries."

Repeal

SECTION 3.A. Section 50-11-20 of the 1976 Code is repealed.

B. Section 50-9-670 of the 1976 Code is repealed on July 1, 2021.

Time effective

SECTION 4. Except as otherwise provided, this act takes effect upon approval by the Governor.

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 153

(R169, S1263)

AN ACT TO AMEND SECTION 7-7-340, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN KERSHAW COUNTY, SO AS TO MERGE THE EAST CAMDEN-HERMITAGE PRECINCT WITH THE CAMDEN 6 PRECINCT, WITH THE RESULTING COMBINED PRECINCT RETAINING THE NAME CAMDEN 6, TO MERGE THE GATES FORD PRECINCT WITH THE BUFFALO PRECINCT, WITH THE RESULTING COMBINED PRECINCT RETAINING THE NAME BUFFALO, AND 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:

Designation of Kershaw County Voting Precincts

SECTION 1. Section 7-7-340 of the 1976 Code is amended to read:

"Section 7-7-340. (A) In Kershaw County there are the following voting precincts:

Airport
Antioch
Bethune
Buffalo
Camden No. 1
Camden No. 2
Camden No. 5
Camden No. 5-A
Camden No. 6
Cassatt
Charlotte Thompson
Doby's Mill
Elgin No. 1
Elgin No. 2
Elgin No. 3
Elgin No. 4
Elgin No. 5
Elgin No. 6
Hobkirk's Hill
Liberty Hill
Lugoff No. 1
Lugoff No. 2
Lugoff No. 3
Lugoff No. 4
Malvern Hill
Rabon's Crossroads
Riverdale
Salt Pond
Shaylor's Hill
Springdale
Westville
White's Gardens.

(B) The precinct lines defining the above precincts in Kershaw County are as shown on the official map prepared by and on file with the Revenue and Fiscal Affairs Office designated as document P-55-20 and as shown on copies of the official map provided to the Board of Voter Registration and Elections of Kershaw County.

(C) The polling places for the precincts provided in this section must be established by the Board of Voter Registration and Elections of Kershaw County subject to approval by a majority of the Kershaw County Legislative Delegation."

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 154

(R170, H3210)

AN ACT TO AUTHORIZE THE EXPENDITURE OF FEDERAL FUNDS DISBURSED TO THE STATE IN THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT, AND TO SPECIFY THE MANNER IN WHICH FUNDS MAY BE EXPENDED.

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

PART I

Expenditure Authorizations and Reimbursement

SECTION 1. The State of South Carolina received funds from the federal "Coronavirus Aid, Relief, and Economic Security Act" (hereinafter referred to as the CARES Act). A portion of those funds have been reimbursed for authorized expenditures pursuant to Act 142 of 2020. The source of revenue authorized for expenditure and reimbursement in SECTION 3 is the remaining portion of the CARES Act funds that remain on deposit in the Coronavirus Relief Fund established and maintained by the Executive Budget Office pursuant to Act 135 of 2020.

SECTION 2. (A) The expenditure authorizations contained in SECTION 3(A), (C), and (G) are supplemental to the expenditure authorizations for the same purposes as contained in Act 142 of 2020. The remaining expenditure authorizations contained in SECTION 3 may be reimbursed by the Executive Budget Office from the Coronavirus Relief Fund.

(B) State agencies, institutions of higher learning, including technical colleges, counties, municipalities, special purpose districts, and hospitals shall maximize the use of federal funds made available in this act wherever possible within the allowable uses. If any reimbursement to any recipient, or subrecipient, resulting from an authorization contained herein is disallowed by federal law, then the recipient or subrecipient shall promptly return the funds disbursed to the Executive Budget Office for deposit in the Coronavirus Relief Fund.

(C) To maximize the benefit of all funds received by the State, all state agencies, institutions of higher learning, including technical colleges, counties, municipalities, special purpose districts, and hospitals are directed to coordinate expenditure reimbursements through, and in consultation with, the Department of Administration and the grant manager. State agencies, and institutions of higher learning, including technical colleges, shall submit to the Executive Budget Office a detailed budget plan for any funding received that is related to COVID-19, regardless of the source. Counties, municipalities, special purpose districts, hospitals, and independent colleges and universities shall submit to the Executive Budget Office information sufficient to identify other COVID-19-related funding that they are receiving, regardless of the source, and provide a detailed accounting of how the funding is being used.

SECTION 3. State agencies and higher education institutions are authorized to expend federal funds in the Coronavirus Relief Fund if the expenditure is in compliance with the CARES Act. The Executive Budget Office is authorized to reimburse from the Coronavirus Relief Fund, up to the amounts listed below in each category, expenditures compliant with the CARES Act by the following sectors: state agencies, institutions of higher learning, counties, municipalities, special purpose districts, public and private hospitals, nonprofit and minority and small businesses.

(A) Department of Health and Environmental Control
Statewide Testing and Monitoring $ 73,022,613;
(B) Medical University of South Carolina
Statewide Testing $ 20,150,000;
(C) Department of Employment and Workforce
Unemployment Trust Fund $420,000,000;
(E) Department of Administration
Nonprofit Relief Program $ 25,000,000;
(F) Department of Administration

Minority and Small Business Relief Program	$ 40,000,000;
(G) Department of Administration	
State, Local Government, Independent College and University Expenditures	$115,000,000.

PART II

Directives to Receiving Entities

SECTION 4. The Department of Education is authorized to utilize unexpended authorizations contained in Section 3(B) of Act 142 of 2020 for the costs associated with the following:

(1) School safety measures taken in response to COVID-19 including, but not limited to, purchasing masks, gloves, wipes, hand sanitizer, face shields, cleaning solution, Plexiglas, and other cleaning equipment and supplies.

(2) Additional expenses incurred by Virtual SC in response to COVID-19.

(3) Hire or contract for school nurse services for those schools that do not have a full-time school nurse.

(4) Tutoring, supplemental services, and support services to include services for unengaged students, interventionists, and after school learning extensions that prioritize face-to-face instruction focused on students with identified reading or math difficulties and students with IEPs to address deficits resulting from COVID-19.

(5) Technology purchases of devices and connectivity equipment to support online learning resulting from COVID-19.

It is the intent of the General Assembly that reimbursements for item (1) - school safety measures - be the department's first priority for reimbursement.

SECTION 5. State agencies may apply for reimbursement in a similar manner as set forth in SECTION 6 of Act 142 of 2020.

SECTION 6. (A) There is established through the SC CARES Grant Management Program a nonprofit entity reimbursement grant program with the funds authorized in Section 3(E). The program shall award grants to qualifying nonprofit entities to reimburse the qualifying nonprofit entity for some, or all, of the costs associated with qualifying expenditures incurred, or expected to be incurred, by the qualifying nonprofit entity between March 1, 2020, and December 1, 2020. A

qualifying nonprofit entity may receive a grant in an amount between two thousand five hundred dollars and fifty thousand dollars. Nonprofit entities must apply for grants no later than November 1, 2020.

(B)(1) Applications for grants shall be made to the panel established in item (2). An applicant shall provide the panel with information concerning the applicant's expenditures for which the applicant seeks a grant. Grants shall be awarded for qualifying expenditures in amounts determined by the panel. First, priority must be given to applicants that did not receive other assistance, such as a Paycheck Protection Program loan or other CARES funds. Then, priority shall be given to applications for expenditures related to: (1) food assistance, including prepared meals; (2) rent or mortgage assistance; (3) utilities assistance; (4) mental health counseling; (5) health care services, including access to health care supplies, mental health, and behavioral health; (6) criminal domestic violence and children's advocacy services; and (7) arts and cultural items or activities.

(2)(a) Applications for grants shall be evaluated and awarded by a panel consisting of:

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

(ii) the Director of the Department of Mental Health, or his designee;

(iii) the Director of the Department of Consumer Affairs, or his designee;

(iv) the Director of the Department of Health and Human Services, or his designee;

(v) the Director of the Department of Alcohol and Other Drug Abuse Services, or his designee;

(vi) the Secretary of State, or his designee;

(vii) the Director of the South Carolina Arts Commission, or his designee;

(viii) the Director of the Department of Archives and History, or his designee; and

(ix) the Executive Director of the South Carolina State Housing Finance and Development Authority, or his designee.

(b) The panel shall meet as often as is necessary to fulfill its obligations as provided herein. The panel may utilize remote technology for meetings or other activities as necessary. The Department of Administration shall assist with the coordination of the panel's meetings.

(c) The panel shall develop an application and establish criteria for the evaluation of applications that is consistent with the requirements contained herein, including the priorities identified in item (1). During

its evaluation of applications, the panel shall give consideration to the geographic distribution of services provided by the qualifying expenditures so that grants are awarded on a statewide basis.

(d) The Department of Administration shall provide staff support for the panel. The Department of Administration, in conjunction with SC CARES Grant Management Program, shall confirm that all reimbursement requests in the grant applications comply with federal CARES Act requirements.

(C) For the purposes of the nonprofit entity reimbursement grant program established herein:

(1) "Qualifying nonprofit entity" means a 501(c)(3) that has been operating in South Carolina for at least six months prior to the Governor's initial COVID-19 state of emergency declaration on March 13, 2020.

(2) "Qualifying expenditure" means an expenditure of funds related to services provided to people in response to the COVID-19 public health emergency. The definition of qualifying expenditure does not include any expenditure that qualified the nonprofit entity to receive federal emergency relief funds, including the Paycheck Protection Program, if the nonprofit entity has, or will, receive the federal emergency relief funds.

SECTION 7. (A) There is established through the SC CARES Grant Management Program a minority and small business enterprise reimbursement grant program with the funds authorized in Section 3(F). The program shall award grants to qualifying minority and small business enterprises to reimburse the enterprise for some, or all, of the costs associated with qualifying expenditures incurred, or expected to be incurred, by the qualifying minority or small business enterprise between March 1, 2020, and December 1, 2020. A qualifying minority or small business enterprise may receive a grant in an amount between two thousand five hundred dollars and twenty-five thousand dollars. Minority and small business enterprises must apply for grants no later than November 1, 2020.

(B) Applications for grants shall be made to the SC CARES Grant Management Program. An applicant shall provide the SC CARES Grant Management Program with information concerning the applicant's expenditures for which the applicant seeks a grant. The grant manager shall evaluate grant applications to confirm that all reimbursement requests in the grant applications comply with federal CARES Act requirements.

(C)(1) Priority must be given to minority businesses, to applicants that did not receive other assistance, such as a Paycheck Protection Program loan or other CARES funds, to businesses with fifteen or fewer employees, and to businesses that demonstrate the greatest financial need.

(2)(a) Priorities must be assigned to minority and small business enterprises by a panel consisting of:

(i) the Director of the Commission for Minority Affairs, or his designee;

(ii) the Secretary of Commerce, or his designee; and

(iii) the Director of the Department of Revenue, or his designee.

(b) In addition to assigning priorities, the panel also must make an initial determination of which applicants meet the definitions set forth in subsection (D). Once the panel has made such determinations and has assigned priorities, the panel shall award grants in the amounts determined by the SC CARES Act Grant Management Program and in accordance with this SECTION.

(D) For the purposes of the minority and small business enterprise reimbursement grant program:

(1) "Economically disadvantaged individuals" means those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.

(2) "Minority business enterprise" means a business with twenty-five or fewer employees that has been operating in South Carolina for at least six months prior to the Governor's initial COVID-19 state of emergency declaration on March 13, 2020, and is owned by an individual who is a United States citizen and who is economically and socially disadvantaged.

(3) "Qualifying expenditure" means costs associated with business interruptions resulting from the COVID-19 public health emergency and any expenses deemed necessary and incurred as a result of the COVID-19 health emergency. The definition of qualifying expenditure does not include any expenditure that qualified the minority or small business enterprise to receive federal emergency relief funds, including the Paycheck Protection Program, if the minority or small business enterprise has, or will, receive the federal emergency relief funds.

(4) "Small business enterprise" means a business with twenty-five or fewer employees that has been operating in South Carolina for at least

six months prior to the Governor's initial COVID-19 state of emergency declaration on March 13, 2020.

(5) "Socially disadvantaged individuals" means those individuals who are members of the following groups: African Americans; Hispanic Americans; Native Americans (including individuals recognized as American Indians, Eskimos, Aleuts, and Native Hawaiians), and Asian Pacific Americans.

SECTION 8. The funds authorized for the Department of Health and Environmental Control pursuant to Section 3(A) must be utilized in the manner prescribed for the Statewide Testing Plan established in Section 7 of Act 142 of 2020.

SECTION 9. The funds authorized for the Medical University of South Carolina pursuant to Section 3(B) for statewide testing shall be utilized to continue the Medical University's COVID-19 at-risk testing initiative.

SECTION 10. (A)(1) State agencies, public institutions of higher learning, counties, municipalities, and special purpose districts are authorized to apply for reimbursement of expenditures necessary for the response to the COVID-19 public health emergency incurred, or expected to be incurred, between July 1, 2020, and December 30, 2020.

(2) Independent colleges and universities that are member institutions of the South Carolina Independent Colleges and Universities nonprofit corporation are authorized to apply for reimbursement of expenditures that were necessary for the response to the COVID-19 public health emergency incurred, or expected to be incurred, between March 1, 2020, and December 30, 2020. Bob Jones University and Clinton College are also authorized to apply for reimbursement of expenditures that were necessary for the response to the COVID-19 public health emergency that were incurred, or expected to be incurred, between March 1, 2020, and December 30, 2020.

(3) All applications for reimbursement shall be submitted to the SC CARES Grant Management Program on or before November 15, 2020.

(B) If the Executive Budget Office determines that the amount of eligible expenditures through December 30, 2020, exceeds the authorizations provided for in Act 142 of 2020 and Section 3(G) of this act, then the Executive Budget Office is authorized to prioritize the remaining reimbursements for expenses incurred as a result of COVID-19 in the following order:

(1) institutions of higher learning, including member institutions of the South Carolina Independent Colleges and Universities nonprofit corporation and Bob Jones University and Clinton College, for expenses related to providing virtual and in-person educational services for students enrolled for the fall 2020 semester;

(2) state agencies;

(3) county governments;

(4) municipal governments; and

(5) special purpose districts.

SECTION 11. Excess funds authorized in SECTION 9 of Act 142 of 2020 for the Hospital Relief Fund shall be used for the reimbursement of eligible hospital expenditures incurred on or before September 30, 2020. No hospital shall be reimbursed for expenses that were already reimbursed from the fund or which were eligible for reimbursement from any other fund source. The Executive Budget Office shall distribute the balance of the Hospital Relief Fund to hospitals based upon their respective shares of their unreimbursed and validated expenditures incurred due to the COVID-19 public health emergency.

SECTION 12. To ensure that the State of South Carolina maximizes the use of federal funds authorized through the Coronavirus Relief Fund, the Director of the Executive Budget Office is authorized to reallocate any unused authorization in a particular enumerated item in this act and in Act 142 of 2020 to any enumerated item for which approved reimbursements exceed the authorization. This reallocation may not be implemented prior to December 1, 2020. Should this condition be met in multiple authorizations, the director shall reallocate any unused authorization according to the following prioritization:

(1) Department of Employment and Workforce - Unemployment Trust Fund;

(2) Department of Health and Environmental Control - Statewide Testing and Monitoring;

(3) Medical University of South Carolina - Statewide Testing;

(4) State Department of Education - Uses Authorized in SECTION 4 of this act;

(5) Department of Administration - State, Local Government, Independent Colleges and University Expenditures;

(6) Department of Administration - Minority and Small Business Relief Program;

(7) Department of Administration - Nonprofit Relief Program;

(8) Department of Administration - Executive Budget Office Hospital Relief Program;

(9) Adjutant General - Emergency Management Division Personal Protective Equipment Stockpile and Supply Chain; and

(10) Office of Regulatory Staff - Broadband Mapping and Planning, Infrastructure, and Mobile Hotspots.

SECTION 13. In order to address the extraordinary challenges facing Patriots Point Development Authority due to COVID-19, the authority shall utilize the $1,000,000 authorized by proviso 52.2 and the $1,700,000 appropriated by proviso 118.16, Item (45), both of Act 91 of 2019, for agency operating expenses. The Department of Administration shall assist Patriots Point in the development of a long-term financial strategy and operational plan. The provisions of this SECTION shall remain in effect until replaced by a subsequent act of the General Assembly.

SECTION 14. The funds allocated to the Department of Employment and Workforce for the unemployment trust fund from the CARES Act Coronavirus Relief Fund shall be utilized to offset the unexpected losses to the unemployment trust fund between March 1, 2020, and December 30, 2020, resulting from the pandemic and to set the total effective rates for 2021 rate classes at the same total effective rates as 2020 rate classes.

PART III

Miscellaneous Provisions

SECTION 15. Due to the strains caused by COVID-19, for Fiscal Year 2020-21, the earnings limitation imposed pursuant to Section 9-1-1790 and Section 9-11-90 of the 1976 Code does not apply to retired members of the South Carolina Retirement System or the Police Officers Retirement System who return to covered employment to participate in the state’s public health preparedness and response to the COVID-19 virus. To the extent allowed by the CARES Act, the Public Employee Benefit Authority may apply to have its implementation costs to be reimbursed.

SECTION 16. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the

General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 17. The provisions of this act take effect upon approval of the Governor.

Ratified the 25th day of September, 2020.

Approved the 25th day of September, 2020.

No. 155

(R177, H3800)

AN ACT TO AMEND SECTION 50-9-350, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO APPRENTICE HUNTING LICENSES, SO AS TO ALLOW FOR A PERSON WITH AN APPRENTICE HUNTING LICENSE TO WAIVE THE CERTIFICATE OF COMPLETION REQUIREMENT; AND TO AMEND SECTION 50-9-510, RELATING TO HUNTING AND FISHING LICENSES, SO AS TO PROVIDE THAT A NONRESIDENT WHO MEETS THE QUALIFICATIONS OF AN APPRENTICE HUNTER MAY PURCHASE A THREE-DAY HUNTING LICENSE.

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

Apprentice Hunting License, Certificate of Completion waived

SECTION 1. Section 50-9-350(1) of the 1976 Code is amended to read:

"(1) The certificate of completion requirement may be waived if a person obtains an apprentice hunting license. An apprentice hunting license may be issued if the applicant:

(a) is at least sixteen years of age and otherwise required to obtain a certificate of completion to obtain a hunting license;

(b) has not been convicted of or received deferred adjudication for violation of the hunter education requirement in this State; and

(c) has not been convicted of a hunting violation."

Nonresident Apprentice Hunting License

SECTION 2. Section 50-9-510(A)(4) of the 1976 Code is amended to read:

"(4) a nonresident who meets the qualifications as an apprentice hunter must purchase a three-day temporary statewide apprentice hunting license for fifty dollars, two dollars of which the issuing sales vendor may retain."

Time effective

SECTION 3. This act takes effect sixty days after approval by the Governor.

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 156

(R178, H4021)

AN ACT TO AMEND SECTION 51-3-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PROHIBITION OF SWIMMING OR USE OF CABINS AT STATE PARKS, SO AS TO REMOVE THE PROHIBITION; TO AMEND SECTION 51-3-50, RELATING TO THE POWER OF THE DEPARTMENT OF PARKS, RECREATION AND TOURISM TO OPEN PARKS TO NORMAL PUBLIC USE, SO AS TO REMOVE A LIMITATION ON THE DEPARTMENT'S POWER; TO REPEAL SECTION 51-3-20 RELATING TO LIMITATIONS ON THE FACILITIES AT STATE PARKS; TO REPEAL SECTION 51-3-30 RELATING TO PENALTIES FOR USING CABINS OR SWIMMING AT A STATE PARK; AND TO REPEAL SECTION

51-3-40 RELATING TO THE LIMITATIONS ON THE OPERATIONS OF CERTAIN STATE PARKS.

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

State parks, prohibitions removed

SECTION 1. Section 51-3-10 of the 1976 Code is amended to read:

"Section 51-3-10. The Department of Parks, Recreation and Tourism may control, supervise, maintain and, wherever practicable, improve all parks belonging to the State, for general recreational, educational, and forestry purposes."

State parks, limitations removed

SECTION 2. Section 51-3-50 of the 1976 Code is amended to read:

"Section 51-3-50. The Department of Parks, Recreation and Tourism shall open any state park to public use for such normal recreational, educational, and forestry purposes and uses, and for such hours of operation as it shall deem advisable."

Repeal

SECTION 3. Sections 51-3-20, 51-3-30, and 51-3-40 of the 1976 Code are repealed.

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

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No. 157

(R179, H4327)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 6-9-67 SO AS TO PROVIDE THAT STRUCTURES WITHOUT A COMMERCIAL KITCHEN USED IN AGRITOURISM ACTIVITY AS DEFINED BY SECTION 46-53-10 SHALL FALL UNDER THE GROUP A-3 CLASSIFICATION, AS DEFINED IN THE LATEST EDITION OF THE APPLICABLE BUILDING CODES PURSUANT TO SECTION 6-9-50, AND THAT THESE STRUCTURES MAY ACCOMMODATE UP TO THREE HUNDRED GUESTS WITHOUT INSTALLING A SPRINKLER SYSTEM.

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

Classification of structures lacking commercial kitchens used in agritourism activity

SECTION 1. Chapter 9, Title 6 of the 1976 Code is amended by adding:

"Section 6-9-67. Structures without a commercial kitchen used in agritourism activity as defined by Section 46-53-10 shall fall under the group A-3 classification, as defined in the latest edition of the applicable building codes pursuant to Section 6-9-50. Such structures may accommodate up to three hundred guests without installing a sprinkler system."

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 158

(R181, H4663)

AN ACT TO AMEND SECTION 40-43-190, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PROTOCOL FOR PHARMACISTS TO ADMINISTER INFLUENZA VACCINES WITHOUT THE ORDER OF A PRACTITIONER, SO AS TO PROVIDE PHARMACISTS MAY ADMINISTER INFLUENZA VACCINES TO PERSONS UNDER TWELVE YEARS OF AGE PURSUANT TO PROTOCOL ISSUED BY THE BOARD OF MEDICAL EXAMINERS UPON RECOMMENDATION OF THE JOINT PHARMACIST ADMINISTERED VACCINES COMMITTEE.

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

Pharmacist administered flu vaccine to persons under twelve years of age allowed

SECTION 1. Section 40-43-190(A)(2) of the 1976 Code is amended to read:

"(2) The administration of vaccines as authorized in this section must not be to a person under the age of eighteen years; provided, however, that:

(a) the influenza vaccine may be administered to a person twelve years of age or older pursuant to protocol issued by the Board of Medical Examiners;

(b) the influenza vaccine may be administered to a person under the age of twelve pursuant to protocol issued by the Board of Medical Examiners upon recommendation of the Joint Pharmacist Administered Vaccines Committee; and

(c) a pharmacist who has completed the training described in subsection (B)(1) may administer other vaccines approved by the Centers for Disease Control to a person of any age pursuant to a written order or prescription of a practitioner for a specific patient of that practitioner."

Time effective

SECTION 2. This act takes effect upon approval by the Governor. The initial recommendation required in Section 40-43-190(A)(2)(b) must be submitted to the Board of Medical Examiners no later than three months after the effective date of this act.

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 159

(R182, H5149)

AN ACT TO AMEND SECTION 7-7-480, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN SALUDA COUNTY, SO AS TO ELIMINATE FIVE VOTING PRECINCTS, AND 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:

Designation of Saluda County Voting Precincts

SECTION 1. Section 7-7-480 of the 1976 Code is amended to read:

"Section 7-7-480. (A) In Saluda County there are the following voting precincts:

Centennial
Fruit Hill
Higgins/Zoar
Holly
Hollywood
Holstons
Pleasant Grove
Richland
Ridge Spring/Monetta

Saluda No. 1
Saluda No. 2
Sardis
Ward

(B) The precinct lines defining the above precincts are as shown on official maps on file with the Revenue and Fiscal Affairs Office designated as document P-81-20 and as shown on certified copies provided to the State Election Commission and the Board of Voter Registration and Elections of Saluda County by the office.

(C) The polling places for the precincts provided in this section must be established by the Board of Voter Registration and Elections of Saluda County subject to the approval of a majority of the Saluda County Legislative Delegation."

Time effective

SECTION 2. This act takes effect January 1, 2021.

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 160

(R185, H4938)

AN ACT TO AMEND SECTION 44-53-360, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING IN PART TO ELECTRONIC PRESCRIPTIONS, SO AS TO ADD CERTAIN EXCEPTIONS TO ELECTRONIC PRESCRIBING REQUIREMENTS AND TO MAKE TECHNICAL CORRECTIONS.

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

Electronic prescribing requirement, exceptions

SECTION 1. Section 44-53-360(j)(5), as last amended by Act 65 of 2019, and (k)(1), as added by Act 243 of 2018, of the 1976 Code, is further amended to read:

"(k)(1) Unless otherwise exempted by this subsection, a practitioner shall electronically prescribe any controlled substance included in Schedules II, III, IV, and V. This subsection does not apply to prescriptions for a controlled substance included in Schedules II through V issued by any of the following:

(A) a practitioner, other than a pharmacist, who dispenses directly to the ultimate user;

(B) a practitioner who orders a controlled substance included in Schedules II through V to be administered in a hospital, nursing home, hospice care program, home infusion pharmacy, outpatient dialysis facility, or residential care facility;

(C) a practitioner who experiences temporary technological or electrical failure or other extenuating technical circumstances that prevent a prescription from being transmitted electronically; however, the practitioner must document the reason for this exception in the patient's medical record;

(D) a practitioner who writes a prescription for a controlled substance included in Schedules II through V to be dispensed by a pharmacy located on federal property; however, the practitioner must document the reason for this exception in the patient's medical record;

(E) a person licensed to practice veterinary medicine pursuant to Chapter 69, Title 40;

(F) a practitioner who writes a prescription for a controlled substance included in Schedules II through V for a patient who is being discharged from a hospital, emergency department, or urgent care or for a patient who is receiving services from a facility established pursuant to Section 44-11-10; or

(G) a practitioner who issues an oral authorization in the case of an emergency situation.

(2) A prescription for a controlled substance included in Schedules II, III, IV, and V that includes elements that are not supported by the most recently implemented version of the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard is exempt from this subsection.

(3) A dispenser is not required to verify that a practitioner properly falls under one of the exceptions specified in item (1) or (2) before dispensing a controlled substance included in Schedules II through V. A dispenser may continue to dispense a controlled substance included in Schedules II through V from valid written, oral, faxed, or electronic prescriptions that are otherwise consistent with applicable laws.

(4) A dispenser is immune from any civil or criminal liability or disciplinary action from the State Board of Pharmacy for dispensing a prescription written by a prescriber that is in violation of this subsection.

(l)(1) A written prescription for any Schedule II, III, IV, and V controlled substance must be written on tamper-resistant prescription pads which contain one or more industry-recognized features designed to prevent all of the following:

(A) unauthorized copying of a completed or blank prescription form;

(B) erasure or modification of information written on the prescription by the prescriber; and

(C) use of counterfeit prescription forms."

Time effective

SECTION 2. This act takes effect January 1, 2021.

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 161

(R188, H4963)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 61-4-360 SO AS TO PROVIDE THAT A PRODUCER OR WHOLESALER MAY FURNISH OR GIVE CERTAIN SAMPLES OF WINES TO A RETAILER NOT TO EXCEED THREE LITERS ANNUALLY; AND BY ADDING SECTION 61-6-1650 SO AS TO PROVIDE THAT A PRODUCER OR WHOLESALER MAY FURNISH OR GIVE CERTAIN SAMPLES OF WINES IN EXCESS OF SIXTEEN PERCENT ALCOHOL, CORDIALS, OR DISTILLED SPIRITS TO A RETAILER NOT TO EXCEED THREE LITERS ANNUALLY.

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

Samples of wine

SECTION 1. Article 3, Chapter 4, Title 61 of the 1976 Code is amended by adding:

"Section 61-4-360. Notwithstanding any other provision of law, a producer or wholesaler may furnish or give a sample of wine 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 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 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."

Samples of wine in excess of sixteen percent alcohol, cordials, or distilled spirits

SECTION 2. Subarticle 1, Article 5, Chapter 6, Title 61 of the 1976 Code is amended by adding:

"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 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 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."

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 162

(R189, H5030)

AN ACT TO AMEND SECTION 12-28-2740, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DISTRIBUTION OF GASOLINE USER FEES AMONG COUNTIES AND COUNTY TRANSPORTATION COMMITTEES, SO AS TO PROVIDE FOR THE APPOINTMENT OF ADDITIONAL MEMBERS OF THE DORCHESTER COUNTY TRANSPORTATION COMMITTEE AND THE MANNER OF THEIR SELECTION.

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

Additional Dorchester County Transportation Committee members

SECTION 1. Section 12-28-2740(M) of the 1976 Code is amended to read:

"(M) In Dorchester County, appointments made pursuant to this section are governed by the provisions of Act 512 of 1996. In addition to the members and appointment procedures of the Dorchester County Transportation Committee as provided by this section and subsection, two additional members of the county transportation committee must be appointed from that portion of the Town of Summerville in Dorchester County and that portion of the City of North Charleston in Dorchester County. These members must be residents of the designated municipalities and of the county, and notwithstanding another provision of this subsection, must be appointed by the governing body of the respective municipality."

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 163

(R153, S259)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 62 TO TITLE 48 SO AS TO ESTABLISH THE SOUTH CAROLINA OFFICE OF RESILIENCE, TO DEVELOP, IMPLEMENT, AND MAINTAIN A STATEWIDE RESILIENCE PLAN AND TO COORDINATE STATEWIDE RESILIENCE AND DISASTER RECOVERY EFFORTS, TO PROVIDE THAT A CHIEF RESILIENCE OFFICER SHALL GOVERN THE OFFICE, TO ESTABLISH THE STATEWIDE RESILIENCE PLAN ADVISORY COMMITTEE, TO TRANSFER THE SOUTH CAROLINA DISASTER RECOVERY OFFICE TO THE SOUTH CAROLINA OFFICE OF RESILIENCE, AND TO CREATE THE DISASTER RELIEF AND RESILIENCE RESERVE FUND TO FUND THE STATEWIDE RESILIENCE PLAN, DISASTER RELIEF ASSISTANCE, AND HAZARD MITIGATION AND INFRASTRUCTURE IMPROVEMENTS, TO ESTABLISH THE SOUTH CAROLINA RESILIENCE REVOLVING FUND TO PROVIDE LOW INTEREST LOANS TO PERFORM FLOODED-HOME BUYOUTS AND FLOODPLAIN RESTORATION; AND TO AMEND SECTION 6-29-510, RELATING TO COMPREHENSIVE PLANS OF LOCAL PLANNING COMMISSIONS, SO AS TO REQUIRE LOCAL COMPREHENSIVE PLANS TO INCLUDE A RESILIENCE ELEMENT.

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

Office of Resilience, Resilience Revolving Fund created

SECTION 1. A.Title 48 of the 1976 Code is amended by adding:

"CHAPTER 62

Disaster Relief and Resilience Act

Article 1

South Carolina Office of Resilience

Section 48-62-10. As used in this article:
(1) 'Fund' means the Disaster Relief and Resilience Reserve Fund.
(2) 'Office' means the South Carolina Office of Resilience.

Section 48-62-20. (A) There is created the South Carolina Office of Resilience. The office shall develop, implement, and maintain the Statewide Resilience Plan and shall coordinate statewide resilience and disaster recovery efforts, including coordination with federal, state, and local governmental agencies, stakeholders, and nongovernmental entities.

(B) Additionally, the South Carolina Disaster Recovery Office as established by Executive Order 2016-13 and included within the South Carolina Department of Administration by Executive Order 2018-59 is transferred to, and incorporated into, the South Carolina Office of Resilience.

(C) The office shall be governed by a Chief Resilience Officer who shall be appointed by the Governor, with the advice and consent of the Senate. The Chief Resilience Officer shall serve at the pleasure of the Governor.

Section 48-62-30. To coordinate and strengthen efforts to reduce losses from future disasters across the State, the office shall develop, implement, and maintain a strategic Statewide Resilience Plan, which must include, but is not limited to:

(1) development and implementation of a Strategic Statewide Resilience and Risk Reduction Plan, which shall be developed in accordance with the principles recommended in the South Carolina Floodwater Commission Report and shall serve as framework to guide state investment in flood mitigation projects and the adoption of programs and policies to protect the people and property of South

Carolina from the damage and destruction of extreme weather events. This plan shall be reviewed and revised at appropriate intervals determined by the Chief Resilience Officer and advisory agencies to assure that it continues to serve the health, safety, and welfare of the citizens of South Carolina over time. An initial version of this plan shall be completed by July 1, 2022, and shall, at minimum, include provisions that:

(a) describe known flood risks for each of the eight major watersheds of the State, as delineated in the Department of Health and Environmental Control's South Carolina Watershed Atlas;

(b) for each major watershed, examine present and potential losses associated with the occurrence of extreme weather events and other natural catastrophes in this State, and land management practices that potentiate extreme weather events, resulting in increased flooding, wildfires, and drought conditions;

(c) for each major watershed, identify data and information gaps that affect the capacity of state agencies or local governments to adequately evaluate and address the factors that increase flood risk, and recommend strategies to overcome such gaps;

(d) develop recommendations, at appropriate scale, including subwatershed or local governmental levels, to decrease vulnerabilities and adverse impacts associated with flooding. In developing these recommendations, the office shall, at a minimum, consider the following:

(i) the economic impact of best available projections related to the current and future risk of extreme weather events in this State including, but not limited to, the impact on forestry, agriculture, water, and other natural resources, food systems, zoning, wildlife, hunting, infrastructure, economic productivity and security, education, and public health;

(ii) the long-term costs, including ongoing operation and maintenance costs of specific projects or suites of flood mitigation projects and approaches;

(iii) opportunities to prioritize the role of nature-based solutions and other methods to restore the natural function of the floodplain;

(iv) possible cobenefits that may be achieved beyond flood reduction including, but not limited to, enhanced water supply, improvements in water quality, tourism and recreational opportunities, or protection of wildlife and aquatic resources;

(v) statutory or regulatory remedies for consideration by the General Assembly;

(vi) necessary state policies or responses, including alterations to state building codes and land use management, creation of additional programs or offices and directions for the provision of clear and coordinated services and support to reduce the impact of natural catastrophes and extreme weather events and increase resiliency in this State; and

(vii) potential financial resources available for increasing resiliency throughout the State;

(e) estimates of the number and cost of residential properties within the State for which a floodplain buyout may be appropriate;

(f) a strategy for providing resources, technical assistance, and other support to local governments for flood risk reduction action;

(g) plans for integrating recommended approaches to risk reduction into existing state strategies for hazard mitigation, environmental protection, and economic opportunity and development;

(h) opportunities for stakeholder input from citizens around the State;

(2) coordination of statewide disaster recovery efforts and activities and collaboration between federal, state, and local stakeholders;

(3) technical planning assistance for state and local governmental entities; and

(4) grants to institutions of higher education and other state and local governmental entities to conduct research related to resilience concerns specific to South Carolina.

Section 48-62-40. (A) To aid in the development of the Statewide Resilience Plan, there is created the Statewide Resilience Plan Advisory Committee. The committee must be composed of:

(1) the Director of the Department of Natural Resources, or his designee;

(2) the Director of the Department of Insurance, or his designee;

(3) a representative of the South Carolina Disaster Recovery Office appointed by the Chief Resilience Officer;

(4) the Commissioner of Agriculture, or his designee;

(5) the Director of the South Carolina Emergency Management Division, or his designee;

(6) the Executive Director of the Sea Grant Consortium, or his designee; and

(7) the Secretary of the Department of Commerce, or his designee.

(B) In addition to the members set forth in subsection (A), the Chief Resilience Office may add members to the advisory board as he deems

necessary and proper. All governmental agencies must cooperate with the advisory board to fulfill its mission.

Section 48-62-50. There is created in the State Treasury the Disaster Relief and Resilience Reserve Fund, which shall be separate and distinct from the general fund and all other reserve funds. Funds appropriated to the fund only may be used to develop, implement, and maintain the Statewide Resilience Plan, and for disaster relief assistance, hazard mitigation, and infrastructure improvements as set forth in this article. Interest accrued by the fund must remain in the fund and unexpended funds must be retained and carried forward to be used for the same purposes.

Section 48-62-60. (A) Following a federally declared disaster, the Disaster Relief and Resilience Reserve Fund may make available immediate disaster relief assistance to aid resilient rebuilding in affected communities with significant unmet needs. For purposes of this section, disaster relief assistance includes, but is not limited to:

(1) financial assistance to state and local governmental entities to provide the nonfederal share for federal disaster assistance programs;

(2) infrastructure repairs for homeowners and communities that are not eligible for Community Development Block Grant - Disaster Recovery and other federal funding assistance;

(3) loans and grants to local governments in disaster areas that need immediate cash flow assistance;

(4) grants to governmental entities and organizations exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code to repair or replace infrastructure or equipment damaged as a result of a natural disaster; and

(5) financial assistance for verifiable losses of agricultural commodities due to a natural disaster.

(B) Activities completed using disaster relief assistance from the fund shall account for future risks and hazard exposure in order to rebuild in a manner that will reduce the exposure of the community to future hazards and reduce future losses, consistent with the implementation of the Statewide Resilience Plan.

(C) In order to qualify for disaster relief assistance, eligible fund recipients must apply to the office and meet all criteria set forth by the office.

Section 48-62-70. (A) To satisfy the purposes of removing residents from hazard areas, safeguarding property, and restoring the natural

function of the floodplain, the Disaster Relief and Resilience Reserve Fund may be allocated to enable hazard mitigation and infrastructure improvements through loans and through a competitive grant process administered by the office. For purposes of this section, hazard mitigation and infrastructure improvements include, but are not limited to:

(1) mitigation buyouts, relocations, and buyout assistance for homes, including multifamily units, not covered by the Hazard Mitigation Grant Program;

(2) gap funding related to buyouts in order to move residents out of floodplain hazard areas and restore or enhance the natural flood-mitigation capacity of functioning floodplains;

(3) assistance to low- and moderate-income homeowners to help lower flood risk through flood insurance, structural and nonstructural mitigation projects, or other means;

(4) loans and grants to state and local governmental entities for hazard mitigation and infrastructure improvement projects; and

(5) approved mitigation projects identified in local post-disaster recovery plans created and adopted prior to a disaster.

(B) Upon its creation, funding priority must be given to projects identified by the Statewide Resilience Plan or local hazard mitigation plans.

(C) In approving financial assistance for hazard mitigation and infrastructure improvement projects, the office shall ensure that selected projects are in compliance with requirements of the National Flood Insurance Program or any more stringent requirements adopted by a local government and shall give priority to projects which offer enhanced protection from future flood events or which utilize or incorporate natural features to achieve protections. Funds may not be used for projects which, rather than lowering risks overall, increase the flood vulnerabilities of neighboring areas.

(D) In order to qualify for hazard mitigation and infrastructure improvement grants and loans, eligible fund recipients must apply to the office and meet all criteria set forth by the office.

Article 3

South Carolina Resilience Revolving Fund

Section 48-62-310. As used in this article:

(1) ‘Authority’ means the South Carolina Disaster Recovery Office within the South Carolina Office of Resilience.

(2) 'Conservation easement' means an interest in real property as defined in Chapter 8, Title 27, the South Carolina Conservation Easement Act of 1991.

(3) 'Eligible fund recipient' means:

(a) the State of South Carolina and any agency, commission, or instrumentality of the State;

(b) local governments of the State and any agency, commission, or instrumentality of the local government; and

(c) land trusts operating within the State accredited by the Land Trust Accreditation Commission, an independent program of the Land Trust Alliance that provides independent verification that land trusts meet the high standards of land conservation, stewardship, and nonprofit management in the nationally recognized Land Trust Standards and Practices.

(4) 'Floodplain restoration' means any activity undertaken to reestablish the hydrology and ecology of the floodplain to its natural state.

(5) 'Fund' means the South Carolina Resilience Revolving Fund.

(6) 'Loan' means a loan from the authority to an eligible fund recipient for the purpose of financing all or a portion of the cost of a project.

(7) 'Loan agreement' means a written agreement between the authority and a project sponsor with respect to a loan.

(8) 'Loan obligation' means a bond, note, or other evidence of obligation issued by a project sponsor to evidence its indebtedness under a loan agreement with respect to a loan.

(9) 'Local government' means any county, city, town, municipal corporation, authority, district, commission, or political subdivision created by the General Assembly or established pursuant to the laws of this State.

(10) 'Multifamily residence' means a building with multiple separate residential housing units.

(11) 'Office' means the South Carolina Office of Resilience.

(12) 'Primary single-family residence' means a single detached dwelling that is occupied as the main home by the owners for the majority of the year.

(13) 'Proposed project' means a plan submitted to the authority by an eligible fund recipient for the use of loan funds.

(14) 'Repetitive loss' means a residence that sustained two or more incidents of weather-related flooding causing damages over one thousand dollars each within a period of ten consecutive years.

(15) 'Restrictive covenant' means a recorded covenant that imposes activity and use limitations on real property.

Section 48-62-320. There is created the South Carolina Resilience Revolving Fund. The fund is governed by the authority. The authority is a public instrumentality of this State, and the exercise by it of a power conferred in this article is the performance of an essential public function. The Director and staff of the South Carolina Disaster Recovery Office comprise the authority, under the supervision and review of the Chief Resilience Officer and the Governor.

Section 48-62-330. (A) With regard to the fund, the authority is authorized to:

(1) make and service below-market interest rate loans and grants as financial incentives to eligible fund recipients meeting the criteria of Section 48-62-50 for the purchase of flooded properties and land to complete floodplain restorations, so long as the loans advance the purposes of this article and meet applicable criteria;

(2) enter into loan agreements and accept and enforce loan obligations, so long as the loans advance the purposes of this article and meet applicable criteria;

(3) receive and collect the inflow of payments on loan amounts;

(4) apply for and receive additional funding for the fund from federal, state, private, and other sources;

(5) receive charitable contributions and donations to the fund;

(6) receive contributions to the fund in satisfaction of any public or private obligation for flooding mitigation, whether such obligation arises out of law, equity, contract, regulation, administrative proceeding, or judicial proceeding. Such contributions must be used as provided for in this article;

(7) make and execute contracts and all other instruments and agreements necessary or convenient for the performance of its duties and the exercise of its powers and functions;

(8) establish policies and procedures for the making and administration of loans, fiscal controls, and accounting procedures to ensure proper accounting and reporting; and

(9) exercise its discretion in determining what portion of funds must be disbursed and awarded in any particular year and what portion of funds shall remain in the fund from one fiscal year to the next. Sums within the fund must be invested or deposited into interest-bearing instruments or accounts, and the accrued interest must be credited to the fund.

(B) To carry out these functions, the authority shall:

(1) operate a program in order to implement the purposes of this article;

(2) receive final approval from the State Fiscal Accountability Authority for fund disbursements prior to the issuance of a loan;

(3) develop additional guidelines and prescribe procedures, consistent with the criteria and purposes of this article;

(4) submit an annual report to the Governor, Lieutenant Governor, State Treasurer, and General Assembly that:

(a) accounts for fund receipts and disbursements;

(b) briefly describes applications submitted to the fund and, in greater detail, describes grants and loans that were approved or funded during the current year and the public benefits, including increased flood retention resulting from such grants and loans;

(c) describes recipients of fund loans and grant monies; and

(d) sets forth a list and description of all loans and grants approved and all acquisitions of homes and lands obtained since the fund's inception; and

(5) have an annual audit of the fund conducted by outside independent certified public accountants and submitted to the Governor, Lieutenant Governor, State Treasurer, and General Assembly. The accounting of fund receipts and expenditures required above must be part of this annual audit.

Section 48-62-340. (A) In the issuing of loans, the authority must:

(1) prioritize the buyout of blocks or groups of homes rather than individual homes so that no more than fifteen percent of funds disbursed in a fiscal year go toward individual home buyouts;

(2) prioritize buyouts of single-family primary residences and multifamily residences;

(3) consider the availability of additional funding sources leveraged by a project;

(4) prevent the use of the fund for homes built after July 1, 2020;

(5) prevent the use of the fund for proposed projects that involve the use of eminent domain; and

(6) prioritize the use of the fund for low- and moderate -income households making less than one hundred twenty-five percent of the median household income in the jurisdiction of the eligible fund recipient.

(B) The authority must issue loans using the following criteria and conditions:

(1) offer a funding package of grants and loans for a particular project that carries an overall effective interest rate equivalent to no higher than forty percent of the market interest rate as defined by the ten-year United States Treasury Yield Curve;

(2) make a portion of each loan available as a grant not requiring payment as a financial incentive to reduce the loan amount, that portion being no greater than twenty-five percent and no less than five percent of the total project disbursement, to incrementally reward those eligible fund recipients that execute beneficial flood mitigation practices. To qualify for a grant, eligible fund recipients must execute one or more of the following beneficial flood mitigation practices:

(a) ensuring residents relocate outside of the floodplain;

(b) aiding residents in relocating outside of the floodplain and within the tax base;

(c) aiding residents in relocating outside of the floodplain within an area designated as an opportunity zone;

(d) conducting floodplain restoration after the property is converted to open space to reestablish the full water storing benefits of the floodplain;

(e) completing a buyout of an area larger than ten acres; and

(f) other activities as deemed appropriate by the authority so long as they contribute to flood resilience in the community of the buyout;

(3) require that acquired properties are returned to open space and that all future development on the parcel is prohibited in perpetuity through easement or restrictive covenant; and

(4) prohibit the use of more than five hundred thousand dollars for each housing unit receiving loan funds.

(C) Eligible fund recipients may apply for loans from the fund to complete:

(1) buyouts of repetitive loss properties;

(2) buyouts of repetitive loss properties with land intended for floodplain restoration; and

(3) floodplain restoration in connection with buyouts funded through other mechanisms.

(D) In order to qualify for a loan, eligible fund recipients must apply to the authority and, at a minimum, meet the following criteria:

(1) for buyouts of repetitive loss properties:

(a) identify specific properties included in the proposed project;

(b) demonstrate how the properties qualify as repetitive loss properties;

(c) identify a plan and timeline for returning the property to open space within six months following the completion of the buyout and holding an easement or restrictive covenant on the land in perpetuity;

(d) complete an economic assessment to show the costs and benefits of the project; and

(e) identify any beneficial flood mitigation practices planned for the project;

(2) for buyouts of repetitive loss properties with land intended for floodplain restoration:

(a) identify specific properties included in the proposed project;

(b) demonstrate how the properties qualify as repetitive loss properties;

(c) identify a plan and timeline for returning the property to open space within six months following the completion of the buyout and holding an easement or restrictive covenant on the land in perpetuity;

(d) complete an economic assessment to show the costs and benefits of the project;

(e) submit a plan for conducting floodplain restoration; and

(f) identify any additional beneficial flood mitigation practices planned for the project;

(3) for other floodplain restoration:

(a) submit a plan and timeline for conducting floodplain restoration;

(b) identify a plan and timeline for holding an easement or restrictive covenant on the land in perpetuity;

(c) complete an economic assessment to show the costs and benefits of the project; and

(d) identify any additional beneficial flood mitigation practices planned for the project; and

(4) any additional criteria required by external grants contributing to the fund.

(E) Financial criteria also must be met pursuant to the standards set by the authority. The authority may require additional criteria and exercise discretion in issuing loans.

Section 48-62-350. (A) The fund must be held and administered by the authority in accordance with the provisions of this article and policies, rules, regulations, directives, and agreements as may be promulgated or entered into by the authority pursuant to this article. Earnings on balances in the fund must be credited to the fund. Amounts remaining in the fund at the end of the fiscal year accrue only to the credit of the fund. Amounts in the fund must be available in perpetuity

for the purpose of providing financial assistance in accordance with the provisions of this article.

(B) The authority is authorized to deposit the following into the fund:

(1) federal capitalization grants, awards, or other federal assistance received by the office for the purposes of the fund;

(2) funds appropriated by the General Assembly for deposit to the fund;

(3) payments received from a recipient in repayment of a loan;

(4) interest or other income earned on the investment of monies in the fund; and

(5) additional monies made available from public or private sources for the purposes of which the fund has been established.

(C) Monies in the fund only may be used to:

(1) make loans to eligible fund recipients in accordance with the provisions of this article;

(2) earn interest on fund accounts; and

(3) provide for the program administration and project management activities of the fund.

(D) The authority may establish accounts and subaccounts within the fund as considered desirable to effectuate the purposes of this article.

Section 48-62-360. In addition to appropriations made by the General Assembly, the office shall seek out additional sources of funding to sustain the fund, including federal dollars from the Department of Housing and Urban Development Community Development Block Grant-Disaster Recovery appropriations. Additional appropriations to the fund may be requested from the General Assembly so as to expand the capabilities of the fund.

Section 48-62-370. The office may:

(1) promulgate regulations to effectuate the provisions of this article;

(2) establish an operational structure within its authority to administer the fund;

(3) develop priority systems that ensure consistency with the provisions of this article;

(4) prepare annual plans in accordance with this article;

(5) receive monies from the fund for program administration and project management activities of the fund; and

(6) hire staff and employ agents, advisers, consultants, and other employees, including attorneys, financial advisers, engineers, and other technical advisers, and public accountants and determine their duties and compensation.

Section 48-62-380. The provisions of this article must be liberally construed to the end that its beneficial purposes may be effectuated. No proceeding, notice, or approval is required for loan obligations by a project sponsor or instruments or the security for the loan obligation, except as provided in this article. If the provisions of this article are inconsistent with the provisions of any other law, whether general, special, or local, then the provisions of this article are controlling."

B.(A) As set forth in Section 48-62-20(B), the South Carolina Disaster Recovery Office as established by Executive Order 2016-13 and included within the South Carolina Department of Administration by Executive Order 2018-59 is transferred to, and incorporated into, the South Carolina Office of Resilience.

(B) The South Carolina Disaster Recovery Office, and to the extent necessary, the South Carolina Department of Administration, shall take all necessary actions to accomplish this transfer in accordance with any state and federal laws and regulations.

(C) The employees, authorized appropriations, and assets and liabilities of the South Carolina Disaster Recovery Office also are transferred to and become part of the South Carolina Office of Resilience.

(D) On the effective date of this act, all classified or unclassified personnel employed by the South Carolina Disaster Recovery Office, either by contract or by employment at will, and all permanent or temporary grant employees become employees of the South Carolina Office of Resilience, with the same compensation, classification, and grade level, as applicable.

(E) Any rules or regulations which have been promulgated by the South Carolina Disaster Recovery Office and any applicable contracts entered into by the South Carolina Disaster Recovery Office are continued in full force and effect.

Local comprehensive plan, resiliency element required

SECTION 2. Section 6-29-510(D) of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

"( ) a resiliency element that considers the impacts of flooding, high water, and natural hazards on individuals, communities, institutions, businesses, economic development, public infrastructure and facilities, and public health, safety and welfare. This element includes an inventory

of existing resiliency conditions, promotes resilient planning, design and development, and is coordinated with adjacent and relevant jurisdictions and agencies. For the purposes of this item, 'adjacent and relevant jurisdictions and agencies' means those counties, municipalities, public service districts, school districts, public and private utilities, transportation agencies, and other public entities that are affected by or have planning authority over the public project. For the purposes of this item, 'coordination' means written notification by the local planning commission or its staff to adjacent and relevant jurisdictions and agencies of the proposed projects and the opportunity for adjacent and relevant jurisdictions and agencies to provide comment to the planning commission or its staff concerning the proposed projects. Failure of the planning commission or its staff to identify or notify an adjacent or relevant jurisdiction or agency does not invalidate the local comprehensive plan and does not give rise to a civil cause of action. This element shall be developed in coordination with all preceding elements and integrated into the goals and strategies of each of the other plan elements."

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 29th day of September, 2020.

No. 164

(R156, S613)

AN ACT TO AMEND SECTION 59-48-70, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ENDOWMENT FUND OF THE SCHOOL OF SCIENCE AND MATHEMATICS, SO AS TO PROVIDE THAT THE ENDOWMENT FUND IS SUBJECT TO THE DIRECTION OF THE BOARD OF TRUSTEES OF THE SCHOOL, AND TO PROVIDE FOR THE ORGANIZATION AND OPERATION OF THE ENDOWMENT FUND; BY ADDING SECTION 59-49-35 SO AS TO REQUIRE CERTAIN TRAINING OF THE BOARD OF TRUSTEES OF THE

JOHN DE LA HOWE SCHOOL; BY ADDING SECTION 59-49-85 SO AS TO PROVIDE QUALIFICATIONS OF THE FACULTY OF THE JOHN DE LA HOWE SCHOOL; BY ADDING SECTION 59-49-112 SO AS TO PROVIDE THE BOARD OF THE JOHN DE LA HOWE SCHOOL SHALL ESTABLISH THE STANDARD COURSE OF STUDY OF THE SCHOOL; BY ADDING SECTION 59-49-115 SO AS TO PROVIDE FOR THE AWARDING OF DIPLOMAS BY THE JOHN DE LA HOWE SCHOOL; BY ADDING SECTION 59-49-117 SO AS TO PROVIDE ADMISSIONS REQUIREMENTS OF STUDENTS OF THE JOHN DE LA HOWE SCHOOL; BY ADDING SECTION 59-49-135 SO AS TO PROVIDE THE BOARD OF THE JOHN DE LA HOWE SCHOOL SHALL ESTABLISH A FOUNDATION AND MAINTAIN AN ENDOWMENT FUND FOR THE SCHOOL IN A CERTAIN MANNER; BY ADDING SECTION 59-49-160 SO AS TO PROVIDE CERTAIN PUBLIC SAFETY MEASURES REGARDING THE JOHN DE LA HOWE SCHOOL; TO AMEND SECTION 59-49-10, RELATING TO THE ESTABLISHMENT OF THE JOHN DE LA HOWE SCHOOL, SO AS TO RENAME AND REESTABLISH THE SCHOOL AS THE "GOVERNOR'S SCHOOL FOR AGRICULTURE AT JOHN DE LA HOWE", AND TO PROVIDE THE PURPOSE OF THE SCHOOL; TO AMEND SECTION 59-49-20, RELATING TO THE BOARD OF TRUSTEES OF THE JOHN DE LA HOWE SCHOOL, SO AS TO ADD CERTAIN EX OFFICIO MEMBERS; TO AMEND SECTION 59-49-30, RELATING TO REMOVAL OF BOARD MEMBERS OF THE JOHN DE LA HOWE SCHOOL BOARD OF TRUSTEES BY THE GOVERNOR FOR CAUSE, SO AS TO MAKE GRAMMATICAL CHANGES; TO AMEND SECTION 59-49-40, RELATING TO MEETINGS OF THE BOARD, SO AS TO MAKE GRAMMATICAL CHANGES; TO AMEND SECTION 59-49-70, RELATING TO THE DECLARATION OF THE SCHOOL AS A BODY POLITIC, SO AS TO MAKE CONFORMING CHANGES CONCERNING THE RENAMING OF THE SCHOOL; TO AMEND SECTION 59-49-100, RELATING TO THE PURPOSE OF THE JOHN DE LA HOWE SCHOOL, SO AS TO PROVIDE ADDITIONAL ADMISSIONS CRITERIA; TO AMEND SECTION 59-49-110, RELATING TO THE CONDUCT OF FORESTRY AND FARM PRACTICES BY THE JOHN DE LA HOWE SCHOOL AND USE OF REVENUE DERIVED FROM THESE PRACTICES, SO AS TO PROVIDE THE SCHOOL SHALL SERVE AS A DEMONSTRATION FARM

AND PROVIDE INSTRUCTION AND SUPPORT TO FARMERS AND PERSONS WORKING IN, OR WHO HAVE AN INTEREST IN, THE BUSINESS OF AGRICULTURE; TO AMEND SECTION 59-49-130, RELATING TO PROVISIONS CONCERNING THE USE OF INCOME DERIVED FROM CERTAIN ENDEAVORS BENEFITING THE JOHN DE LA HOWE SCHOOL, SO AS TO PROVIDE FOR THE USE OF INCOME DERIVED FROM SUCH ENDEAVORS; AND TO AMEND SECTION 59-49-150, RELATING TO EXPENSES OF STUDENTS OF THE JOHN DE LA HOWE SCHOOL, SO AS TO PROVIDE STUDENTS WHO ARE LEGAL RESIDENTS OF THIS STATE ARE NOT REQUIRED TO PAY TUITION BUT SHALL PAY CERTAIN FEES FOR MAINTENANCE AND FOOD SERVICES UNLESS THEY MEET CERTAIN POVERTY REQUIREMENTS, AND TO PROVIDE ALL OUT-OF-STATE AND FOREIGN EXCHANGE STUDENTS WHO ATTEND THE SCHOOL SHALL PAY TUITION AND CERTAIN FEES FOR MAINTENANCE AND FOOD SERVICES.

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

School of Science and Mathematics endowment fund, organization and operation

SECTION 1. Section 59-48-70 of the 1976 Code is amended to read:

"Section 59-48-70. (A) The board shall create a Development Office for the school that will be headed by an executive director. The executive director shall be an employee of the school, be hired by the head of the school, and serve at his pleasure with a salary that shall be set by the board. The board may establish and maintain an endowment fund for the school that is subject to the direction of the Executive Director of the Development Office and that has the primary purpose of raising funds to support the furtherance of the school's mission, goals, and objectives.

(B) The endowment fund must be organized on a nonprofit basis as a separate legal entity recognized under and in compliance with the laws of this State.

(C)(1) In consultation with the Executive Director of the Development Office, the endowment fund must adopt an annual operations and capital budget. Prior to adopting the annual budget, the head of the endowment fund must meet with the Executive Director of the Development Office and the head of the school to review the

endowment fund's proposed budget, and prior to any subsequent proposed material changes to the budget. The endowment fund budget and its fundraising goals must exclusively be based on the operation and capital goals of the school as provided to the foundation by the Executive Director of the Development Office and the head of the school.

(2) The endowment fund shall not accept any donations that are restricted in their use unless the proposed restriction is approved by the board prior to its acceptance and unless the funds are being used for a purpose that is needed by the school.

(D) Prior to taking any action, including fundraising, on behalf of the school, the board and the endowment fund must enter into a written agreement detailing the corresponding rights, duties, and responsibilities of the endowment fund."

John de la Howe School, trustee training

SECTION 2. Chapter 49, Title 59 of the 1976 Code is amended by adding:

"Section 59-49-35. (A) All members of the board of trustees shall complete successfully a training program on the powers, duties, and responsibilities of a board member including, but not limited to, topics on policy development, personnel, school leadership and board relations, student programs, finance, school law, ethics, and community relations, as determined by the board of trustees. Training regarding how best to serve the students in their care also must be provided.

(B) Within one year of taking office, all persons elected as members of the board of trustees after July 1, 2018, also must complete the training prescribed in subsection (A)."

John de la Howe School, faculty qualifications

SECTION 3. Chapter 49, Title 59 of the 1976 Code is amended by adding:

"Section 59-49-85. (A) The agricultural and natural resources instructional program may use part-time or full-time faculty members who hold advanced degrees or extensive professional experience in the agricultural and natural resources industry and whose professional expertise can be demonstrated by their training and accomplishments as recognized by state or national organizations and affiliations. As an alternative to traditional certification, these faculty members shall

participate annually in professional development programs approved by the president and the board of trustees. Pursuant to this chapter, the board of trustees shall adopt policies and regulations governing development of the agricultural and natural resources instructional program.

(B) The academic program must be comprised of faculty who hold one or more degrees in the specific subject to be taught and who must have achieved traditional state certification in the area of instruction. Teacher certification must be maintained pursuant to state law and regulations.

(C) The president and the board will determine the salary scale of teachers and administrators of the school, not to exceed the highest salaries of any public school district in the State for those designated positions."

John de la Howe School, courses of study

SECTION 4. Chapter 49, Title 59 of the 1976 Code is amended by adding:

"Section 59-49-112. The board shall establish the standard course of study for the school. This course of study must include instruction in the areas that constitute the usual high school curriculum and provide in-depth instruction in agriculture, natural resources, and biotechnology."

John de la Howe School, diplomas

SECTION 5. Chapter 49, Title 59 of the 1976 Code is amended by adding:

"Section 59-49-115. The students enrolled in the school who earn a total of twenty-four units of credit distributed as specified in the Defined Minimum Program for South Carolina school districts and who meet the school's requirements for graduation are eligible to receive a state high school diploma. The board, in its discretion, may issue its own high school diploma for students that exceed the state requirements for a high school diploma."

John de la Howe School, admissions requirements

SECTION 6. Chapter 49, Title 59 of the 1976 Code is amended by adding:

"Section 59-49-117. The school shall admit students in accordance with the admission criteria, standards, and procedures as established and approved by the board. To be eligible for admission to the school, an applicant must be a legal resident of South Carolina, unless the board of trustees establishes a special exemption to accept out-of-state or international exchange students. Students must have a career interest in an agricultural or natural resources field and possess a high level of commitment, motivation, and maturity."

John de la Howe School, foundation and endowment fund

SECTION 7. Chapter 49, Title 59 of the 1976 Code is amended by adding:

"Section 59-49-135. (A) The board shall create a Development Office for the school that will be headed by an executive director. The executive director shall be an employee of the school, be hired by the head of the school, and serve at his pleasure with a salary that shall be set by the board. The board may establish and maintain an endowment fund for the school that is subject to the direction of the Executive Director of the Development Office and that has the primary purpose of raising funds to support the furtherance of the school's mission, goals, and objectives.

(B) The endowment fund must be organized on a nonprofit basis as a separate legal entity recognized under and in compliance with the laws of this State.

(C)(1) In consultation with the Executive Director of the Development Office, the endowment fund must adopt an annual operations and capital budget. Prior to adopting the annual budget, the head of the endowment fund must meet with the Executive Director of the Development Office and the head of the school to review the endowment fund's proposed budget, and prior to any subsequent proposed material changes to the budget. The endowment fund budget and its fundraising goals must exclusively be based on the operation and capital goals of the school as provided to the foundation by the Executive Director of the Development Office and the head of the school.

(2) The endowment fund shall not accept any donations that are restricted in their use unless the proposed restriction is approved by the board prior to its acceptance and unless the funds are being used for a purpose that is needed by the school.

(D) Prior to taking any action, including fundraising, on behalf of the school, the board and the endowment fund must enter into a written agreement detailing the corresponding rights, duties, and responsibilities of the endowment fund."

John de la Howe School, public safety

SECTION 8. Chapter 49, Title 59 of the 1976 Code is amended by adding:

"Section 59-49-160. (A) The board of trustees may employ campus police to police the buildings and grounds of the school. These campus police shall work under the supervision of the South Carolina Law Enforcement Division and may not enter into such employment unless and until they have been appointed Governor's constables with general authority as peace officers.

(B) All traffic laws of the State are in full force and effect on the streets and roads of the school, whether such streets and roads are considered public or private.

(C) The board may promulgate reasonable additional regulations relating to vehicular traffic within the grounds of the school including, but not limited to, parking of vehicles and reduced vehicular speeds, notwithstanding any other provision of law, and to provide penalties for violations of these regulations, not to exceed a fine of one hundred dollars. These regulations have the full force and effect of law and violations of them are triable in magistrates court. The board also may charge parking fees, issue parking passes, and erect gates and guard houses to control entry to the campus."

John de la Howe School, name changed, purpose clarified

SECTION 9. Section 59-49-10 of the 1976 Code is amended to read:

"Section 59-49-10. (A) There is established the Governor's School for Agriculture at John de la Howe to provide training for students who have a career aptitude in agriculture, agribusiness, natural resources, and biotechnology. It also will serve as a research and resource center for students and conduct adult education programs for teachers, farmers, and

persons involved in the industry of agricultural and natural resources. This residential and day school shall provide intensive preprofessional and professional instruction in agriculture that a student may complete to satisfy the requirements for a high school diploma and be prepared for college-level study.

(B) The school is named the Governor's School for Agriculture at John de la Howe."

John de la Howe School, ex officio trustees established

SECTION 10. Section 59-49-20 of the 1976 Code is amended to read:

"Section 59-49-20. (A) The business, property, and affairs of the school must be under the control of a board of trustees, consisting of nine members, appointed by the Governor, subject to confirmation by the Senate. The terms of the members of the board must be for terms of five years. Appointments to fill vacancies must be for the remainder of the terms in the same manner of original appointments.

(B) The following shall serve as nonvoting ex officio members of the board:

(1) the Dean of the College of Agriculture at Clemson University or his designee;

(2) the Dean of the College of Education at Clemson University or his designee;

(3) the Dean of the School of Business at South Carolina State University or his designee;

(4) the Chair of the Department of Accounting, Agribusiness, and Economics at South Carolina State University or his designee;

(5) the State Superintendent of Education or his designee; and

(6) the Chair of the Agriculture Program at Piedmont Technical College and the President of Piedmont Technical College."

John de la Howe School, removal of trustees

SECTION 11. Section 59-49-30 of the 1976 Code is amended to read:

"Section 59-49-30. The Governor may remove the members of the board for good cause at any time. The failure of any member of the board to attend at least one meeting thereof in any year, unless excused by formal vote of the board, may be construed by the Governor as the resignation of such nonattending member."

John de la Howe School, trustee meetings

SECTION 12. Section 59-49-40 of the 1976 Code is amended to read:

"Section 59-49-40. The board shall meet quarterly and more often as may be required. Meetings should be held at the school."

John de la Howe School, status as body politic

SECTION 13. Section 59-49-70 of the 1976 Code is amended to read:

"Section 59-49-70. The Governor's School for Agriculture at John de la Howe is declared to be a body corporate and, as such, may sue and be sued and plead and be impleaded in its corporate name, may have and use a proper seal, which it may alter at its pleasure and may acquire by purchase, deed, devise, lease for a term of years, bequest or otherwise such property, real and personal, in fee simple without limitations as may be necessary or proper for carrying out the purposes of its organization as herein declared."

John de la Howe School, admissions requirements

SECTION 14. Section 59-49-100 of the 1976 Code is amended to read:

"Section 59-49-100. (A) It is declared to be the purpose and policy of the State to maintain and develop the school property in accordance with the purposes of the will of Dr. John de la Howe as interpreted by the Supreme Court of South Carolina, Mars v. Gibert, 93 SC 455, which for historical reference reads: 'First, the establishment and maintenance of an agricultural and mechanical school as an institution in Abbeville County, stimulating and improving the industrial life of the entire community; second, the training, free of charge, of twenty-four boys and girls, not as college men and women, but in the beginning of school life; and, third, the like training of the children of the neighborhood not supported by the fund.' It is declared that the term 'Abbeville County' shall be understood to mean that portion of South Carolina known as Abbeville County at the time the will of Dr. John de la Howe was dated, namely January 2, 1797. The property is now in McCormick County. It is further declared that, given the above historical perspective, the board shall instruct the president of the school to implement programs which

shall meet the needs of children from all of South Carolina who have an interest in agriculture, biotechnology, and natural resources.

(B) Under the provisions of the will and the bequest accepted by the State of South Carolina, the school must 'educate twelve poor boys and twelve poor girls'. To meet this requirement, the school shall use the current measures of poverty as defined by the State Department of Education.

(C) Also under the provisions of the will and the subsequent bequest, the board may allow local students to attend as day students provided they meet the admissions requirements. The board will determine equity of admissions statewide."

John de la Howe School, practices

SECTION 15. Section 59-49-110 of the 1976 Code is amended to read:

"Section 59-49-110. (A) The school may carry out improved forestry and farm practices on the timber holdings and farmland of the school property and apply the revenues derived from them and any other revenue source on the property for the further improvement and development of the school forest and farmlands and for other school purposes.

(B) The school shall serve as a demonstration farm and shall provide instruction and support to farmers and persons working in, or who have an interest in, the business of agriculture."

John de la Howe School, income uses

SECTION 16. Section 59-49-130 of the 1976 Code is amended to read:

"Section 59-49-130. All income that the school receives from the sale of timber or farm products and from programs and events held on campus must be used for the construction, erection, and building of permanent improvements at the school and for maintaining and equipping of capital improvements."

John de la Howe School, tuition and fees

SECTION 17. Section 59-49-150 of the 1976 Code is amended to read:

"Section 59-49-150. A student who is a legal resident of this State may attend the school without paying tuition, but may pay fees for maintenance and food services unless he meets the poverty requirements as defined in the will of John de la Howe and by current rules or regulations of the State Department of Education defining measures of poverty. Notwithstanding these provisions, all out-of-state and international exchange students admitted to the school shall pay tuition and fees for maintenance and food services as determined by the board."

Time effective

SECTION 18. This act takes effect upon approval by the Governor.

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 165

(R159, S881)

AN ACT TO AMEND SECTION 38-9-200, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REINSURANCE CREDITS, SO AS TO, AMONG OTHER THINGS, ADOPT THE RECIPROCAL JURISDICTION AMENDMENT FROM THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS (NAIC) MODEL LAW AND TO MAKE OTHER CONFORMING CHANGES; AND TO AMEND SECTION 38-9-210, AS AMENDED, RELATING TO THE REDUCTION FROM LIABILITY FOR REINSURANCE, SO AS TO CORRECT A STATUTORY REFERENCE.

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

Reinsurance credits

SECTION 1. Section 38-9-200 of the 1976 Code, as last amended by Act 172 of 2018, is further amended to read:

"Section 38-9-200. (A) Credit for reinsurance must be allowed a domestic ceding insurer as an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of subsection (B), (C), (D), (E), (F), (G), or (H) provided that the director or his designee may, pursuant to subsection (N), adopt by regulation additional specific requirements in relation to or setting forth the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements, or the circumstances pursuant to which a credit may be reduced or eliminated. Credit only may be allowed under subsection (B), (C), or (D) of this section as respects cessions of those kinds or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. If meeting the requirements of subsection (D) or (E), the requirements of subsection (I) also must be met.

(B) Credit must be allowed when the reinsurance is ceded to an assuming insurer which is licensed to transact insurance or reinsurance in this State or approved as a reinsurer by the director or his designee provided by Section 38-5-60. It is not the intent of this provision to allow an insurer domiciled outside this State to take credit for reinsurance in its financial statements based on the domestic license, authorization, or accreditation.

(C) Credit must be allowed when the reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this State. An accredited reinsurer is one which:

(1) files with the director or his designee evidence of its submission to this state's jurisdiction;

(2) submits to this state's authority to examine its books and records;

(3) is licensed to transact insurance or reinsurance in at least one state or, for a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance, in at least one state;

(4) files annually with the director or his designee a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and

(5) demonstrates to the satisfaction of the director that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is deemed to meet this requirement at the time of its

application if it maintains a surplus as it regards policyholders of no less than twenty million dollars and its accreditation has not been denied by the director or his designee within ninety days after the submission of its application.

(D)(1) Credit must be allowed when the reinsurance is ceded to an assuming insurer that is domiciled in, or in the case of a United States branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:

(a) maintains a surplus as regards policyholders in an amount not less than twenty million dollars; and

(b) submits to the authority of this State to examine its books and records.

(2) The requirement of item (1)(a) under this subsection, does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(E)(1) Credit must be allowed when the reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution, defined in Section 38-9-220(B), for the payment of the valid claims of its United States ceding insurers and their assigns and successors in interest. To enable the director to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the director or his designee information substantially the same as that required to be reported on the National Association of Insurance Commissioners annual statement form by licensed insurers. The assuming insurer shall submit to examination of its books and records by the director and bear the expense of examination.

(2)(a) Credit for reinsurance must not be granted under this subsection unless the form of the trust and any amendments to the trust have been approved by:

(i) the insurance commissioner of the state where the trust is domiciled; or

(ii) the insurance commissioner of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(b) The form of the trust and any trust amendments also must be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument must provide that contested claims must be valid and enforceable upon the final order of a court of competent jurisdiction in the United States. The trust must vest legal title to assets in the trustees of the trust for the

benefit of the assuming insurers' United States ceding insurers and their assigns and successors in interest. The trust and the assuming insurer are subject to examination as determined by the director or his designee.

(c) The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February twenty-eighth of each year the trustees of the trust shall report to the director or his designee in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust may not expire before the next following December thirty-first.

(3) The following requirements apply to the following categories of assuming insurers:

(a) The trust fund for a single assuming insurer consists of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers, and in addition, the assuming insurer shall maintain a trusteed surplus of not less than twenty million dollars. However, after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight may authorize a reduction in the required trusteed surplus, but only after finding that the new required surplus level is adequate for the protection of domestic ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development based on an assessment of the risk. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows and shall consider all material risk factors including, but not limited to, when applicable, the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trusteed surplus may not be reduced to an amount less than thirty percent of the assuming insurer's liabilities attributable to reinsurance by domestic ceding insurers covered by the trust.

(b)(i) In the case of a group including incorporated and individual unincorporated underwriters:

(A) for reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after January 1, 1993, the trust consists of a trusteed account in an amount not less than the respective underwriter's several liabilities attributable to business ceded by United States domiciled ceding insurers to any underwriter of the group;

(B) for reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this section, the trust consists of a trusteed account in an amount not less than the respective underwriter's several insurance and reinsurance liabilities attributable to business written in the United States; and

(C) in addition to these trusts, the group shall maintain in trust a trusteed surplus of which one hundred million dollars is held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account; and

(ii) The incorporated members of the group must not be engaged in any business other than underwriting as a member of the group and are subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members.

(iii) The group, within ninety days after its financial statements are due to be filed with the group's domiciliary regulator, shall provide to the director an annual certification by the group's domiciliary regulator of the solvency of each underwriter member or if a certification is unavailable, financial statements prepared by independent public accountants of each underwriter member of the group.

(c) In the case of a group of incorporated underwriters under common administration, the group shall:

(i) have continuously transacted an insurance business outside the United States for at least three years immediately before making application for accreditation;

(ii) maintain aggregate policyholders' surplus of at least ten billion dollars;

(iii) maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group;

(iv) in addition, maintain a joint trusteed surplus of which one hundred million dollars must be held jointly for the benefit of United States domiciled ceding insurers of any member of the group as additional security for these liabilities; and

(v) within ninety days after its financial statements are due to be filed with the group's domiciliary regulator, make available to the director an annual certification of each underwriter member's solvency by the member's domiciliary regulator and financial statements of each

underwriter member of the group prepared by its independent public accountant.

(F)(1) Credit must be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the director or his designee as a reinsurer in this State and secures its obligations with the requirements of this subsection.

(2) In order to be eligible for certification, the assuming insurer must:

(a) be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the director pursuant to this section;

(b) maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the director or his designee pursuant to regulation;

(c) maintain financial strength ratings from two or more rating agencies deemed acceptable by the director or his designee pursuant to regulation;

(d) agree to submit to the jurisdiction of this State, appoint the director as its agent for service of process in this State, and agree to provide security for one hundred percent of the assuming insurer's liabilities attributable to reinsurance ceded by domestic ceding insurers if it resists enforcement of a final United States judgment;

(e) agree to meet applicable information filing requirements as determined by the director or his designee, both with respect to an initial application for certification and on an ongoing basis; and

(f) satisfy any other requirements for certification deemed relevant by the commissioner.

(3) An association, including incorporated and individual unincorporated underwriters, may be a certified reinsurer. In addition to satisfying other requirements of item (2) of this subsection, in order to be eligible for certification:

(a) the association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents, net of liabilities of the association and its members, which includes a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the director to provide adequate protection;

(b) the incorporated members of the association may not be engaged in any business other than underwriting as a member of the association and are subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members; and

(c) within ninety days after its financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the director an annual certification by the association's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements prepared by independent public accountants, of each underwriter member of the association.

(4) The director or his designee shall create and publish a list of qualified jurisdictions under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered for certification by the director and a certified reinsurer.

(a) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the director shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. A qualified jurisdiction must agree to share information and cooperate with the director with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the director has determined that the jurisdiction does not adequately and promptly enforce final United States judgment and arbitration awards. Additional factors may be considered in the discretion of the director.

(b) A list of qualified jurisdictions must be published through the National Association of Insurance Commissioners (NAIC) Committee Process. The director or his designee shall consider this list in determining qualified jurisdictions. If the director or his designee approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the director or his designee shall provide thoroughly documented justification in accordance with criteria to be developed under regulations.

(c) United States jurisdictions that meet the requirement for accreditation under the NAIC financial standards and accreditation program must be recognized as qualified jurisdictions.

(d) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the director or his designee has the discretion to suspend the reinsurer's certification indefinitely, in lieu of revocation.

(5) The director or his designee shall assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies deemed acceptable to

the director or his designee pursuant to regulation. The director or his designee shall publish a list of all certified reinsurers and their ratings.

(6) A certified reinsurer shall secure obligations assumed from domestic ceding insurers under this subsection at a level consistent with its rating, as specified in regulations promulgated by the director or his designee.

(a) In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the director or his designee and consistent with the provisions of this section, or in a multibeneficiary trust in accordance with subsection (E), except as otherwise provided in this subsection.

(b) If a certified reinsurer maintains a trust to fully secure its obligations subject to subsection (E), and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligation incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this subsection or comparable laws of other domestic jurisdictions and for its obligations subject to subsection (E). It is a condition to the grant of certification under subsection (F) that the certified reinsurer shall bind itself, by the language of the trust and agreement with the commissioner with principal regulatory oversight of each trust account, to fund, upon termination of any such trust account, out of the remaining surplus of such trust any deficiency of any other trust account.

(c) The minimum trusteed surplus requirements provided in subsection (E) are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this subsection, except that the trust shall maintain a minimum trusteed surplus of ten million dollars.

(d) If the security is insufficient, the director or his designee shall reduce the allowable credit by an amount proportionate to the deficiency and has the discretion to impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(e) A certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure one hundred percent of its obligations.

(i) As used in this subsection, the term 'terminate' refers to revocation, suspension, voluntary surrender, and inactive status.

(ii) If the director or his designee continues to assign a higher rating as permitted by other provisions of this section, this requirement

does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

(7) If an applicant for certification has been certified as a reinsurer in a NAIC-accredited jurisdiction, the director or his designee has the discretion to defer to that jurisdiction's certification and to defer to the rating assigned by that jurisdiction, and the assuming insurer must be considered to be a certified reinsurer in this State.

(8) A certified reinsurer that ceases to assume new business in this State may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this subsection, and the director or his designee shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

(G)(1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer meeting each of the conditions set forth below:

(a) The assuming insurer must have its head office or be domiciled in, as applicable, and be licensed in a reciprocal jurisdiction. A 'reciprocal jurisdiction' is a jurisdiction that meets one of the following:

(i) a non-U.S. jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union. For purposes of this subsection, a 'covered agreement' is an agreement entered into pursuant to Dodd Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. Sections 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this State or for allowing the ceding insurer to recognize credit for reinsurance;

(ii) a U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or

(iii) a qualified jurisdiction, as determined by the director pursuant to Section 38-9-200(F)(4), which is not otherwise described in subsubitem (a)(i) or (a)(ii) and which meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified by the director in regulation.

(b) The assuming insurer must have and maintain, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated

according to the methodology of its domiciliary jurisdiction, in an amount to be set forth in regulation. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, minimum capital and surplus equivalents (net of liabilities), calculated according to the methodology applicable in its domiciliary jurisdiction, and a central fund containing a balance in amounts to be set forth in regulation.

(c) The assuming insurer must have and maintain, on an ongoing basis, a minimum solvency or capital ratio, as applicable, which will be set forth in regulation. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, a minimum solvency or capital ration in the reciprocal jurisdiction where the assuming insurer has its head office or is domiciled, as applicable, and also is licensed.

(d) The assuming insurer must agree and provide adequate assurance to the director, in a form specified by the director pursuant to regulation, as follows:

(i) the assuming insurer must provide prompt written notice and explanation to the director if it falls below the minimum requirements set forth in subitems (b) or (c), or if any regulatory action is taken against it for serious noncompliance with applicable law;

(ii) the assuming insurer must consent in writing to the jurisdiction of the courts of this State and to the appointment of the director as agent for service of process. The director may require that consent for service of process be provided to the director and included in each reinsurance agreement. Nothing in this provision shall limit, or in any way alter, the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;

(iii) the assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained;

(iv) each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its resolution estate; and

(v) the assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement which involves this state's ceding insurers, and agree to notify the ceding insurer and the director and to provide security in an amount equal to one hundred percent (100%) of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of Section 38-9-200(F) and Section 38-9-210 and as specified by the director in regulation.

(e) The assuming insurer or its legal successor must provide, if required by the director, on behalf of itself and any legal predecessors, certain documentation to the director, as specified by the director in regulation.

(f) The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements, pursuant to criteria set forth in regulation.

(g) The assuming insurer's supervisory authority must confirm to the director on an annual basis, as of the preceding December thirty-first or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, that the assuming insurer complies with the requirements set forth in subitems (b) and (c).

(h) Nothing in this provision precludes an assuming insurer from providing the director with information on a voluntary basis.

(2) The director timely shall create and publish a list of reciprocal jurisdictions.

(a) A list of reciprocal jurisdictions is published through the NAIC Committee Process. The director's list shall include any reciprocal jurisdiction as defined under Section 38-9-200(G)(1)(a)(i) and (ii), and shall consider any other reciprocal jurisdiction included on the NAIC list. The director may approve a jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions in accordance with criteria to be developed under regulations issued by the director.

(b) The director may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a reciprocal jurisdiction, in accordance with a process set forth in regulations issued by the director, except that the director shall not remove from the list a reciprocal jurisdiction as defined under Section 38-9-200(G)(1)(a)(i) and (ii). Upon removal of a reciprocal jurisdiction from this list, credit for reinsurance ceded to an assuming insurer which has its home office or is domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to Section 38-9-200, et seq.

(3) The director shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this subsection and to which cessions shall be granted credit in accordance with this subsection. The director may add an assuming insurer to such list if an NAIC-accredited jurisdiction has added such assuming insurer to a list of such assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the director as required under item (1)(d) of this subsection and complies with any additional requirements that the director may impose by regulation, except to the extent that they conflict with an applicable covered agreement.

(4) If the director determines that an assuming insurer no longer meets one or more of the requirements under this subsection, the director may revoke or suspend the eligibility of the assuming insurer for recognition under this subsection in accordance with procedures set forth in regulation.

(a) While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with item (3).

(b) If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of the revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the director and consistent with the provisions of Section 38-9-210.

(5) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding ceded liabilities.

(6) Nothing in this subsection shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by Sections 38-9-200, et seq. or other applicable law or regulation.

(7) Credit may be taken under this subsection only for reinsurance agreements entered into, amended, or renewed on or after the effective date of the statute adding this subsection, and only with respect to losses incurred and reserves reported on or after the later of: (i) the date on which the assuming insurer has met all eligibility requirements pursuant

to Section 38-9-200(G)(1) herein, and (ii) the effective date of the new reinsurance agreement, amendment, or renewal.

(a) This item does not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under this subsection, as long as the reinsurance qualifies for credit under any other applicable provision of Section 38-9-200, et seq.

(b) Nothing in this subsection shall authorize an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement.

(c) Nothing in this subsection shall limit, or in any way alter, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

(H) Credit must be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of subsection (B), (C), (D), (E), (F), or (G) but only as to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

(I) If the assuming insurer is not licensed, certified, or accredited to transact insurance or reinsurance in this State, the credit permitted by subsections (D) and (E) may not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(1) that when the assuming insurer fails to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of a court of competent jurisdiction in a state of the United States, comply with all requirements necessary to give the court jurisdiction, and abide by the final decision of the court or of an appellate court in an appeal; and

(2) to designate the director or his designee or a designated attorney as its true and lawful attorney upon whom may be served lawful process in an action, a suit, or a proceeding instituted by or on behalf of the ceding company.

(3) This subsection does not conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes if an obligation is created in the agreement.

(J) If the assuming insurer does not meet the requirements of subsection (B), (C), (D), or (G) the credit permitted by subsection (E) or (F) may not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(1) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the

amount required by subsection (E)(3), or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund.

(2) The assets must be distributed by and claims must be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

(3) If the commissioner with regulatory oversight determines that the assets of the trust fund or any part of them are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part of them must be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

(4) The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this provision.

(K) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the director may suspend or revoke the reinsurer's accreditation or certification.

(1) The director must give the reinsurer notice and opportunity for hearing. The suspension or revocation may not take effect until after the director's order on hearing, unless:

(a) the reinsurer waives its right to hearing;

(b) the director's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer; or

(c) the director finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the director's action.

(2) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with Section 38-9-210. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the

contract are secured in accordance with subsection (F)(6) or Section 38-9-210.

(L)(1) A ceding insurer shall take steps to manage its reinsurance recoverables proportionate to its own book of business. A domestic ceding insurer shall notify the commissioner within thirty days after reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceeds fifty percent of the domestic ceding insurer's last reported surplus to policyholders, or after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(2) A ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the director within thirty days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than twenty percent of the ceding insurer's gross written premium in the proper calendar year, or after it has determined that the reinsurance ceding to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that exposure is safely managed by the domestic ceding insurer.

(M) The director may promulgate regulations to implement the provisions of this section and Section 38-9-210.

(N) The director is further authorized to adopt rules and regulations applicable to reinsurance relating to arrangements described in item (1):

(1) a regulation adopted pursuant to this subsection may apply only to reinsurance relating to:

(a) life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits;

(b) universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;

(c) variable annuities with guaranteed death or living benefits;

(d) long-term care insurance policies; or

(e) any other life and health insurance and annuity products as to which the NAIC adopts model regulatory requirements with respect to credit for reinsurance.

(2) A regulation adopted pursuant to this subsection may apply to any treaty containing policies issued on or after January 1, 2015, or policies issued prior to January 1, 2015, if risks pertaining to such pre-2015 policies are ceded in connection with the treaty, in whole or in part, on or after January 1, 2015.

(3) A regulation adopted pursuant to this subsection may require the ceding insurer, in calculating the amounts or forms of security required to be held under regulations promulgated under this authority, to use the valuation manual adopted by the NAIC under Section 11(B)(1) of the NAIC Standard Valuation Law, including all amendments adopted by the NAIC and in effect on the date as of which the calculation is made, to the extent applicable.

(4) A regulation adopted pursuant to this subsection shall not apply to cessions to an assuming insurer that:

(a) meets the conditions set forth in Section 38-9-200(G); or

(b) is certified in this State; or

(c) maintains at least two hundred fifty million dollars in capital and surplus when determined in accordance with the NAIC Accounting Practices and Procedures Manual, including all amendments thereto adopted by the NAIC, excluding the impact of any permitted or prescribed practices and licensed in at least:

(i) twenty-six states; or

(ii) ten states and licensed or accredited in a total of at least thirty-five states.

(5) The authority to adopt regulations pursuant to this subsection does not limit the director's general authority to adopt regulations pursuant to subsection (M).

(O) This act shall apply to all cessions after the effective date of this act under reinsurance agreements that have an inception, anniversary, or renewal date not less than six months after the effective date of this act."

Reduction from liability for reinsurance

SECTION 2. Section 38-9-210 of the 1976 Code, as last amended by Act 172 of 2018, is further amended to read:

"Section 38-9-210. An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 38-9-200 must be allowed in an amount not exceeding the liabilities carried by the ceding insurer provided that the director or his designee may adopt by regulation pursuant to Section 38-9-200(N) specific additional requirements relating to or setting forth the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements, or the circumstances pursuant to which a credit may be reduced or eliminated.

The reduction must be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations, if the security is held in the United States subject to withdrawal solely by and under the exclusive control of the ceding insurer or, for a trust, held in a qualified United States financial institution, defined in Section 38-9-220(B). This security may be in the form of:

(1) cash;

(2) securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office and qualifying as admitted assets as defined in Section 38-13-80;

(3) clean, irrevocable, unconditional letters of credit issued or confirmed by a qualified United States financial institution defined in Section 38-9-220(A) no later than December thirty-first of the year for which filing is being made and in the possession of, or in trust for, the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs; or

(4) other form of security acceptable to the director or his designee."

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 166

(R160, S882)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "SOUTH CAROLINA PRIVATE FLOOD INSURANCE ACT" BY ADDING CHAPTER 101 TO TITLE 38 SO AS TO ADVANCE DIFFERENT FLOOD INSURANCE COVERAGES.

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

Citation

SECTION 1. This act is known and may be cited as the "South Carolina Private Flood Insurance Act".

South Carolina Private Flood Insurance Act

SECTION 2. Title 38 of the 1976 Code is amended by adding:

"CHAPTER 101

South Carolina Private Flood Insurance Act

Section 38-101-10. It is the intent of this chapter to foster innovative flood insurance coverages providing insurers the ability to test products in the market and consumers greater choice for flood insurance coverage.

Section 38-101-20. For the purposes of this section:

(1) 'Flood' means:

(a) a general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties, at least one of which is the policyholder's property, from:

(i) overflow of inland or tidal waters;

(ii) unusual and rapid accumulation or runoff of surface waters from any source; or

(iii) mudflow; or

(b) collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by

waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined in this section.

(2) 'Mudflow' means a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water. Other earth movements, such as landslide, slope failure, or a saturated soil mass moving by liquidity down a slope, are not mudflows.

(3) 'Private flood insurance' means personal lines or commercial flood insurance policies or endorsements providing coverage for the peril of flood issued directly by insurers.

Section 38-101-30. An insurer may issue an insurance policy, contract, or endorsement providing commercial lines or personal lines coverage for the peril of flood or excess coverage for the peril of flood on any structure, on the contents of commercial or personal property contained therein, or to insure against indirect losses from the peril of flood subject to the requirements of this chapter. Any reference to policy in this chapter also includes endorsements that provide private flood insurance coverage.

Section 38-101-40. (A) Private flood insurance policies issued pursuant to this chapter include:

(1) 'Standard flood insurance', which means a private flood insurance policy which covers only losses from the peril of flood at least equivalent, when taken as a whole, to that provided under a standard flood insurance policy under the National Flood Insurance Program (NFIP) including deductibles, exclusions, and other terms and conditions offered by the insurer. The policy form also must include:

(a) information about the availability of flood insurance coverage under the NFIP;

(b) a mortgage interest clause substantially similar to the clause contained in a standard flood insurance policy under the NFIP;

(c) a provision requiring an insured to file suit no later than one year after the date of a written denial of all or part of a claim under the policy; and

(d) cancellation provisions that are as restrictive as the provisions contained in a standard flood insurance policy under the NFIP.

(2) 'Nonstandard flood insurance', which may, but is not required to, provide coverage designed to supplement a flood policy obtained from the NFIP or from an insurer issuing standard flood insurance pursuant to this section. This includes any other policy issued for the coverage of flood that does not meet the definition of a standard flood

insurance policy as defined above. Nonstandard flood insurance also includes policies that have a broader definition of flood than that provided for in Section 38-101-20(1) and discretionary acceptance private flood insurance as provided for in 12 C.F.R. Part 208.25.

(B) Flood insurance deductibles and policy limits must be prominently noted on the policy declarations page or face page of the policy at issuance and renewal in at least ten-point font.

Section 38-101-50. (A)(1) Every admitted insurer writing personal lines private flood insurance pursuant to this chapter shall file with the director all rates and supplementary rate information and all changes and amendments made by it for use in this State no later than ninety days after the effective date and such filing shall be considered a 'use and file' filing. These filings are for informational purposes only.

(2) Commercial lines private flood insurance rates are subject to Regulation 69-64.

(3) Insurers shall establish rates based on actuarial data, methodologies, and standards and guidelines relating to flood insurance that produce rates that are not excessive, inadequate, or unfairly discriminatory.

(B)(1) A rating or advisory organization may file prospective loss cost and supplementary rate information on behalf of insurers. The loss cost and supplementary rate information are subject to the 'use and file' provisions of this section, regardless of whether they are for commercial lines or personal lines private flood insurance.

(2) Each personal lines private flood insurer shall file its multiplier for expenses, assessments, profits, and contingencies to be applied to the loss cost and any information relied upon by the insurer to support the multiplier and any modifications to loss costs subject to the use and file provisions of this section.

(3) Licensees shall establish loss costs and multipliers for expenses based on actuarial data, methodologies, and standards and guidelines relating to flood insurance that produce rates that are not excessive, inadequate, or unfairly discriminatory. Filings pursuant to this subsection are for informational purposes only.

(C) All rate filings are confidential until final disposition by the director. Final disposition of rates and the filings are subject to public inspection in accordance with the provisions of the South Carolina Freedom of Information Act.

Section 38-101-60. (A) Every admitted insurer writing personal lines or commercial lines private flood insurance pursuant to this chapter shall

file with the director all forms and all changes and amendments made by it for use in this State no later than ninety days after becoming effective. This form filing is considered a 'use and file' filing.

(B) The director may at any time review a form, the pertinent records of the insurer, and market conditions. The director may at any time disapprove a form and shall notify the insurer. In reviewing the forms filed, the department may require the insurer to provide, at the insurer's expense, all information necessary to evaluate the filing. Upon notification, the insurer shall, within sixty days, file with the department all information which, in the belief of the insurer, establishes that the form is in compliance with this chapter and other applicable law. The insurer may appeal the final determination of the director or his designee to the South Carolina Administrative Law Court. The insurer shall carry the burden of proof by a preponderance of the evidence to show that the form complies with applicable South Carolina law.

(C) All form filings are confidential until final disposition by the director. Final form filings are subject to public inspection in accordance with the provisions of the South Carolina Freedom of Information Act.

(D) An advisory or rating organization may file forms on the behalf of insurers. These filings are subject to the 'use and file' provisions of this section. If the director finds on a preliminary basis that a form does not comply with this chapter or other applicable law, the director shall disapprove the form and shall notify the rating or advisory organization. Upon notification, the rating or advisory organization shall, within sixty days, file with the department all information which, in the belief of the advisory or rating organization, establishes the form complies with this chapter and other applicable law. The advisory or rating organization may appeal the final determination of the director or his designee to the South Carolina Administrative Law Court. The advisory or rating organization shall carry the burden of proof by a preponderance of the evidence to show that the form complies with applicable South Carolina law.

Section 38-101-70. A surplus lines broker may place a policy or endorsement providing flood insurance coverage to an eligible surplus lines insurer without making a diligent effort to seek such coverage from one or more admitted insurers required pursuant to Section 38-45-90.

Section 38-101-80. (A) In addition to any other applicable requirements pursuant to this title, any admitted insurer providing private flood insurance coverage that is considered standard flood insurance coverage in this State shall:

(1) notify the director or his designee at least thirty days before writing flood insurance in this State; and

(2) file a plan of operation and financial projections or revisions to such plan, as applicable, with the director or his designee.

(B) Admitted insurers writing private flood insurance shall comply with the requirements of Chapter 13 and are subject to examination in accordance with Chapter 13. Brokers placing flood insurance policies are subject to examination in accordance with Section 38-45-80.

(C) Subsection (A) does not impose new requirements on any insurer currently writing private flood insurance coverage at the time of enactment of this chapter.

(D) Admitted insurers exiting the private flood insurance market shall notify the director or his designee within forty-five days of the market exit.

Section 38-101-90. (A) Before placing a personal lines private flood insurance policy with an admitted or surplus lines insurer, an insurance producer, broker, or the insurer shall provide a written notice to the applicant advising that if the applicant discontinues coverage under the NFIP, which is provided at a subsidized rate, the full risk rate for flood insurance may apply to the property if the applicant later seeks to reinstate coverage under the program.

(B) This section only applies if the applicant lives in a special flood hazard area. The producer, broker, or insurer shall retain this notice for three years. This section automatically sunsets if there is federal legislation that allows the insured to switch between private flood insurance and NFIP coverage without penalty.

Section 38-101-100. With respect to the regulation of private flood insurance written in this State by authorized insurers, this title controls if there is a conflict between this title and any other applicable state law.

Section 38-101-110. (A) An admitted insurer offering flood insurance may certify that a policy, contract, or endorsement provides coverage for the peril of flood which equals or exceeds the flood coverage offered by the NFIP. To be eligible for certification, the policy, contract, or endorsement must contain a provision stating that it meets the private flood insurance requirements specified in 42 U.S.C. Section 4012a(b) and may not contain provisions that, when taken as a whole, are not in compliance with 42 U.S.C. Section 4012a(b).

(B) The admitted insurer or its agent may reference or include a certification pursuant to subsection (A) in advertising or

communications with an agent, a lending institution, an insured, or a potential insured only for a policy, contract, or endorsement that is certified pursuant to this section. The admitted insurer may include a statement that notifies an insured of the certification on the declarations page or other policy documentation related to flood coverage certified pursuant to this section.

(C) An insurer or agency who knowingly:

(1) misrepresents that a flood policy, contract, or endorsement is certified pursuant to this chapter; or

(2) misrepresents the scope of the coverage of the flood insurance policy, contract, or endorsement commits an unfair or deceptive act pursuant to Section 38-57-10, et seq. and is subject to the penalties set forth in this chapter.

Section 38-101-120. (A) The insurer shall give written notice forty-five days before cancellation or nonrenewal of private flood insurance coverage to:

(1) the insured; and

(2) the federally supervised institution that made the designated loan secured by the property covered by the private flood insurance, or the servicer acting on its behalf, if any.

(B) The notice must:

(1) be filed with the director or his designee subject to the 'use and file' requirements as set forth in Section 38-101-60;

(2) state the date no less than forty-five days for any cancellation or nonrenewal; and

(3) inform the insured of its right to request a review by the South Carolina Department of Insurance.

(C)(1) An insurer may cancel or refuse to issue or renew a private flood insurance policy, except for the reasons set forth below:

(a) age;
(b) sex;
(c) race;
(d) color;
(e) creed;
(f) national origin;
(g) ancestry;
(h) marital status;
(i) income level; or
(j) lawful occupation, including the military service of the person seeking the coverage.

(2) Nothing in this section prohibits an insurer from limiting the issuance of private flood insurance policies covered in this chapter only to persons engaging in or who have engaged in a particular profession or occupation, or who are members of a particular religious sect.

(3) Nothing in this section prohibits an insurer from refusing to issue private flood insurance policies due to the exposure of flood.

(4) Notwithstanding the provisions of item (1), an insurer only may cancel a standard flood insurance policy in accordance with 42 U.S.C. Section 4012a(b).

Section 38-101-130. (A) If an insurer intends to renew a policy, the insurer shall furnish renewal terms and a statement of the amount of premium or estimated premium due for the renewal policy period in the manner required by this section.

(B) If the policy being renewed (original policy) is written for a term of one year or less, the renewal terms and statement of premium or estimated premium due must be furnished to the insured no less than forty-five days prior to the expiration date of the original policy.

(C) If the original policy is written for a term of more than one year or for an indefinite term, the renewal terms and statement of premium or estimated premium due must be furnished to the insured no less than forty-five days prior to the anniversary date of the original policy.

(D) The insurer may satisfy its obligation to furnish renewal terms and statement of premium or estimated premium due by either of the following methods:

(1) mailing or delivering renewal terms and statement to the insured via electronic delivery in accordance with South Carolina law, at the address shown in the policy or, if not reflected, at the last known address, no less than forty-five days prior to expiration or anniversary; or

(2) mailing or delivering renewal terms and statement to the producer or broker of record, if any, no less than sixty days prior to expiration or anniversary, along with instructions that the agent or broker furnish the renewal terms and statement to the insured no less than forty-five days prior to expiration or anniversary.

(E) If the insurer fails to furnish the renewal terms and statement of premium or estimated premium due in the manner required by this section, the insured may elect to cancel the renewal policy within the forty-five-day period following receipt of the renewal terms and statement of premium or estimated premium due. Earned premium for any period of coverage must be calculated pro rata based upon the

premium applicable to the original policy and not the premium applicable to the renewal policy.

Section 38-101-140. The department is authorized to promulgate by bulletin, order, or regulation the requirements necessary to implement the requirements of this chapter."

Time effective

SECTION 3. This act becomes effective sixty days following approval by the Governor. Insurers that are writing private flood insurance at the time of enactment have an additional one hundred twenty days to come into compliance with the requirements of this act.

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 167

(R162, S993)

AN ACT TO AMEND SECTION 61-4-730, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SALES BY PERMITTED WINERIES, SO AS TO PROVIDE THAT A PERMITTED WINERY IS ELIGIBLE FOR A SPECIAL PERMIT SUBJECT TO CERTAIN LIMITATIONS; TO AMEND SECTION 61-4-1515, RELATING TO SALES BY PERMITTED BREWERIES, SO AS TO INCREASE THE MAXIMUM AMOUNT OF BEER THAT MAY BE SOLD TO AN INDIVIDUAL FOR OFF-PREMISES CONSUMPTION; AND TO AMEND SECTION 61-4-550, RELATING TO PERMITS TO SELL BEER AND WINE AT A FAIR OR SPECIAL FUNCTION, SO AS TO REQUIRE AN APPLICANT TO NOTIFY THE STATE LAW ENFORCEMENT DIVISION THAT ALCOHOL WILL BE SERVED AT A FAIR OR SPECIAL FUNCTION.

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

Wineries, fair and special function eligibility

SECTION 1. Section 61-4-730 of the 1976 Code is amended to read:

"Section 61-4-730. (A) Permitted wineries that produce and sell wine produced on its premises with at least sixty percent of the juice from fruit and berries that are grown in this State may sell the wine at retail, wholesale, or both, and deliver or ship the wine to licensed retailers in this State or to consumer homes in and outside the State, and are eligible for a special permit pursuant to Section 61-4-550. Wine must be delivered between 7:00 a.m. and 7:00 p.m. Gross income from wine sold at events for which a special permit has been issued must not exceed ten percent of a permitted winery's gross income per year from wine sales and that income must be derived from sales at events that are promotional in nature.

(B) Permitted wineries that produce and sell wine produced on their premises with less than sixty percent of the juice from fruit and berries that are grown in this State may retail from the winery and ship the wine directly to consumer homes in and outside the State, but these wineries are not wholesalers of the wine. These wineries shall use a licensed South Carolina wholesaler to deliver or ship the wine to licensed retailers in this State.

(C) The South Carolina Department of Agriculture shall periodically inspect the records of permitted wineries for verification of the percentage of juice from fruit and berries grown in this State used in the manufacturing of the wineries' products. Within ten days of conducting an inspection, the South Carolina Department of Agriculture shall report its findings to the South Carolina Department of Revenue. If a winery is found to be in violation of this statute, the owner of the winery is subject to penalties pursuant to Section 61-4-780."

Off-premises sales limit increased

SECTION 2. A. Section 61-4-1515(E) of the 1976 Code is amended to read:

"(E) A brewery located in this State is authorized to sell beer on its permitted premises for off-premises consumption, provided that the sealed beer was brewed on the brewery's permitted premises with an alcohol content of fourteen percent by weight or less, subject to the following conditions:

(1) the maximum amount of beer that may be sold to an individual per day for off-premises consumption shall be equivalent to five hundred seventy-six ounces in total;

(2) the beer only shall be sold in conjunction with a tour by the consumer of the permitted premises and the entire brewing process utilized at the permitted premises;

(3) the beer sold is for personal use only and must not be resold;

(4) the beer must not be sold to anyone holding a retail beer and wine license for the purpose of resale in their establishment;

(5) the brewery must sell the beer at the permitted premises at a price approximating retail prices generally charged for identical beverages in the county where the permitted premises are located; and

(6) the brewery must remit taxes to the Department of Revenue for beer sales in an amount equal to and in a manner required for taxes assessed by Section 12-21-1020 and Section 12-21-1030. The brewery also must remit appropriate sales and use taxes and local hospitality taxes."

B. This SECTION is effective upon approval by the Governor and expires on May 31, 2021.

Special permits, notice requirements

SECTION 3. Section 61-4-550 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

"( ) Beginning January 1, 2021, at least twenty-four hours before the fair or special function, the applicant shall notify the State Law Enforcement Division and all local law enforcement that have jurisdiction over the fair or special function site that alcohol will be served at the site."

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 29th day of September, 2020.

No. 168

(R165, S1071)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 23-9-197 SO AS TO ESTABLISH THE "FIREFIGHTER CANCER HEALTH CARE BENEFIT PLAN" TO PROVIDE A SUPPLEMENTAL INSURANCE POLICY UPON A FIREFIGHTER BEING DIAGNOSED WITH CANCER AND TO SET FORTH THE BENEFITS CONTAINED IN THE POLICY.

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

Firefighter Cancer Health Care Benefit Plan

SECTION 1. Article 1, Chapter 9, Title 23 of the 1976 Code is amended by adding:

"Section 23-9-197. (A) As used in this section:

(1) 'Cancer' includes malignant neoplasms of the following body areas and organ systems:

(a) central and peripheral nervous system;
(b) oropharyngeal;
(c) respiratory tract;
(d) gastrointestinal tract;
(e) hepatobiliary;
(f) solid organ and endocrine;
(g) genitourinary and male reproductive;
(h) GYN;
(i) skin, soft tissue, and breast; and
(j) bone and blood.

(2) 'Fire department' means any organization located and based in this State that provides rescue, fire suppression, and related activities including any public or government-sponsored organizations, excluding federal agencies, engaged in rescue, fire suppression, and related activities.

(3) 'Firefighter' means any person, paid or unpaid, who is a resident of this State and engages in rescue, fire suppression, or related activities, under the supervision of a fire chief or fire department in this State or who is employed by the State Commission of Forestry or a forestry district for the purpose of fire protection.

(B) There is established the 'Firefighter Cancer Health Care Benefit Plan' to provide a supplemental insurance policy upon a firefighter being diagnosed with cancer. The plan shall provide benefits to a firefighter only if the firefighter has served in a South Carolina fire department for at least five continuous years and been in active service within ten years of the diagnosis.

(C) The plan, upon diagnosis, must entitle an eligible firefighter to:

(1) a reimbursement of up to twelve thousand dollars annually to the firefighter for any out-of-pocket medical expenses including deductibles, copayments, or coinsurance costs incurred;

(2) a one-time benefit of twenty thousand dollars upon the firefighter's initial diagnosis; and

(3) a seventy-five thousand dollar death benefit for a firefighter who dies as a result of cancer or circumstances that arise out of the treatment of cancer. All of the benefits arising out of such death are available to the deceased firefighter's beneficiary.

(D)(1) The program must be established by and administered through the Office of the State Fire Marshal within the Department of Labor, Licensing and Regulation. In selecting the covering insurance policy, the State Fire Marshal must utilize a competitive bidding process among private insurers that have such policies available.

(2) Additionally, the State Fire Marshal shall identify best practices to establish employer cancer prevention as it relates to personal protective equipment, decontamination, fire suppression apparatus, and fire stations.

(3) By January first of each year, the State Fire Marshal shall prepare a report detailing the activity of the program in the previous fiscal year. The report shall include, but not be limited to: all expenses and costs associated with administration of the program, all inquiries and quotes received from prospective insurers, the number of eligible firefighters who qualify for coverage, the number of claims, and the amount and type of benefits paid. The report must be delivered to the Department of Insurance, the Senate Finance Committee, and the House Ways and Means Committee.

(E) Notwithstanding any other provision of this section, the implementation and operation of the Firefighter Cancer Health Care Benefit Plan and the benefits contained herein are contingent upon appropriate funding."

Time effective

SECTION 2. This act takes effect July 1, 2021.

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 169

(R166, S1099)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 61-4-942 SO AS TO PROHIBIT A MANUFACTURER, BREWER, OR IMPORTER OF BEER FROM REQUIRING A WHOLESALER TO UNDERTAKE CERTAIN ACTIONS.

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

Distribution agreements, prohibited acts

SECTION 1. Article 9, Chapter 4, Title 61 of the 1976 Code is amended by adding:

"Section 61-4-942. Notwithstanding any existing beer distribution agreement to the contrary, a manufacturer, brewer, or importer of beer shall not:

(1) coerce or require a wholesaler to gather or submit sales records, retail placement, price, discount, rebate, or other details for beer brands not manufactured, brewed, or imported by the manufacturer, brewer, or importer;

(2) mandate wholesaler employee hiring decisions or payment rates, including incentives;

(3) require a wholesaler to pay or contribute marketing, advertising, or other funds for control or expenditure by the manufacturer, brewer, or importer, except a wholesaler may agree, in writing and in advance of the payment or contribution, to spend or contribute wholesaler funds for a specified marketing or advertising plan or opportunity;

(4) ship, invoice, or initiate an electronic funds transfer payment for any quantity of beer exceeding any order or forecast submitted by a wholesaler, or include in a beer sales invoice charges for any items other than beer, freight, fuel, cooperage, dunnage, pallets, and related deposits;

(5) invoice or initiate electronic funds transfer payment for point-of-sale advertising specialties or other items, except a manufacturer, brewer, or importer may place an order and invoice or initiate an electronic funds transfer payment for point-of-sale advertising specialties or other items pursuant to a specific written agreement between the wholesaler and the manufacturer, brewer, or importer made prior to the placement of an order;

(6) attribute risk of loss, ownership or other financial interest to a wholesaler for beer not in the wholesaler's possession; or

(7) require a wholesaler to pay for development, installation, or use of any software owned or mandated by the manufacturer, brewer, or importer, except a wholesaler may be required to maintain data in a format compatible with data format standards adopted by a manufacturer, brewer, or importer."

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 30th day of September, 2020.

No. 170

(R171, H3257)

AN ACT TO AMEND SECTION 59-32-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INSTRUCTION REQUIRED UNDER THE COMPREHENSIVE HEALTH EDUCATION ACT, SO AS TO REQUIRE THE STATE BOARD OF EDUCATION TO REVISE EXISTING AGE-APPROPRIATE STANDARDS AND CONCEPTS THAT ADDRESS MENTAL, EMOTIONAL, AND SOCIAL HEALTH DURING ITS NEXT CYCLICAL REVIEW.

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

Cyclical review of mental, emotional, and social health standards and concepts

SECTION 1. Section 59-32-20 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

"( ) At the next cyclical review of the health standards, the board shall continue to revise existing age-appropriate standards and concepts that address mental, emotional, and social health."

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 29th day of September, 2020.

No. 171

(R172, H3351)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 60-11-102 SO AS TO PROVIDE FOR THE DISPOSITION OF CERTAIN DUPLICATIVE MATERIAL IN THE POSSESSION OF THE DEPARTMENT OF ARCHIVES AND HISTORY TO ANOTHER PUBLIC OR NONPROFIT INSTITUTION BY GIFT OR SALE, TO PROVIDE FOR THE USE OF RESULTING PROCEEDS, AND TO PROVIDE ANNUAL REPORTING REQUIREMENTS; BY ADDING SECTION 60-11-103 SO AS TO PROVIDE FOR THE RETENTION AND USE BY THE DEPARTMENT OF ARCHIVES AND HISTORY OF CERTAIN PROCEEDS GENERATED BY ITS OPERATIONS; TO AMEND SECTION 60-11-60, RELATING TO THE MANAGEMENT AND ADMINISTRATION OF THE DEPARTMENT, SO AS TO PROVIDE THE DIRECTOR MAY DO ADDITIONAL WORK WITH PAY IF APPROVED BY THE COMMISSION OF ARCHIVES AND HISTORY, AND TO DELETE A PROVISION REQUIRING THE DIRECTOR TO FURNISH INFORMATION FOR FREE; AND TO REPEAL

SECTION 60-11-120 RELATING TO THE DISPOSITION OF CERTAIN DUPLICATIVE MATERIAL IN THE POSSESSION OF THE DEPARTMENT OF ARCHIVES AND HISTORY.

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

Disposition of certain records, funds, reporting

SECTION 1. Article 1, Chapter 11, Title 60 of the 1976 Code is amended by adding:

"Section 60-11-102. Upon approval by the commission, the agency may remove certain record and nonrecord materials from its collections by gift to another public or nonprofit institution or by sale. This is a supplemental form of disposition beyond that recognized in the Public Records Act for the retention, copying, and destruction of public records, and it pertains only to those accessioned archive materials having a market value and which duplicate existing archival material, fall outside the scope of the archives collection policy, or have no further possible research value. All funds realized through sale must be placed in a special account to be used for improved access to and preservation of the state archives collections. The commission annually shall report to the State Department of Administration regarding these dispositions.

Section 60-11-103. The proceeds of facilities rentals, gift shop operations, training sessions, sales of publications, reproduction of documents, repair of documents, research fees, handling charges, and the proceeds of sales of National Register of Historic Places certificates and plaques by the Archives Department must be deposited in a special account in the State Treasury, and may be used by this department to cover the cost of facility operations and maintenance, gift shop inventory, additional training sessions, publications, reproduction expenses, repair expenses, and National Register of Historic Places certificates and plaques, and selected Historic Preservation Grants."

Director duties, furnishing information

SECTION 2. Section 60-11-60 of the 1976 Code is amended to read:

"Section 60-11-60. The active management and administration of the South Carolina Department of Archives and History shall be committed to the director, who at the time of his appointment must have the qualifications of special training or experience in archival or historical

work. The director shall not do any additional work for pay without the permission of the Commission of Archives and History. ”

Repeal

SECTION 3. Section 60-11-120 of the 1976 Code is repealed.

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 29th day of September, 2020.

No. 172

(R173, H3485)

AN ACT TO AMEND SECTION 12-6-3535, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO AN INCOME TAX CREDIT FOR MAKING QUALIFIED REHABILITATION EXPENDITURES FOR A CERTIFIED HISTORIC STRUCTURE, SO AS TO REMOVE A PROVISION ALLOWING THE DEPARTMENT OF ARCHIVES AND HISTORY TO ESTABLISH FEES, TO PROVIDE THAT A TAXPAYER CLAIMING THE CREDIT MUST PAY A FEE TO THE DEPARTMENT OF ARCHIVES AND HISTORY FOR THE STATE HISTORIC PRESERVATION GRANT FUND, AND TO PROVIDE THAT THE DEPARTMENT SHALL DEVELOP AN APPLICATION PROCESS; AND TO AMEND SECTION 12-6-5060, RELATING TO VOLUNTARY CONTRIBUTIONS MADE BY AN INDIVIDUAL BY MEANS OF THE INCOME TAX RETURN CHECK OFF, SO AS TO ADD THE DEPARTMENT OF ARCHIVES AND HISTORY.

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

Department of Archives and History, fees for certifying historic rehabilitation tax credit

SECTION 1. A. Section 12-6-3535(E) of the 1976 Code is amended to read:

"(E) The South Carolina Department of Archives and History shall develop an application and may promulgate regulations needed to administer the certification process. The Department of Revenue may promulgate regulations, including the establishment of fees, to administer the tax credit."

B. Section 12-6-3535 of the 1976 Code is amended by adding appropriately lettered subsections to read:

"( )(1) A taxpayer claiming a credit pursuant to this section must pay a preliminary fee and a final fee to the Department of Archives and History for the State Historic Preservation Grant Fund based on the estimated qualified rehabilitation expenses or the actual rehabilitation expenses of the project, respectively, as set forth in items (2) and (3).

(2) The preliminary fee must be paid before review of an Historic Preservation Certification Application, Part 2, or a Certified Rehabilitation Application, S2. The fee schedule is as follows:

Projects less than $500,000 of estimated expenses	0%
Projects at least $500,000 but less than $2,000,000 of estimated expenses	.1%
Projects at least $2,000,000 but less than $4,000,000 of estimated expenses	.25%
Projects $4,000,000 or greater of estimated expenses.	.5%

(3) The final fee must be paid before review of an Historic Preservation Certification Application, Part 3, or a Certified Rehabilitation Application, S3, less any amount paid as a preliminary fee. The fee schedule is as follows:

Projects less than $500,000 of actual expenses	0%
Projects at least $500,000 but less than $2,000,000 of actual expenses	.25%
Projects at least $2,000,000 but less than $4,000,000 of actual expenses	.5%
Projects $4,000,000 or greater	1.0%

of actual expenses.

( ) The Department of Archives and History shall develop an application process for distribution of funds from the State Historic Preservation Grant Fund, to include eligibility criteria and grant requirements."

Income tax contributions to Department of Archives and History

SECTION 2. A. Section 12-6-5060(A) of the 1976 Code is amended to read:

"(A) Each taxpayer required to file a state individual income tax return may contribute to the War Between the States Heritage Trust Fund established pursuant to Section 51-18-115, the Nongame Wildlife and Natural Areas Program Fund established pursuant to Section 50-1-280, the Children's Trust Fund of South Carolina established pursuant to Section 63-11-910, the Eldercare Trust Fund of South Carolina established pursuant to Section 43-21-160, the First Steps to School Readiness Fund established pursuant to Section 63-11-1750, the South Carolina Military Family Relief Fund established pursuant to Article 3, Chapter 11, Title 25, the Donate Life South Carolina established pursuant to Section 44-43-1310, the Veterans' Trust Fund of South Carolina established pursuant to Chapter 21, Title 25, the South Carolina Litter Control Enforcement Program (SCLCEP) and used by the Governor's Task Force on Litter only for the SCLCEP Program, the South Carolina Law Enforcement Assistance Program (SCLEAP) and used as provided in Section 23-3-65, the South Carolina Department of Parks, Recreation and Tourism for use in the South Carolina State Park Service in the manner the General Assembly provides, the South Carolina Forestry Commission for use in the state forest system, the South Carolina Department of Natural Resources for use in its programs and operations, K-12 public education for use in the manner the General Assembly provides by law, South Carolina Conservation Bank Trust Fund established pursuant to Section 48-59-60, the Financial Literacy Trust Fund established pursuant to Section 59-29-510, the South Carolina Association of Habitat for Humanity Affiliates, or the Department of Archives and History and only used by the agency to purchase or preserve collections with significant historical value to the State by designating the contribution on the return. The contribution may be made by reducing the income tax refund or by remitting additional payment by the amount designated."

B. Contributions made to the Department of Archives and History as provided in this act may be designated on an income tax return for tax years beginning after 2019.

Time effective

SECTION 3. Except as otherwise provided, this act takes effect upon approval by the Governor and applies to income tax years beginning after 2019.

Ratified the 25th day of September, 2020.

Approved the 29th day of September, 2020.

No. 173

(R174, H3596)

AN ACT TO AMEND SECTION 12-43-220, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CLASSIFICATION OF PROPERTY AND ASSESSMENT RATIOS FOR PURPOSES OF AD VALOREM TAXATION, SO AS TO LIMIT ROLLBACK TAXES TO THREE YEARS WHEN LAND CLASSIFIED AS AGRICULTURAL REAL PROPERTY IS APPLIED TO ANOTHER USE.

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

Reduction of rollback tax years

SECTION 1. Section 12-43-220(d)(4) of the 1976 Code is amended to read:

"(4) Except as provided pursuant to Section 12-43-222, when real property which is in agricultural use and is being valued, assessed, and taxed under the provisions of this article, is applied to a use other than agricultural, as evidenced by actions taken by the owner of the real property which is inconsistent with agricultural use, it is subject to additional taxes, referred to as rollback taxes, in an amount equal to the difference, if any, between the taxes paid or payable on the basis of the

valuation and the assessment authorized pursuant to this item and the taxes that would have been paid or payable had the real property been valued, assessed, and taxed as other real property in the taxing district, in the current tax year (the year of change in use) and each of the three tax years immediately preceding in which the real property was valued, assessed, and taxed as provided in this item. If in the tax year in which a change in use of the real property occurs the real property was not valued, assessed, and taxed under this article, then the real property is subject to rollback taxes for each of the three tax years immediately preceding in which the real property was valued, assessed, and taxed pursuant to this item. In determining the amounts of the rollback taxes chargeable on real property which has undergone a change in use, the assessor for the rollback tax years involved shall ascertain:

(A) the fair market value without consideration of the standing timber of such real property under the valuation standard applicable to other real property in the same classification;

(B) the amount of the real property assessment for the particular tax year by multiplying such fair market value by the appropriate assessment ratio provided in this article;

(C) the amount of the additional assessment on the real property for the particular tax year by deducting the amount of the actual assessment on the real property for that year from the amount of the real property assessment determined under (B) of this section;

(D) the amount of the rollback for that tax year by multiplying the amount of the additional assessment determined under (C) of this section by the property tax rate of the taxing district applicable for that tax year."

Time effective

SECTION 2. This act takes effect January 1, 2021, and applies for agricultural real property changed to another use after 2020.

Ratified the 25th day of September, 2020.

Approved the 29th day of September, 2020.

No. 174

(R175, H3755)

AN ACT TO AMEND SECTION 38-77-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS APPLICABLE TO AUTOMOBILE INSURANCE COVERAGE, SO AS TO REMOVE CERTAIN REQUIREMENTS FOR THE RENEWAL OF AN AUTOMOBILE COVERAGE POLICY AND TO DEFINE THE TERM "REDUCTION IN COVERAGE"; TO AMEND SECTION 38-77-120, RELATING TO NOTICE REQUIREMENTS FOR CANCELLATION OR THE REFUSAL TO RENEW A POLICY, SO AS TO ALLOW FOR AN INSURER TO RENEW A POLICY WITH A REDUCTION IN COVERAGE AND TO PROVIDE CERTAIN REQUIREMENTS FOR THE REDUCTION IN COVERAGE; AND TO EXTEND THE REDEMPTION PERIOD FOR TWELVE MONTHS.

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

Definitions

SECTION 1. Section 38-77-30(12) of the 1976 Code is amended to read:

"(12) 'Renewal' or 'to renew' means the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer or the issuance and delivery of a certificate or notice extending the terms of a policy beyond its policy period or term. However, any policy with a policy period or term of less than six months or any period with no fixed expiration date is considered as if written for successive policy periods or terms of six months.

(12.5) 'Reduction in coverage' means a change made by the insurer which results in a removal of coverage, diminution in scope or less coverage, or the addition of an exclusion. Reduction in coverage does not include any change, reduction, or elimination of coverage made at the request of the insured. The correction of a typographical or scrivener's error or the application of mandated legislative changes may not be considered a reduction in coverage."

Automobile insurance, reduction in coverage

SECTION 2. Section 38-77-120(b) of the 1976 Code is amended to read:

"(b) Subsection (a) does not apply if the:

(1) insurer has manifested to the insured its willingness to renew or to renew with a reduction in coverage by actually issuing or offering to the insured to issue a renewal policy, certificate, or other evidence of renewal, or has manifested such intention to the insured by any other means provided that in the case of a reduction in coverage, the insurer provides notice of a reduction in coverage to the named insured in a separate document entitled the 'Notice of Reduction in Coverage' no less than fifteen days prior to the effective date of the renewal that includes the proposed reduction in coverage. This notice must:

(i) inform the insured of the reduction or elimination by the coverage section in the renewal policy or certificate; and

(ii) provide that it is a notice of coverage changes.

The Notice of Reduction in Coverage does not amend, extend, or alter coverage provided in a policy. An insurer's Notice of Reduction in Coverage must be provided to the director or his designee upon request when investigating a consumer complaint or when otherwise requested. The director or his designee may direct the insurer to provide the renewal without the reduction in coverage if the insurer fails to meet the requirements of this section. The director or his designee may issue guidance to an insurer or to the industry regarding the form and contents of the Notice of Reduction in Coverage in response to consumer inquiries or complaints;

(2) named insured has demonstrated by some overt action to the insurer or its agent that he expressly intends that the policy be canceled or that it not be renewed."

Redemption period extension

SECTION 3. A. Notwithstanding any other provision of law, if real property was sold at a delinquent tax sale in 2019 and the twelve-month redemption period has not expired as of the effective date of this section, then the redemption period for the real property is extended for twelve additional months. If the property is redeemed during the twelve-month extension, additional interest shall accrue in the same manner and rate as interest accrues in the original redemption period, as set forth in Section 12-51-90(B). The provisions of Chapter 51, Title 12 of the 1976 Code,

must be administered to account for the additional twelve months, mutatis mutandis including, but not limited to, the extension of affected deadlines.

B. This SECTION takes effect upon approval by the Governor.

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 30th day of September, 2020.

No. 175

(R176, H3780)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 25 TO CHAPTER 9, TITLE 58 SO AS TO CREATE THE "BROADBAND ACCESSIBILITY ACT", TO, AMONG OTHER THINGS, SET FORTH THE BROADBAND AUTHORITY OF ELECTRIC COOPERATIVES AND TO SET FORTH THE MANNER IN WHICH BROADBAND NETWORKS ARE CONSTRUCTED; TO AMEND SECTION 33-49-20, RELATING TO ELECTRIC COOPERATIVES, SO AS TO DEFINE TERMS; TO AMEND SECTION 33-49-150, RELATING TO THE AUTHORITY OF THE OFFICE OF REGULATORY STAFF, SO AS TO SET FORTH THE OFFICE'S BROADBAND AUTHORITY; TO AMEND SECTION 33-49-250, RELATING TO THE POWERS OF ELECTRIC COOPERATIVES, SO AS TO PROVIDE CERTAIN BROADBAND AUTHORITY; BY ADDING SECTION 58-31-230 SO AS TO SET FORTH THE BROADBAND AUTHORITY OF THE PUBLIC SERVICE AUTHORITY; AND TO SPECIFY THAT THIS ACT DOES NOT CONVEY OR CONFER ANY IMPLIED OR EXPRESS GRANT OF AUTHORITY TO AN INVESTOR-OWNED ELECTRIC UTILITY TO PROVIDE BROADBAND FACILITIES OR BROADBAND SERVICES.

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

Broadband Accessibility Act

SECTION 1. Chapter 9, Title 58 of the 1976 Code is amended by adding:

"Article 25
Broadband Accessibility Act

Section 58-9-3000. (A) This article shall be known as the 'Broadband Accessibility Act'.

(B) The General Assembly finds that:

(1) Despite the substantial efforts and billions of dollars invested by existing broadband service providers, locations within the State still lack access to broadband service, particularly in rural areas where the cost to deploy facilities is significantly higher than in more densely populated areas.

(2) Because the lack of broadband facilities and services in certain areas deprives citizens residing in those areas from access to opportunities, the State needs to take action to correct and eliminate discrepancies in access to broadband facilities and services.

(3) With this chapter, the General Assembly intends to authorize electric cooperatives to (a) invest in or deploy broadband facilities and (b) provide broadband service in this State, while ensuring that appropriate protections are in place to ensure that electric cooperatives do not have an unfair competitive advantage over other broadband service providers, and that the provision of broadband service by electric cooperatives does not unduly burden their electric service customers.

(4) It is the public policy of this State to encourage and facilitate the development and investment in broadband facilities in order to facilitate access to broadband services at all locations in the State, as this development is vital and necessary to induce, create, and promote industrial and economic development and to create job opportunities, enhance health care, and enhance educational advancement in the State.

(5) It is the public policy of this State to encourage continued and expanded investment in broadband infrastructure in this State by existing and new broadband providers.

(6) It is the public policy of the State to promote the authorization of advanced communications capabilities to be installed within existing easements and other rights of way in a manner that protects the rights of landowners.

(7) It is the public policy of this State to promote the efficient deployment of broadband facilities in the State.

(8) Utilizing electric easements to provide broadband services, especially existing overhead or underground facilities, does not change the physical use of the easement, interfere with or impair any vested rights of the owner or occupier of real property subject to the easement, or place any additional burdens on the property interests of an owner or occupier. Consequently, the installation and operation of broadband services within the easements are merely changes in the manner or degree of the granted use as appropriate to accommodate a new technology and, absent any applicable express prohibition contained in the instrument conveying or granting the easement, shall be deemed as a matter of law to be permitted use within the scope of every such easement.

(9) The provisions of this chapter are reasonably related to the legislative objective of facilitating access to broadband services in unserved areas throughout the State.

Section 58-9-3010. As used in this article, unless the context otherwise requires:

(1) 'Attached facility' means a broadband facility or a broadband network or any portion of a broadband network, in each case located substantially:

(a) aboveground and attached to an electric cooperative's electric service infrastructure; or

(b) underground in an electric easement.

(2) 'Broadband affiliate' means a broadband service provider that is a separate legal entity from any electric cooperative but is wholly or partially owned by one or more electric cooperatives, or is controlled by, controls, or is under common control with one or more electric cooperatives.

(3) 'Broadband facility' means any infrastructure used to deliver broadband service or for the provision of broadband service.

(4) 'Broadband network' means any and all infrastructure, equipment, materials, or component parts thereof that may be used to provide landline or wireless broadband service, whether now existing or that may be developed in the future including, but not limited to, wires; cables, including fiber optic and copper cables; conduits to the extent not prohibited by the National Electric Safety Code; antennas; equipment; fixtures; switching multiplexers; poles; routers; switches; servers; appurtenances; facilities; or other equipment, whether ancillary,

auxiliary, or otherwise used to facilitate the provision of landline or wireless broadband service.

(5) 'Broadband service' means a landline or wireless service that meets the definition of 'broadband service' in Section 58-9-10(17) and that has minimum download speeds of 25 megabits per second and minimum upload speeds of 3 megabits per second.

(6) 'Broadband service provider' means:

(a) a person that provides retail broadband service to end-user customers; and

(b) an existing broadband service provider.

(7) 'Commission' means the Public Service Commission of South Carolina.

(8) 'Communications service provider' means a person that provides communications service as defined in Section 58-9-2610(B).

(9) 'Electric easement' means a recorded or unrecorded easement or right-of-way or similar right in or to real property, including prescriptive rights, no matter how acquired, held by any electric provider for the siting of electric service infrastructure or for the purpose of delivering electric service, regardless of whether an electric cooperative's broadband affiliate or another broadband service provider uses the easement or other right to provide broadband service.

(10) 'Electric cooperative' means an electric cooperative organized under Chapter 49, Title 33.

(11) 'Electric provider' means an electric cooperative, an investor-owned electric utility, and the South Carolina Public Service Authority.

(12) 'Existing broadband service provider' means a person that was providing broadband service as defined in Section 58-9-10(17) on the effective date of this article.

(13) 'FCC' means the Federal Communications Commission or its successor.

(14) 'Make-ready' means the modification or replacement of an electric cooperative's infrastructure or of the lines or equipment on the electric cooperative's infrastructure to accommodate additional attached facilities.

(15) 'Person' means any natural person and any firm, association, corporation business trust, partnership, federal agency, state or political subdivision or agency thereof, or any body politic.

(16) 'Retail broadband service' means any broadband service other than that provided for:

(a) the internal use of an electric cooperative;

(b) the internal use of another electric cooperative;

(c) resale by another electric cooperative or other broadband service provider; or

(d) use as a component part of communications services that other cable, telecommunications, or information services providers offer to their customers.

Section 58-9-3020. (A) Subject to the limitations set forth in this article, and in addition to all other purposes, powers, and authority currently granted to electric cooperatives under the laws of this State, an electric cooperative may do all of the following within areas in which it is authorized to provide electric service, and within such other areas as provided in subsection (B):

(1) own, maintain, construct, install, and replace broadband facilities;

(2) contract with a broadband service provider, including a broadband affiliate, to own, lease, manage, construct, superintend, install, operate, maintain, and replace a broadband network;

(3) provide retail broadband service only through a broadband affiliate; and

(4) contract with a broadband service provider that is not a broadband affiliate to provide retail broadband service to electric cooperative customers in compliance with the provisions of this article, provided; however, that nothing in this article is intended to nor shall it be construed as regulation of the rates, terms, and conditions of retail broadband service to end-user customers.

(B) An electric cooperative may provide retail broadband service only within:

(1) areas in which it is authorized to provide electric service and areas within two miles of its authorized electric service area;

(2) census block groups for federal funding programs in which the electric cooperative has been designated as a recipient for federal funding provided that:

(a) the funding is provided through a structured and defined program;

(b) the program is open to broadband service providers including, but not limited to, electric cooperatives offering broadband pursuant to this article; and

(c) the program is intended to support the deployment of broadband facilities or broadband service for unserved consumers;

(3) census blocks for state funding programs in which the electric cooperative has been designated as a recipient for state funding provided that:

(a) the funding is provided through a structured and defined program;

(b) the program is open to broadband service providers including, but not limited to, electric cooperatives offering broadband pursuant to this article; and

(c) the program is intended to support the deployment of broadband facilities or broadband service for unserved consumers.

(C) In order to assist an electric cooperative in the planning, engineering, construction, extension, provision, operation, repair and maintenance of broadband facilities, an electric cooperative or its broadband affiliate is authorized to:

(1) apply for, accept, repay, and utilize loans, grants, and other financing from any person; and

(2) enter into contracts, agreements, partnerships, or other types of business relationships with any person.

(D) This article does not require or obligate an electric cooperative to install or implement a broadband network or facilities or to provide broadband service provided; however, nothing in this subsection relieves an electric cooperative from complying with the provisions of Section 58-9-3030(A) and (B).

(E) A broadband affiliate shall only serve the purposes of developing, providing, furnishing, or promoting broadband facilities and broadband services or a combination of such purposes.

Section 58-9-3030. (A) An electric cooperative shall provide communications service providers, including any broadband affiliates of such electric cooperative, with nondiscriminatory access in offering or granting rights to install or attach any attached facilities, including the right to use easements and rights of way, and must offer just, reasonable, and nondiscriminatory rates, fees, charges, terms, and conditions for attached facilities to communications service providers, which must pay such charges and comply with such terms and conditions. Access includes the right to nondiscriminatory use of all easements and rights of way and to all poles, ducts, conduits to the extent not prohibited by the National Electric Safety Code, and similar support structures owned or controlled by the electric cooperative or, if applicable, its broadband affiliate, including access to the replacement or expansion of such facilities for the purpose of attaching equipment for the provision of broadband service.

(1) Except as expressly provided otherwise, nothing in this article alters, amends, or otherwise affects the provisions of any agreement that, as of the effective date of this article, addresses the attachment or

placement of facilities by communications service providers on or in the poles or structures of an electric cooperative.

(2) Notwithstanding item (1), a communications service provider may submit to an electric cooperative a written request to negotiate agreements addressing the attachment or placement of facilities, after the date of the written request, by the communications service provider on or in the existing or new poles or structures of the electric cooperative. Unless the communications service provider and the electric cooperative agree otherwise, such agreements must not address facilities that were attached or placed prior to the date of the written request to negotiate. The parties must negotiate in good faith for at least sixty days after the written request, after which either party may petition the commission to determine just and reasonable rates, terms, and conditions for the agreements. The commission must make such determination within one hundred eighty days of the filing of the petition for that determination and the commission's determination must apply retroactively to all facilities attached or placed between the date of the written request to negotiate and the date of the commission's determination. Between the date of the written request to negotiate and the date of the commission's determination:

(a) the terms and conditions of any existing agreement addressing such attachments or placements apply, subject to true-up, to put the parties in the positions in which they would have been had the commission's determination been in effect on the date of the written request to negotiate; and

(b) in the absence of such existing agreement, unless the parties agree otherwise, the commission, within thirty days of the petition for a determination, must establish interim rates, terms, and conditions that will apply, subject to true-up, to put the parties in the positions in which they would have been had the commission's determination been in effect on the date of the written request to negotiate.

(B)(1) Except as provided in item (2), an electric cooperative shall not withhold authorization or delay its decision to provide authorization to a communications service provider to install, maintain, own, operate, or use the communications service provider's attached facilities on electric service infrastructure owned or controlled by the electric cooperative. A communications service provider shall not delay installation, maintenance, or relocation of attachments owned or controlled by the communications service provider on infrastructure owned or controlled by an electric cooperative except as may be required by law, regulation, or agreement. All review by an electric cooperative of requests by a communications service provider to attach facilities, make-ready

activities, and all pole or support structure replacement or expansions undertaken pursuant to this section shall be completed by the electric cooperative, its broadband affiliate, or by the communications service provider, as applicable, within the timeframes and other make-ready requirements set forth in 47 C.F.R. Section 1.1411 under federal law for utilities subject to regulation by the FCC pursuant to the Federal Pole Attachments Act (47 U.S.C. Section 224) as it exists on September 15, 2020, unless the commission finds, upon petition by the electric cooperative, its affiliate, or the communications service provider that the public interest and necessity require an extension of such timelines.

(2) A request to utilize poles, ducts, or conduits under this section may be denied only if there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering principles, and those limitations cannot be remedied by rearranging, expanding, or otherwise reengineering the facilities, provided the communications service provider pays the reasonable and actual cost of the pole owner caused by its attachment.

(C)(1) An electric cooperative that provides any broadband facility or any broadband service that is not retail broadband service to a broadband affiliate or to any other person or entity must do so pursuant to a written contract, at market rates, and on terms and conditions that are not harmful to competition. Within fifteen business days of entering any such contract, an electric cooperative must file notice of the contract with the commission in a docket designated by the commission. If, after consultation with the electric cooperative that has filed such notice, a communications services provider believes the electric cooperative has violated the provisions of this subsection, a communications services provider may submit a complaint pursuant to the provisions of Section 33-49-150 asserting that the electric cooperative has violated the provisions of this subsection. Upon submitting such complaint, the electric cooperative must provide any relevant contracts to the communications services provider pursuant to a nondisclosure agreement. If the communications services provider and the electric cooperative cannot agree to the terms of a nondisclosure agreement within ten days after the submission of the complaint, either may petition the commission to determine the terms and conditions of such nondisclosure agreement and the commission must do so within ten days of the filing of the petition. No complaint submitted pursuant to this subsection shall be the subject of a motion to dismiss or a motion to stay or otherwise delay the proceedings for failure to set forth sufficient factual allegations to support the claim until fifteen business days after the communications service provider submitting the complaint has been

provided any relevant contract. If the complaint results in a contested case before the commission, the electric cooperative subject to the complaint and the communications service provider submitting the complaint shall be permitted to conduct discovery in accordance with the commission's rules and regulations. The Office of Regulatory Staff is given authority to investigate such complaints and the commission is given authority and jurisdiction to resolve any disputed issues concerning such complaints. For the purposes of determining whether a contract is harmful to competition pursuant to this subsection:

(a) the commission may consider whether the contract is exclusive, but the exclusivity of a contract does not, in and of itself, constitute harm to competition; and

(b) any contract that by its own terms is available for adoption by any communications service provider is, by operation of law, at market rates and on terms and conditions that are not harmful to competition.

(2) The notice requirements of item (1) do not apply to:

(a) broadband services or broadband facilities that are provided for the internal electric operations' use of the electric cooperative or another electric cooperative; or

(b) any agreements entered into prior to the effective date of this article.

(3) No sooner than five years from the effective date of this article, on petition by any interested party, the commission may consider whether there remains a continued need for the notice filing requirements of item (1) and, if it determines that the need no longer exists, the commission may terminate the notice filing requirement of item (1).

(D)(1) Except as otherwise provided in this article, a communications service provider that has attached, or applied to attach, facilities on electric cooperative infrastructure shall abide by the terms, conditions, and schedules required of them in pole attachment agreements and will transfer its attached facilities to new or updated electric cooperative infrastructure in accordance with the terms, conditions, or schedules required therein, or, in the absence of any such terms, conditions or schedules, transfer its attached facilities to new or updated electric cooperative infrastructure within a reasonable amount of time.

(2) A communications service provider that has attached, or applied to attach, facilities on electric cooperative infrastructure and the electric cooperative must cooperate with the owner of the pole and all other attaching entities in good faith to fully comply with National

Electric Safety Code requirements for electric infrastructure attachments.

(3) Except in compliance with the provisions of a written agreement that provide otherwise, a communications service provider must not attach to electric cooperative infrastructure without the knowledge and permission of the electric cooperative.

(E) An electric cooperative shall not directly provide retail broadband service but may cause or allow a broadband affiliate to offer retail broadband service. As long as an electric cooperative maintains its exclusive right to provide electric service to customers within its exclusive service territory, both the electric cooperative that has a broadband affiliate and the broadband affiliate shall:

(1) maintain or cause to be maintained an accounting system for the broadband affiliate separate from the electric cooperative's accounting system, following generally accepted accounting principles or another reasonable and customary allocation method;

(2)(a) not cause or allow the electric cooperative to use its exclusive right to provide electric services within its exclusive territory to cross-subsidize the broadband affiliate or its provision of broadband service. To prevent cross-subsidization between broadband service activities and electricity service activities, any electric cooperative with a broadband affiliate that provides retail broadband service shall:

(i) fully allocate all costs of electricity service activities and broadband service activities, including costs of any shared services between electricity service activities and broadband affiliate broadband service activities in accordance with:

(A) the provisions of this section; and

(B) the applicable uniform system of accounts and generally accepted accounting principles that are applicable to electric cooperatives under federal and state laws, rules, and regulations;

(ii) not charge any costs of broadband service activities to the electricity service customers of such electric cooperative.

(A) Costs of broadband service activities do not include the appropriate costs of construction, installation, attachment, operation, management services, administrative services, repair, and maintenance of the facilities or infrastructure associated with the portion of communications infrastructure and facilities or services that are used by the electric cooperative for internal information and control technology systems necessary for the provision of electricity services.

(B) The electric cooperative must charge its broadband affiliate, and the broadband affiliate must cover in the prices it charges for its broadband services, amounts that fully compensate the electric

cooperative for the direct, indirect, and shared costs associated with the portion of the infrastructure and facilities or services that are used by the broadband affiliate. Such costs are not limited to marginal or incremental costs but instead must include the appropriate costs of construction, installation, attachment, operation, management services, administrative services, repair, and maintenance of the facilities or infrastructure regardless of whether they are in the space apportioned for electric, communications, or any other facilities or structures;

(iii) not use below-market loans or below-market funding from programs that are not intended to support the deployment of broadband facilities or broadband service in order to support broadband facilities or to provide broadband service unless the electric cooperative or its broadband affiliate imputes the difference between market rates and the below-market loans or below-market funding into the costs of its broadband facilities and broadband service. The provisions of this subitem shall not apply to loans or funding from programs that are intended to support the deployment of broadband facilities or broadband service.

(b) Nothing in subsection (E)(2) prohibits an electric cooperative from:

(i) loaning funds to a broadband affiliate if the interest rate on the loan is no less than the electric cooperative's lowest cost of capital;

(ii) exchanging services or materials for other services or materials of equivalent value;

(iii) providing reduced-cost broadband service to low-income retail customers; or

(iv) conducting and funding due diligence, operational analysis, entity set-up, and associated noncapital expenditures relating to and prior to the establishment of a broadband affiliate.

(F) The commission and the Office of Regulatory Staff have the authority and jurisdiction set forth in Section 33-49-150(B) to enforce compliance with this section with regard to communications services providers, electric cooperatives, and broadband affiliates that conduct any activities addressed by this section.

(G) Nothing in this article:

(1) subjects an electric cooperative to regulation by the FCC;

(2) constitutes an exercise of, or an obligation or intention to exercise, the right of a state under 47 U.S.C. Section 224(c) to regulate the rates, terms, and conditions for pole attachments, as defined in 47 U.S.C. Section 224(a)(4); or

(3) constitutes a certification, or an obligation to certify, to the FCC under 47 U.S.C. Section 224.

Section 58-9-3040. (A) If the owner of an interest in real property subject to an electric easement contends that the owner's property has been taken, destroyed, or physically damaged by the construction, installation, use, or enlargement of broadband networks within the electric easement on the owner's property that is not expressly provided for by the terms of the electric easement, the owner may file a civil action in the circuit court for the county in which the property is located to recover damages as specified by this section. All such actions must be brought within two years after the later of:

(1) the effective date of this article; or

(2) the date broadband networks are first constructed or installed within the electric easement on the owner's real property. Nothing in this article shall revive any right or remedy which may have become barred by lapse of time or by any law of this State prior to the effective date of this article.

(B)(1) In any action under subsection (A), if the court determines that the construction, installation, use, or enlargement of a broadband network exceeds the scope of the rights granted under the provisions of this section or by the electric easement on the owner's real property, the measure of damages shall be an amount equal to the difference, if any, between the following:

(a) the fair market value of the owner's real property immediately before the construction or installation of broadband networks within the electric easement on the owner's real property; and

(b) the fair market value of the owner's real property immediately after the construction or installation of broadband networks within the electric easement on the owner's real property and taking into account the incidental benefits to the owner's property resulting from the potential availability of broadband services to the property.

(2) Any decreases in the fair market value of the owner's property which are not attributable to the construction or installation of broadband networks within the electric easement on the owner's real property shall not be included for purposes of calculating damages in item (1).

(3) The damages, if any, shall be fixed as of the date of construction or installation of broadband networks and shall not be deemed to continue, accumulate, or accrue. The judgment in any such action for the plaintiff shall include the plaintiff's costs and litigation expenses. Costs and litigation expenses authorized by this section may be claimed, taxed, and awarded under the same procedures that apply to

costs in other civil actions. Payment of the judgment in any such action shall vest in the electric provider or electric cooperative all property rights necessary to construct, use, install, operate, replace, and maintain, from time to time, the broadband networks within the electric easement on the owner's real property and the electric easement shall be thereafter permanently expanded to include the right to construct, use, install, operate, replace, and maintain the broadband network and broadband services. The judgment shall have the same effect as a conveyance executed by the owner in due form under applicable law and shall run with the land. A certified copy of the judgment may be filed by the electric provider or electric cooperative, a broadband affiliate, or other broadband operator in the land records of the county in which the subject property is located, but is not required to make such broadening of the electric easement effective. The expansion for the broadband network shall include the broadband network within the maintenance, egress, and ingress provisions of the electric easement.

(C) Evidence of past, current, or future revenues or profits derived or to be derived by an electric provider, electric cooperative, broadband affiliate, or unaffiliated broadband operator or broadband service provider from providing broadband services is not admissible for any purpose in an action under this section.

(D) An owner bringing an action under this section may not bring an action on behalf of a class or in any other representative capacity or any form of collective action. The limitation in this subsection is a substantive limitation and allowing an owner to bring a class action or other representative action for a violation of this chapter would abridge, enlarge, or modify the substantive rights created by this section.

(E) An electric provider, electric cooperative, broadband affiliate, or unaffiliated broadband operator or broadband service provider may receive such rights from an owner of real property by service agreement or service regulation, membership agreement, license agreement, or other agreement to serve the property with advanced communications capabilities without granting an easement or right of way. The grant or agreement may permit the construction, installation, replacement, operation, use, and maintenance of the advanced communications capabilities on the property without the requirement of further consent of any other tenant, concessionaire, or occupant of that property.

(F) With respect to the installation of broadband networks within an electric easement in effect prior to the effective date of this article, the electric provider or electric cooperative shall provide the same notice as is required by the express terms of the electric easement, if any, or as required by other applicable law for the construction or installation of

the electric delivery network within the electric easement. With respect to the installation of broadband networks within an electric easement that is acquired other than by condemnation after the effective date of this article, the electric provider or electric cooperative shall provide such notice as is required by the express terms of the document creating the electric easement, if any; or under applicable law. Notice shall be sufficient if mailed to the name and address of the owner or owners listed in the real property ad valorem tax records for the county where the real property is located. Nothing in this section shall require the notice from the electric provider or electric cooperative when the electric easement is acquired by condemnation or pursuant to an expansion of the electric easement by civil action commenced by the owner.

(G) Nothing in this article shall be deemed to relieve the broadband operator, broadband service provider, electric provider, or electric cooperative from liability for bodily injury or physical damage to real or personal property located adjacent to the electric easement, subject to the limitations set forth in this article.

Section 58-9-3050. (A) An electric cooperative may not condition the receipt of electric service on, nor provide more favorable terms for electric service for, persons that receive broadband service from the electric cooperative's broadband affiliate or any other broadband service provider.

(B) An electric cooperative may not share confidential information from an unaffiliated communications service provider obtained in a pole attachment request and approval process including, but not limited to, requested locations for pole attachments, the locations of customers to be served, or any identifying information regarding customers with its broadband affiliate or any other communications service provider.

(C) An electric cooperative shall not disconnect any customer from receiving electric services based on the customer's failure to pay for broadband service provided to the customer by the electric cooperative's broadband affiliate."

Definitions

SECTION 2. Section 33-49-20 of the 1976 Code is amended to read:

"Section 33-49-20. In this chapter, unless the context otherwise requires:

(1) 'Person' includes any natural person, firm, association, corporation, business trust, partnership, federal agency, state or political subdivision or agency thereof, or any body politic.

(2) 'Member' means each incorporator of a cooperative and each person admitted to and retaining membership therein and shall include a husband and wife admitted to joint membership.

(3) 'Articles of incorporation' includes the articles of conversion of a converted corporation.

(4) 'Commission' means the South Carolina Public Service Commission.

(5) 'Corridor' means the area within 300 feet of an electric supplier's distribution lines as described in Act 432 of 1969.

(6) 'Broadband affiliate' is as defined in Section 58-9-3010(2).

(7) 'Broadband network' is as defined in Section 58-9-3010(4).

(8) 'Broadband service' is as defined in Section 58-9-3010(5).

Corporations organized under this chapter and corporations which become subject to this chapter in the manner provided herein are hereinafter referred to as 'cooperatives'."

Office of Regulatory Staff inspections

SECTION 3. Section 33-49-150, as added by Act 56 of 2019, is amended to read:

"Section 33-49-150. (A) 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 electric cooperatives pursuant to the provisions of Chapter 4, Title 58 relating to the compliance of electric cooperatives with the provisions of Sections 33-49-255, 33-49-280, 33-49-420, 33-49-430, 33-49-440, 33-49-450, 33-49-610, 33-49-615, 33-49-620, 33-49-625, 33-49-630, 33-49-640, 33-49-645, 33-49-1410, 33-49-1420, 33-49-1430, 33-49-1440, 58-27-820, and 58-27-840. The Office of Regulatory Staff is granted authority and jurisdiction over electric cooperatives that provide only wholesale services with regard to any of the foregoing statutory provisions to the extent that those provisions are applicable to the wholesale electric cooperatives. The Office of Regulatory Staff does not have the authority or jurisdiction to make inspections, audits, or examinations of subsidiaries of an electric cooperative provided that the subsidiary is not subsidized by, or any financial credit risk to, electric cooperative ratepayers and that the subsidiary has not taken action, on behalf of the electric cooperative, on any of the electric cooperative's

duties as provided in the sections listed above. Where an electric cooperative board of trustees has exercised its business judgment in accordance with sound business and management practices and consistent with the long-term financial stability of the cooperative and the benefit of its members, the Office of Regulatory Staff is not authorized to disturb the resulting decisions of the electric cooperative board of trustees. 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 electric cooperative and attempt to resolve with the management and board any compliance issues that are identified. The commission is vested with the authority and jurisdiction to resolve any disputed issues arising from the inspections, audits, or examinations.

(B) The Office of Regulatory Staff is further vested with the authority and jurisdiction to make inspections, audits, and examinations sufficient to ascertain the compliance of communications service providers, electric cooperatives, and broadband affiliates with the provisions of Sections 58-9-3030 and 58-9-3050. For inspections, audits, and examinations executed in accordance with this subsection, the following procedures apply:

(1) Consistent with the powers provided in this subsection, the Office of Regulatory Staff shall make an inspection, audit, and examination upon the issuance of a complaint, submitted to the Office of Regulatory Staff, by a communications service provider, broadband affiliate, or electric cooperative that has reason to believe a violation of Section 58-9-3030 or 58-9-3050 is occurring or has occurred. To the extent that a communications service provider is an attacher only, the Office of Regulatory Staff shall confine their inspection, audit, and examination to the attachers' compliance with attacher obligations pursuant to applicable laws, regulations, and agreements. The Office of Regulatory Staff shall provide notice of the complaint to each communications service provider, broadband affiliate, or electric cooperative named in the complaint. The provisions of Section 58-4-55 including, but not limited to, the treatment of information deemed confidential or proprietary, shall apply to any such inspections, audits, and examinations. Information deemed confidential or proprietary must be made available to other parties or to the complaint only pursuant to the terms and conditions of an appropriate nondisclosure agreement. If the parties cannot agree to such terms and conditions, the commission shall provide the parties an opportunity to be heard and then establish the terms and conditions of an appropriate nondisclosure agreement.

(2) Unless the parties to the complaint agree otherwise, the Office of Regulatory Staff must complete its inspection, audit, and examination within forty-five days of issuance of the complaint initiated by a communications service provider, electric cooperative, or a broadband affiliate. Upon completion of an authorized inspection, audit, and examination, the Office of Regulatory Staff must report its findings to the management and board of the electric cooperative, broadband affiliate or the communications service provider that is the subject of the complaint and to the party that made the complaint. The Office of Regulatory Staff will attempt to resolve with the management and board of the electric cooperative, broadband affiliate, or the management of the communications service provider any compliance issues that are identified. The commission is vested with the authority and jurisdiction, upon the filing of a complaint, to determine any disputed issues arising from the inspection, audit, and examination and any issues arising from or under the provisions of Sections 58-9-3030 and 58-9-3050 that are not resolved pursuant to this subsection. In determining such issues, and only to the extent necessary to resolve such disputed issues, the commission is granted authority and jurisdiction over any and all electric cooperatives, broadband affiliates, and communications service providers that conduct any activities pursuant to Sections 58-9-3030 and 58-9-3050.

(3) The commission must enter a final order deciding a complaint filed with the commission pursuant to item (2) within ninety days of filing.

(4) Except as expressly provided in this subsection, nothing in this subsection expands, diminishes, or otherwise affects any existing jurisdiction of the commission."

Electric Cooperatives' broadband authority

SECTION 4. Section 33-49-250(10) and (11) of the 1976 Code is amended to read:

"(10) to conduct its business and exercise any or all of its powers within or without this State;

(11) to do and perform any and all other acts and things and to have and exercise any and all other powers which may be necessary, convenient, or appropriate to accomplish the purpose for which the cooperative is organized; and

(12) to wholly or partially own, lease, maintain, construct, install, operate, and replace a broadband network directly or indirectly as

provided for and subject to the limitations and requirements set forth in Article 25, Chapter 9, Title 58."

Public Service Authority broadband authority

SECTION 5. Chapter 31, Title 58 of the 1976 Code is amended by adding:

"Section 58-31-230. (A) As used in this section, unless the context otherwise requires:

(1) 'Unaffiliated communications service provider' means a 'communications service provider', as defined under Section 58-9-3010(8), and including, but not limited to, electric cooperatives and their broadband affiliates, that is not controlled by or under common control with the Public Service Authority.

(2) 'Excess fiber capacity' means fiber optic capacity owned or controlled by the Public Service Authority, constructed to provide internal communications in support of the provision of electric services, and that is unused, available, and in excess of the capacity needed by the Public Service Authority, including its reserve margins, for its internal communications in furtherance of its provision of electric service.

(B) Subject to the provisions set forth in this section, the Public Service Authority shall only lease excess fiber capacity that is used for providing any broadband service to a third party through an arrangement in which the unaffiliated communications service provider provides the broadband service.

(C) The Public Service Authority may cause or allow unaffiliated communications service providers to lease excess fiber capacity through an arrangement in which the unaffiliated communications service provider uses such capacity to provide broadband service; provided such lease shall, subject to the requirements of Section 58-31-30(a)(13), charge rates, fees, or other charges on a nondiscriminatory basis pursuant to a written contract, at market rates and on terms and conditions that are not harmful to competition.

(D) With regard to the lease of excess fiber capacity pursuant to subsection (C), the Public Service Authority must:

(1) submit rates, terms, and conditions to the Office of Regulatory Staff for review and comment;

(2) post rates, fees, and other charges along with terms and conditions on its publicly available website;

(3) within fifteen business days of entering any written contract post conspicuous notice of the contract on its publicly available website; and

(4) within ten days after a written request, make each contract for the lease of excess fiber capacity available for public inspection on an unredacted basis.

(E) Nothing in this section conveys or confers any implied or express grant of authority to the Public Service Authority to directly provide broadband service or act as a broadband service provider, as these terms are defined in Section 58-9-3010(5) and (6) and any legal rights which may or may not belong to the Public Service Authority related to broadband services, if any, are neither expanded nor contracted by this section.

(F) To the extent the Public Service Authority determines, in its sole discretion, to provide any communications service provider including, without limitation, electric cooperatives and their broadband affiliates, access to any pole, duct, conduit, easement, or right of way owned or controlled by the Public Service Authority, for the purpose of providing retail broadband service, it must provide such access to any other communications service provider for the purpose of providing retail broadband service on a nondiscriminatory basis and subject to the Public Service Authority's terms and conditions. Nothing in this section shall prohibit the Public Service Authority from denying access to a pole, duct, or conduit if it determines there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering principles. The terms of this subsection shall not apply to leasing by the authority of excess fiber capacity.

(G) The Administrative Law Court shall have authority and jurisdiction to enforce compliance with this section.

(H) Nothing in this section:

(1) subjects the Public Service Authority to regulation by the FCC;

(2) constitutes an exercise of, or an obligation or intention to exercise, the right of a state under 47 U.S.C. Section 224(c) to regulate the rates, terms, and conditions for pole attachments, as defined in 47 U.S.C. Section 224(a)(4); or

(3) constitutes a certification or an obligation to certify to the FCC under 47 U.S.C. Section 224."

Investor-owned electric utilities not granted broadband authority

SECTION 6. This act does not convey or confer any implied or express grant of authority to an investor-owned electric utility to provide

broadband facilities or broadband services as defined in this act and any legal rights which may or may not belong to investor-owned electric utilities to provide broadband facilities or broadband services at the time of the passage of this act are neither expanded nor contracted by its passage.

Severability

SECTION 7. The provisions of this act are severable. If any section, subsection, paragraph, subparagraph, item, subitem, 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 the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, items, subitems, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 8. This act takes effect upon approval by the Governor.

Ratified the 25th day of September, 2020.

Approved the 29th day of September, 2020.

No. 176

(R180, H4431)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 6-1-400 SO AS TO, AMONG OTHER THINGS, PROVIDE BUSINESS LICENSE TAX STANDARDIZATION, TO PROVIDE DEFINITIONS, TO PROVIDE FOR THE MANNER IN WHICH A BUSINESS LICENSE TAX IS COMPUTED, TO PRESCRIBE THE MANNER IN WHICH BUSINESS LICENSES ARE PURCHASED, TO PROVIDE THAT A TAXING JURISDICTION SHALL ADOPT

THE LATEST STANDARDIZED BUSINESS LICENSE CLASS SCHEDULE; BY ADDING SECTION 6-1-410 SO AS TO, AMONG OTHER THINGS, DEFINE THE PROCEDURES BY WHICH THE TAXING JURISDICTION MAY SERVE NOTICE OF ASSESSMENT OF THE BUSINESS LICENSE TAX DUE WHEN A TAXPAYER FAILS OR REFUSES TO PAY A BUSINESS LICENSE TAX AND THE PROCEDURES BY WHICH A TAXPAYER MAY REQUEST AN ADJUSTMENT OF THE ASSESSMENT OR APPEAL THE NOTICE OF FINAL ASSESSMENT; AND BY ADDING SECTION 6-1-420 SO AS TO, AMONG OTHER THINGS, PROVIDE THAT A TAXING JURISDICTION, UNDER CERTAIN CONDITIONS AND LIMITATIONS, MAY CONTRACT BY ORDINANCE WITH AN INDIVIDUAL, FIRM, OR ORGANIZATION TO ASSIST WITH COLLECTING PROPERTY OR BUSINESS LICENSE TAXES, AND TO ESTABLISH A PRIVATE RIGHT OF ACTION FOR PERSONS OR ENTITIES BASED ON VIOLATIONS OF THIS ACT OR ANY REGULATIONS PRESCRIBED PURSUANT TO THIS ACT.

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

Citation

SECTION 1. This act may be cited as the "South Carolina Business License Tax Standardization Act".

South Carolina Business License Tax Standardization Act

SECTION 2. Article 3, Chapter 1, Title 6 of the 1976 Code is amended by adding:

"Section 6-1-400. (A)(1) Unless otherwise specifically provided for by state law, a county or municipality that levies a business license tax must comply with the provisions of this article.

(2) As used in this article:

(a) 'Business license' means a license issued to a taxpayer by a county or municipality for the privilege of doing business in that county or municipality.

(b) 'Taxing jurisdiction' means a county or municipality levying a business license tax.

(c) 'Taxpayer' means an individual, firm, partnership, limited liability partnership, limited liability corporation, corporation, trust, estate, association, or company.

(B)(1) A business license must be issued to a taxpayer for a twelve-month period beginning May first and ending April thirtieth. Each business license issued must expire April thirtieth or, if issued on a construction contract, at the completion of the construction project. The business license must be renewed before May first of the year in which it expires. If the tax is not paid before May first, then a taxing jurisdiction may impose penalties, except that an admitted insurance company may pay before June first without penalty.

(2) The business license tax must be computed based on the gross income for the calendar year preceding the due date, for the business's twelve-month fiscal year preceding the due date, or on a twelve-month projected income based on the monthly average for a business in operation for less than one year. The tax for a new business must be computed on the estimated probable gross income for the balance of the license year. A business license related to construction contract projects may be issued on a per project basis, at the option of the taxpayer.

(3) A taxpayer is entitled to a refund if he submits a business license tax payment that is greater than the amount owed. The refund must be requested by the taxpayer before June first. The taxing jurisdiction shall issue the refund to the taxpayer within thirty days of the taxpayer's request for the refund.

(C) Wholesalers are exempt from business license taxes unless they maintain warehouses or distribution establishments within the taxing jurisdiction. A wholesale transaction involves a sale to an individual who will resell the goods and includes delivery of the goods to the reseller. It does not include a sale of goods to a user or consumer. The provisions of this article do not amend or repeal Section 12-21-1085 or 12-33-20.

(D)(1) For the purposes of this article:

(a) 'Charitable organization' means an organization that is determined by the Internal Revenue Service to be exempt from federal income taxes under 26 U.S.C. Section 501 (c)(3), (4), (6), (7), (8), (10), or (19).

(b) 'Charitable purpose' means a benevolent, philanthropic, patriotic, or eleemosynary purpose that does not result in personal gain to a sponsor, organizer, officer, director, trustee, or person with ultimate control of a charitable organization.

(2) A charitable organization shall be exempt from the business license tax on its gross income unless it is deemed a business subject to a business license tax on all or part of its gross income as provided in

this section. A charitable organization, or any for-profit affiliate of a charitable organization, that reports income from for-profit activities, or unrelated business income, for federal income tax purposes to the Internal Revenue Service shall be deemed a business subject to a business license tax on the part of its gross income from such for-profit activities or unrelated business income.

(3)(a) A charitable organization shall be deemed a business subject to a business license tax on its total gross income if:

(i) any net proceeds of operation, after necessary expenses of operation, inure to the benefit of any individual or any entity that is not itself a charitable organization as defined in this section; or

(ii) any net proceeds of operation, after necessary expenses of operation, are used for a purpose other than a charitable purpose as defined in this section.

(b) Excess benefits or compensation in any form beyond fair market value to a sponsor, organizer, officer, director, trustee, or person with ultimate control of a charitable organization shall not be deemed a necessary expense of operation.

(E)(1) For the purposes of this article:

(a) 'Gross income' means the gross receipts or gross revenue of a business, received or accrued, for one calendar or fiscal year collected or to be collected from business done within a taxing jurisdiction. For taxing jurisdictions in which the person or business has a domicile, business done within that taxing jurisdiction shall include all gross receipts or revenue received or accrued by such person or business, excepting income earned outside of the taxing jurisdiction on which a license tax is paid by the person or business to some other taxing jurisdiction and fully reported to the taxing jurisdiction. For taxing jurisdictions in which the person or business does not have a domicile, business done within that taxing jurisdiction shall include only gross receipts or revenue received or accrued within such taxing jurisdiction. In all cases, if the taxpayer pays a business license tax to another county or municipality, then the taxpayer's gross income for the purpose of computing the tax within the taxing jurisdiction must be reduced by the amount of gross income taxed in the other county or municipality.

(b) 'Gross income for agents' means gross commissions received or retained. If commissions are divided with other brokers or agents, then only the amount retained by the broker or agent is considered gross income.

(c) 'Gross income for insurance companies' means gross premiums written.

(d) 'Gross income for manufacturers of goods or materials with a location in a taxing jurisdiction' is the lesser of gross income collected from business done at the location, the amount of income allocated and apportioned to that location by the business for purposes of the business's state income tax return, or the amount of expenses attributable to the location as a cost center of the business. Manufacturers include those taxpayers reporting a manufacturing principal business activity code on their federal income tax returns.

(e) Gross income for telecommunications providers is subject to the provisions of Article 20, Chapter 9, Title 58.

(2) Gross income for business license tax purposes may not include taxes collected for a governmental entity, escrow funds, or funds that are the property of a third party. The value of bartered goods or trade in merchandise may be included in gross income.

(3) The gross receipts or gross revenues for business license purposes may be verified by inspection of returns and reports filed with the Internal Revenue Service, the South Carolina Department of Revenue, the South Carolina Department of Insurance, or other governmental agencies.

(F) Each taxing jurisdiction shall accept a standard business license application as established and provided by the Director of the Revenue and Fiscal Affairs Office.

(G)(1) By December thirty-first of every odd year, a taxing jurisdiction levying a business license tax shall adopt, by ordinance, the latest Standardized Business License Class Schedule as recommended by the Municipal Association of South Carolina and adopted by the Director of the Revenue and Fiscal Affairs Office. The Municipal Association of South Carolina shall determine and revise the Standardized Business License Class Schedule every even year using the latest available nationwide Internal Revenue Service statistics for the calculation of profitability of businesses and using the latest business classification codes of the latest North American Industry Classification System (NAICS).

(2) A taxing jurisdiction, upon a finding of a rational basis as explained in its ordinance and by a positive majority vote of county or municipal council, may provide for additional reasonable subclassifications, described by an NAICS sector, subsector, or industry, based upon particularized considerations as needed for economic stimulus or the enhanced or disproportionate demands by specific business subclassifications on taxing jurisdiction services or infrastructure.

(H)(1) Any special ordinance, formal agreement, or informal agreement entered into between a taxing jurisdiction and a taxpayer regarding rate classes, an annual flat fee, or the calculation of business license taxes that was adopted by ordinance or agreed to before enactment of this subsection is considered valid upon the approval of the taxpayer. A taxpayer may prove the existence and terms of an agreement through direct or circumstantial evidence, including evidence of prior payment accepted.

(2) This section does not impair or affect any future special business license ordinance passed for economic stimulus, an annual flat fee, or any future formal or informal agreement between a taxing jurisdiction and a taxpayer regarding the calculation of business license taxes.

(I)(1) A taxing jurisdiction must establish its 2022 Business License Tax Rate Schedule using the gross income reported by businesses for a twelve-month period in the 2020 business license year so that the aggregate taxing jurisdiction business license tax calculated for 2022 does not exceed the aggregate taxing jurisdiction business license tax collected in 2020 from the same businesses.

(2) If the rate for an NAICS sector, subsector, or industry is unchanged from 2020 to 2022, then the business license tax collections may be excluded from the calculation set forth in item (1).

(J)(1) A taxing jurisdiction shall provide access to taxpayers for the reporting, calculation, and payment of business license taxes through the business license tax portal hosted and managed by the Revenue and Fiscal Affairs Office, subject to the availability and capability of the portal. Any limitations in portal availability or capability do not relieve taxpayers from existing business license or business license tax obligations. Any audit of income or assessment of tax reported through the business license tax portal must be undertaken by the taxing jurisdiction. Data obtained through the business license tax portal may not be used by parties other than the taxing jurisdictions for statewide analytics or any other purpose not specified in this section. Parties other than the taxing jurisdictions are prohibited from auditing a taxpayer using the business license tax portal. A taxing jurisdiction shall receive the entirety of the business license tax paid to it by a taxpayer through the business license tax portal. In addition to allowing a payment through the business license tax portal, a taxing jurisdiction shall allow a taxpayer to file and pay its business license tax in person at a location within the taxing jurisdiction, by telephone, by mail, or through an online payment system in existence on January 1, 2018, or prior, that is owned and operated by the taxing jurisdiction.

(2) The Revenue and Fiscal Affairs Office is authorized to contract with software providers and payment processors for the purposes of implementing the provisions of this section. The Revenue and Fiscal Affairs Office may promulgate regulations to carry out the provisions of this section. The software provider may not retain any portion of the business license tax paid by the taxpayer to a taxing jurisdiction through the business license tax portal.

(3) The Revenue and Fiscal Affairs Office is authorized to expend any funds carried forward from previous fiscal years for the purpose of implementing the provisions of this section. Expenditures may not exceed the actual cost of implementing the provisions of this section.

Section 6-1-410. (A) If a taxpayer fails or refuses to pay a business license tax by May first or, for business license taxes collected pursuant to Article 20, Chapter 9, Title 58 and Chapters 7 and 46, Title 38, the date on which the business license tax is due, the taxing jurisdiction business license official may serve notice of assessment of the business license tax due on the taxpayer by mail or personal service. Within thirty days after the date of postmark or personal service, a taxpayer may request, in writing with reasons stated, an adjustment of the assessment. An informal conference between the taxing jurisdiction business license official and the taxpayer must be held within fifteen days of the receipt of the request, at which time the taxpayer may present any information or documents in support of the requested adjustment. Within five days after the conference, the taxing jurisdiction business license official shall issue a notice of final assessment and serve the taxpayer by mail or personal service with the notice and provide a form for any further appeal of the assessment by the taxpayer.

(B) Within thirty days after the date of postmark or personal service, the taxpayer may appeal the notice of final assessment by filing the completed appeal form with the taxing jurisdiction business license official, by mail or personal service, and by paying to the taxing jurisdiction in protest at least eighty percent of the business license tax based on the final assessment. The appeal must be heard and determined by the taxing jurisdiction council or its designated appeals officer or appeals board. The taxing jurisdiction council or its designee shall provide the taxpayer with written notice of the hearing and with any rules of evidence or procedure prescribed by the taxing jurisdiction council or its designee. The hearing must be held within thirty days after receipt of the appeal form unless continued to another date by agreement of the parties. A hearing by the taxing jurisdiction council, its designee, or the appeals board must be held at a regular or special meeting of the taxing

jurisdiction council or appeals board. At the appeals hearing, the taxpayer and the taxing jurisdiction have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The hearing must be recorded and must be transcribed at the expense of the party so requesting. The taxing jurisdiction council, its designee, or the appeals board shall decide the assessment by majority vote. The taxing jurisdiction council, its designee, the appeals board, or the designated appeals officer shall issue a written decision explaining the basis for the decision with findings of fact and conclusions and shall inform the taxpayer of the right to request a contested case hearing before the Administrative Law Court. The written decision must be filed with the taxing jurisdiction business license official and served on the taxpayer by mail or personal service. The decision is the final decision of the taxing jurisdiction on the assessment.

(C) Within thirty days after the date of postmark or personal service of the taxing jurisdiction's written decision on the assessment, a taxpayer may appeal the decision to the Administrative Law Court in accordance with the rules of the Administrative Law Court.

(D) For the purposes of this section, 'business license official' means the officer, employee, or agent designated by the taxing jurisdiction as having primary responsibility for business licensing within the taxing jurisdiction.

Section 6-1-420. (A) Notwithstanding Section 5-7-300, a taxing jurisdiction may contract by ordinance with an individual, firm, or organization to assist the taxing jurisdiction in collecting property or business license taxes. A private third-party entity is prohibited from assessing business license taxes or requiring a business entity to remit confidential business license tax data to that private third party on behalf of a taxing jurisdiction. This section may not prohibit a taxing jurisdiction from contracting with a third-party entity in assisting in the collection of business license taxes. For the purposes of this section, assisting in the collection of business license taxes is limited to a contractual agreement with a taxing jurisdiction for a third party to identify, through publicly available records, businesses that are operating within the contracting taxing jurisdiction without a business license, to provide that identification to a taxing jurisdiction, to communicate with those businesses identified to determine whether any business license taxes are due and owing, and to assist those businesses that owe a business license tax with paying the relevant taxing jurisdiction. The third party may also assist the contracting taxing jurisdiction with providing, by United States official mail or electronic

mail, the taxing jurisdiction's business license form, along with a self-addressed envelope containing the taxing jurisdiction address, to identified businesses on behalf of the taxing jurisdiction. If a business requests in writing that the third party cease communication with the business, then the third party is strictly prohibited from any further contact. A third party assisting in the collection of business license taxes as defined in this section is prohibited from retaining personal or proprietary information from the identified business.

(B) It is unlawful for any individual, firm, or organization to contact a business in this State regarding noncompliance with a business license ordinance unless the contact is made pursuant to a contract with a taxing jurisdiction in accordance with this section.

(C) This section may not prohibit a taxing jurisdiction from contracting with a third party for the purpose of providing payment processing services for the acceptance of business license tax payments.

(D) A taxing jurisdiction may enter into a contract with a third party to assist the taxing jurisdiction in collecting delinquent business license taxes which includes a contingency fee based on a percentage of taxes collected or otherwise depends on the specific result obtained provided the third party may not be paid on a contingency or success basis until the taxing jurisdiction issues a proposed assessment of business license taxes and the business fails to appeal the proposed assessment in a timely manner or the appeal is adjudicated. This section does not apply to the collection of business license taxes pursuant to Article 20, Chapter 9, Title 58 and Chapters 7 and 45, Title 38.

(E) Except as needed for a third party to assess and collect business license taxes collected pursuant to Article 20, Chapter 9, Title 58 and Chapters 7 and 45, Title 38, a taxing jurisdiction may not share or disclose any information relating to business license tax applications with any third party other than to acknowledge whether or not a business has paid the taxing jurisdiction's business license tax for a relevant year. Nothing in this section should be construed as prohibiting a person or entity that gathers and disseminates news, as defined in Section 19-11-100, from obtaining the information not protected by Section 6-1-120 found on the business license tax application from the taxing jurisdiction.

(F) A third-party entity contracting with a taxing jurisdiction to assist in identifying and collecting outstanding business license taxes may not engage in any conduct in which the natural consequence is to harass a business including, but not limited to, the following:

(1) contacting a business in any capacity after the business informs the third-party entity in writing to cease communication;

(2) stating that a business is required to provide any information to the third-party entity; or

(3) contacting the business in a manner that the third-party entity knows or should know creates any meaningful business interruption.

(G) The provisions of subsection (A) do not apply to business license taxes collected pursuant to Article 20, Chapter 9, Title 58 and Chapters 7 and 45, Title 38.

(H)(1) A person or entity may bring a private right of action:

(a) based on a violation of this section or any regulations prescribed pursuant to this section to enjoin such violation;

(b) to recover for actual monetary loss from such a violation, or to receive five hundred dollars in damages for each violation, whichever is greater; or

(c) for both actions described in subitems (a) and (b).

(2) If the court finds that a defendant wilfully or knowingly violated this section or any regulations prescribed pursuant to this section, then the court may, in its discretion, increase the amount of the award to an amount equal to no more than three times the actual monetary loss resulting from such violation."

Time effective

SECTION 3. Section 6-1-420 of this act takes effect upon approval by the Governor. The remaining sections of this act take effect January 1, 2022.

Ratified the 25th day of September, 2020.

Approved the 30th day of September, 2020.

No. 177

(R184, H4831)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-15-15 SO AS TO PROHIBIT CERTAIN ACTIVITIES RELATED TO THIS STATE'S NATIVE REPTILE AND AMPHIBIAN SPECIES AND TO REQUIRE THE ESTABLISHMENT OF POSSESSION LIMITS; BY ADDING SECTION 50-15-55 SO AS TO PROHIBIT

THE RELEASE OF NONNATIVE CAPTIVE WILDLIFE IN THIS STATE; TO AMEND SECTION 50-15-70, RELATING TO PROTECTIONS FOR CERTAIN TURTLES IN THIS STATE, SO AS TO PROHIBIT CERTAIN ACTIVITIES RELATED TO NATIVE TURTLES AND PROVIDE POSSESSION LIMITS; TO AMEND SECTION 50-15-10, RELATING TO DEFINITIONS, SO AS TO DEFINE NEW TERMS AND EXPAND THE TERM "NONGAME SPECIES"; TO AMEND SECTION 50-15-30, RELATING TO THE LISTING OF ENDANGERED SPECIES, SO AS TO REQUIRE THE DEPARTMENT OF NATURAL RESOURCES TO CONDUCT THE REVIEW OF THE STATE LIST OF ENDANGERED SPECIES; TO AMEND SECTION 50-15-40, RELATING TO THE ESTABLISHMENT OF WILDLIFE MANAGEMENT PROGRAMS, SO AS TO AUTHORIZE THE DEPARTMENT TO ESTABLISH WILDLIFE MANAGEMENT PROGRAMS; TO AMEND SECTION 50-15-80, RELATING TO PENALTIES FOR VIOLATIONS OF CERTAIN PROVISIONS, SO AS TO GRANT CONCURRENT JURISDICTION OVER THESE VIOLATIONS TO MAGISTRATES COURTS, TO INCREASE MONETARY PENALTIES, AND TO PROVIDE FOR THE REVOCATION OF PERMITS GRANTED TO A PERSON WHO VIOLATES CERTAIN PROVISIONS; AND TO AMEND SECTION 50-15-310, RELATING TO DEFINITIONS APPLICABLE TO THE SOUTH CAROLINA CAPTIVE ALLIGATOR PROPAGATION ACT, SO AS TO ALTER THE DEFINITIONS OF THE TERMS "ALLIGATOR PROPAGATION FACILITY" AND "COMMERCIAL PURPOSES".

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

Native reptiles, unlawful acts

SECTION 1. Article 1, Chapter 15, Title 50 of the 1976 Code is amended by adding:

"Section 50-15-15. (A) The department may promulgate regulations for the appropriate management of native reptile and amphibian species, including limitations on, and permitting for, the possession, transfer, sale, barter, trade, shipment, and removal from this State of native reptile and amphibian species.

(B) It is unlawful to possess, transfer, sell, barter, trade, ship, or remove from this State, or attempt to possess, transfer, sell, barter, trade, ship, or remove from this State native reptile and amphibian species, including parts, products, eggs, offspring, and derivatives thereof, in violation of a limit or a permit condition established by the department pursuant to this section."

Nonnative reptiles, unlawful acts

SECTION 2. Article 1, Chapter 15, Title 50 of the 1976 Code is amended by adding:

"Section 50-15-55. (A) It is unlawful for a person to release wildlife that is not native to this State from captivity in this State.

(B) The department may promulgate regulations to prohibit or otherwise restrict certain species of nonnative wildlife in this State, including species that:

(1) have the potential to become established in this State in sufficient numbers so as to become a nuisance; and

(2) pose a demonstrable deleterious and widespread threat to wildlife, agriculture, or human health and safety.

(C) Sanitary and safe disposal of dead wildlife is not a violation of this section.

(D) The provisions of this section do not apply to the release of foxes and coyotes pursuant to the provisions of Chapter 11, Title 50 and to the release of other nonnative species from captivity if authorized by law."

Native turtles, unlawful acts and possession limits

SECTION 3.A. Section 50-15-70 of the 1976 Code is amended to read:

"Section 50-15-70. (A) Except as otherwise provided in this article, it is unlawful for a person to possess, sell, barter, trade, ship, or remove from this State, or attempt to possess, sell, barter, trade, ship, or remove from this State the following native species of turtles, including parts, products, eggs, offspring, and derivatives thereof:

(1) Florida cooter (Pseudemys floridana);
(2) river cooter (Pseudemys concinna);
(3) chicken turtle (Deirochelys reticularia);
(4) eastern painted turtle (Chrysemys picta);
(5) spiny softshell turtle (Apalone spinifera);
(6) Florida softshell turtle (Apalone ferox);

(7) eastern mud turtle (Kinosternon subrubrum);
(8) striped mud turtle (Kinosternon baurii);
(9) common musk turtle (Sternotherus odoratus);
(10) yellow-bellied slider (Trachemys scripta);
(11) common snapping turtle (Chelydra serpentina);
(12) eastern box turtle (Terrapene carolina); and
(13) diamondback terrapin (Malaclemys terrapin).

(B) The following personal possession limits, subject to an aggregate limit of ten, are established:

(1) Florida cooter (Pseudemys floridana): 5;
(2) river cooter (Pseudemys concinna): 5;
(3) chicken turtle (Deirochelys reticularia): 5;
(4) eastern painted turtle (Chrysemys picta): 5;
(5) spiny softshell turtle (Apalone spinifera): 5;
(6) Florida softshell turtle (Apalone ferox): 5;
(7) eastern mud turtle (Kinosternon subrubrum): 5;
(8) striped mud turtle (Kinosternon baurii): 5;
(9) common musk turtle (Sternotherus odoratus): 5;
(10) yellow-bellied slider (Trachemys scripta): 5;
(11) common snapping turtle (Chelydra serpentina): 5;
(12) eastern box turtle (Terrapene carolina): 2; and
(13) diamondback terrapin (Malaclemys terrapin): 2.

(C) The department may permit the possession of native species of turtles in excess of the limits established in subsection (B) for scientific, zoological, conservation, or other special purposes."

B. A person who exceeds a personal possession limit under Section 50-15-70(B), as amended by this act, on the effective date of this act must register the number and species of turtles in the person's possession with the Department of Natural Resources within ninety days of the effective date of this act in order to receive a temporary exemption to the personal possession limits. The person is prohibited from acquiring another turtle listed in Section 50-15-70, as amended by this act, until such time as the number of turtles in the person's possession is below the established limits. A person who registers with the Department of Natural Resources pursuant to SECTION 3.B. and subsequently acquires a turtle in excess of the established limits is subject to the same penalties provided for violations of Section 50-15-70.

Nongame and endangered wildlife definitions

SECTION 4. A. Section 50-15-10 of the 1976 Code is amended by adding appropriately numbered items to read:

"( ) 'Captivity' means the condition in which an animal is contained in an enclosed cage, carrier, aquarium, or similar device, yard, or enclosure that prohibits the natural movement of the animal.

( ) 'Native' means any species or subspecies considered to be indigenous and naturally occurring in this State."

B. Section 50-15-10(4) of the 1976 Code is amended to read:

"(4) 'Nongame species' or 'nongame wildlife' means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other wild animal not otherwise legally classified by statute or regulation of this State as a game species."

Reference updated to Department of Natural Resources

SECTION 5. Section 50-15-30(B) of the 1976 Code is amended to read:

"(B) The department shall conduct a review of the state list of endangered species within not more than two years from its effective date and every two years thereafter and may amend the list by such additions or deletions as are deemed appropriate. The department shall submit to the Governor a summary report of the data used in support of all amendments to the state list during the preceding biennium."

Reference updated to Department of Natural Resources

SECTION 6. Section 50-15-40(A) of the 1976 Code is amended to read:

"(A) The department shall establish such programs, including acquisition of land or aquatic habitat, as are deemed necessary for management of nongame and endangered wildlife. The department shall utilize all authority vested in the department to carry out the purposes of this section."

Penalties, magistrates court jurisdiction

SECTION 7. Section 50-15-80 of the 1976 Code is amended to read:

"Section 50-15-80. (A) A person who violates Section 50-15-15, 50-15-20, or 50-15-70, or who fails to procure or violates the terms of a permit issued under a regulation promulgated pursuant to these sections, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than thirty days, or both.

(B) A person who violates Section 50-15-30(C), Section 50-15-55, or a regulation promulgated pursuant to these sections, or who fails to procure or violates the terms of a permit issued pursuant to Section 50-15-40(D) or (E), is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned not more than one year, or both.

(C)(1) The magistrates court has concurrent jurisdiction over violations of Sections 50-15-15, 50-15-20, 50-15-30, 50-15-40(D) and (E), 50-15-55, 50-15-70, and regulations promulgated pursuant to these sections.

(2) Each individual animal not covered by a legal exemption or authorization by the department is considered a separate violation. The court may order restitution for a violation of Section 50-15-15, 50-15-20, 50-15-30, 50-15-40(D) and (E), 50-15-55, or 50-15-70.

(3) Upon the conviction of a violator, the department must revoke any permits issued pursuant to this chapter, and the violator is prohibited from applying to obtain another permit from the department directly or indirectly for a period of two years following the conviction.

(D) An enforcement officer employed and authorized by the department or a police officer of the State or a municipality or county within the State may conduct searches as provided by law and execute a warrant to search for and seize equipment, business records, merchandise, or wildlife taken, used, or possessed in connection with a violation of this article. The officer or agency, without a warrant, may arrest a person who the officer or agent has probable cause to believe is violating, in his presence or view, the article or a regulation or permit provided for by it. An officer or agent who has made an arrest of a person in connection with a violation may search the person or business records at the time of arrest and seize wildlife, records, or property taken or used in connection with the violation.

(E) Equipment, merchandise, wildlife, or records seized under subsection (D) must be held by an officer or agent of the department

pending disposition of court proceedings and forfeited to the State for destruction or disposition as the department considers appropriate. Before forfeiture, the department may direct the transfer of wildlife seized to a qualified zoological, educational, or scientific institution for safekeeping. The costs of holding the confiscated wildlife and items are assessable to the defendant upon conviction. The department may promulgate regulations to implement this subsection."

Alligator propagation act definitions

SECTION 8. Section 50-15-310(2) and (5) of the 1976 Code is amended to read:

"(2) 'Alligator propagation facility' means an enclosed area not located on public lands or waters, constructed so as to prevent the ingress and egress of alligators from surrounding public or private lands or waters where alligators are bred or raised as captive animals generally for the purpose of the sale, barter, or trade of alligators, alligator parts, alligator meat, or alligator hides.

(5) 'Commercial purposes' means to derive income or other consideration of value or operating with the intent to derive income or other consideration of value."

Time effective

SECTION 9. This act takes effect upon approval by the Governor.

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 178

(R187, H4945)

AN ACT TO AMEND SECTION 48-39-290, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CONSTRUCTION SEAWARD OF THE BASELINE, SO AS TO ALLOW FOR CERTAIN EROSION CONTROL STRUCTURES

TO HAVE THE DAMAGE ASSESSMENT BASED ON A SINGLE DISTINCT CONTINUOUS SEAWALL OR BULKHEAD RATHER THAN ON A LOT BY LOT BASIS.

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

Erosion control structure, single structure assessment

SECTION 1. Section 48-39-290(B)(2)(b)(v) of the 1976 Code is amended to read:

"(v) The determination of the degree of destruction must be made on a lot by lot basis by reference to county tax maps, unless the structure was constructed prior to Act 634 of 1988 as a single distinct seawall or bulkhead measuring a minimum of one thousand continuous linear feet parallel to the shoreline. The determination of the degree of destruction must be based on the single continuous seawall or bulkhead as a whole for these structures in accordance with Section 48-39-290(B)(2)(b)(iv)."

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 29th day of September, 2020.

No. 179

(R190, H4262)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 5 TO CHAPTER 11, TITLE 58 SO AS TO, AMONG OTHER THINGS, ENACT THE "SOUTH CAROLINA SMALL WIRELESS FACILITIES DEPLOYMENT ACT"; TO MAKE LEGISLATIVE FINDINGS; TO DEFINE RELEVANT TERMS; TO MAKE PROVISIONS FOR CERTAIN AGREEMENTS OR ENACTMENTS ADDRESSING THE DEPLOYMENT OF SMALL WIRELESS FACILITIES ENTERED INTO PRIOR TO THE EFFECTIVE

DATE OF THIS ACT; TO PROVIDE, AMONG OTHER THINGS, GUIDELINES AND PROCEDURES TO UNITS OF LOCAL GOVERNMENT REGARDING ENACTMENTS ADDRESSING DECORATIVE POLES, UNDERGROUND DISTRICTS, DESIGN DISTRICTS, AND HISTORIC DISTRICTS; TO AFFIRM THE POWERS OF UNITS OF LOCAL GOVERNMENT WITH RESPECT TO WIRELESS FACILITIES THAT ARE NOT SMALL WIRELESS FACILITIES LOCATED WITHIN RIGHTS OF WAY; TO PROVIDE, AMONG OTHER THINGS, GUIDELINES AND PROCEDURES TO WIRELESS PROVIDERS AND UNITS OF LOCAL GOVERNMENT WITH CONTROL OVER RIGHTS OF WAY REGARDING THE COLLOCATION OF CERTAIN SMALL WIRELESS FACILITIES WITHIN RIGHTS OF WAY; TO MAKE PROVISIONS FOR APPLICATIONS, FEES, APPLICATION REVIEW, AND THE ISSUANCE OF PERMITS FOR THE COLLOCATION OF SMALL WIRELESS FACILITIES; TO REQUIRE THAT APPLICATIONS TO COLLOCATE SMALL WIRELESS FACILITIES PURSUANT TO THIS ARTICLE MUST BE PROCESSED ON A NONDISCRIMINATORY BASIS; TO ENUMERATE THE CONDITIONS UNDER WHICH A UNIT OF LOCAL GOVERNMENT MAY DENY AN APPLICANT'S PROPOSED COLLOCATION OF A SMALL WIRELESS FACILITY, AND TO PROVIDE THAT SUBJECT TO THE ABILITY OF A UNIT OF LOCAL GOVERNMENT TO DENY AN APPLICATION, THE COLLOCATION OF SMALL WIRELESS FACILITIES MUST BE ALLOWED ON NONDISCRIMINATORY TERMS AND CONDITIONS; TO PROVIDE THAT THE ADMINISTRATIVE LAW COURT HAS CONTESTED CASE JURISDICTION TO DETERMINE ALL DISPUTES ARISING UNDER THIS ACT; AND TO PROHIBIT A UNIT OF LOCAL GOVERNMENT FROM REQUIRING A WIRELESS PROVIDER TO INDEMNIFY AND HOLD THE AUTHORITY AND ITS OFFICERS AND EMPLOYEES HARMLESS AGAINST ANY CLAIMS, LAWSUITS, JUDGMENTS, COSTS, LIENS, LOSSES, EXPENSES, OR FEES, EXCEPT WHEN A COURT OF COMPETENT JURISDICTION HAS FOUND THAT THE NEGLIGENCE OF THE WIRELESS PROVIDER WHILE INSTALLING, REPAIRING, OR MAINTAINING FACILITIES, POLES, OR SUPPORT STRUCTURES PURSUANT TO THIS ACT CAUSED THE

HARM THAT CREATED SUCH CLAIMS, LAWSUITS, JUDGMENTS, COSTS, LIENS, LOSSES, EXPENSES, OR FEES.

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

Small Wireless Facilities Deployment Act

SECTION 1. Chapter 11, Title 58 of the 1976 Code is amended by adding:

"Article 5

Small Wireless Facilities Deployment Act

Section 58-11-800. (A) This article must be known and may be cited as the 'South Carolina Small Wireless Facilities Deployment Act'.

(B) The General Assembly finds that:

(1) the deployment of small wireless facilities and other next-generation wireless and broadband network facilities is a matter of statewide concern and interest;

(2) wireless and broadband products and services are a significant and continually growing part of the state's economy; accordingly, encouraging the development of strong and robust wireless and broadband communications networks throughout the State is integral to the state's economic competitiveness;

(3) rapid deployment of small wireless facilities serves numerous important statewide goals and public policy objectives including, but not limited to, meeting growing consumer demand for wireless data, increasing competitive options for communications services available to the state's residents; promoting the ability of the state's citizens to communicate with other citizens and with their state and local governments; and promoting public safety;

(4) small wireless facilities, including facilities commonly referred to as small cells and distributed antenna systems, are deployed most effectively in the right of way (ROW);

(5) to meet the key objectives of this article, wireless providers must have access to the ROW and the ability to attach to infrastructure in the ROW to densify their networks and provide next generation wireless services;

(6) uniform rates and fees for the permitting and deployment of small wireless facilities in the ROW and on authority infrastructure, including poles, throughout the State is reasonable and encourages the

development of robust next-generation wireless and broadband networks for the benefit of citizens throughout the State;

(7) the procedures, rates, and fees in this article are fair and reasonable when viewed from the perspective of the state's citizens and the state's interest in having robust, reliable, and technologically advanced wireless and broadband networks; and reflect a balancing of the interests of the wireless providers deploying new facilities and the interests of authorities in recovering their costs of managing access to the ROW and the attachment space provided on authority infrastructure in the ROW; and

(8) this article supersedes and preempts any enactment by an authority that contradicts, expands, contracts, or otherwise modifies the provisions of this article with respect to the regulation of the placement of small wireless facilities and of support structures and poles for small wireless facilities in the ROW provided; however, that nothing in this item limits any power granted to any authority under this article including, but not limited to, the power to enforce city-wide compliant provisions in previous enactments, so long as those provisions do not violate federal law.

Section 58-11-810. For purposes of this article:

(1) 'Antenna' means:

(a) communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services; and

(b) similar equipment used for the transmission or reception of surface waves.

(2) 'Applicable codes' means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization, or local amendments to those codes that are of general application, address public safety, and are consistent with this article.

(3) 'Applicant' means any person that submits an application.

(4) 'Application' means a request submitted by an applicant to an authority:

(a) for a permit to collocate small wireless facilities; or

(b) to approve the installation, modification, or replacement of a pole.

(5) 'Authority' means any county, municipality, or consolidated government or any agency, district, subdivision or instrumentality thereof.

(6) 'Authority pole' means a pole owned, managed, or operated by or on behalf of an authority, provided however, that an authority pole

shall not include any pole, support structure, electric transmission structure, or equipment of any type that is part of a municipally owned or municipally controlled electric plant or system for furnishing of electricity to the public for compensation.

(7) 'Collocate or collocation' means to install, mount, maintain, modify, operate, or replace small wireless facilities on or adjacent to a support structure or pole.

(8) 'Communications facility' means the set of equipment and network components, including wires, cables, surface wave couplers, and associated facilities used by a cable operator, as defined in 47 U.S.C. Section 522(5); a provider of 'video service' as defined in Section 58-12-300(10); a telecommunications carrier, as defined in 47 U.S.C. Section 153(51); a provider of information service, as defined in 47 U.S.C. Section 153(24); or a wireless services provider to provide communications services, including cable service, as defined in 47 U.S.C. Section 522(6); telecommunications service, as defined in 47 U.S.C. Section 153(53); an information service, as defined in 47 U.S.C. Section 153(24); wireless service; surface wave communication, or other one-way or two-way communications service.

(9) 'Communications network' means a network used to provide communications service.

(10) 'Communications service' means cable service as defined in 47 U.S.C. Section 522(6), information service as defined in 47 U.S.C. Section 153(24), telecommunications service as defined in 47 U.S.C. Section 153(53), or wireless service.

(11) 'Communications service provider' means a cable operator, as defined in 47 U.S.C. Section 522(5); a provider of information service, as defined in 47 U.S.C. Section 153(24); a telecommunications carrier, as defined in 47 U.S.C. Section 153(51); or a wireless provider.

(12) 'Compliant provision' means a provision or regulation in an enactment applicable to poles, support structures, replacement poles, and small wireless facilities that:

(a) addresses only: aesthetics, design, concealment, or stealth requirements that are technically feasible and technologically neutral; decorative poles; underground districts; design districts; or historical districts;

(b) is reasonable;

(c) is published within thirty days prior to becoming applicable with regard to any wireless provider; and

(d) is not an effective prohibition of service that is prohibited by federal law.

(13) 'Decorative pole' means an authority pole that is specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than a small wireless facility, public safety devices, or specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal rules or codes.

(14) 'Design district' means a discrete area within the jurisdiction of the authority that is clearly defined in an enactment published at least thirty days before it becomes effective, and for which the authority maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis among all occupants of the ROW, on the grounds that the characteristics of the discrete area warrant design and aesthetic standards that differ from those that apply to the vast majority of the areas within the jurisdiction of the authority.

(15) 'Design manual' means a binding measure adopted by an authority that sets forth examples of small wireless facility deployments that the authority deems to comply with this article.

(16) 'Enactment' means any ordinance, rule, policy, design manual, or equivalently binding measure adopted by an authority.

(17) 'FCC' means the Federal Communications Commission of the United States.

(18) 'Fee' means a one-time, nonrecurring charge.

(19) 'Historic district' means a group of buildings, properties, or sites that is either:

(a) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i-v of the Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix C; or

(b) a registered historic district pursuant to state law at the time the permit for the small wireless facility or pole is submitted; or

(c) an overlay zone, as defined in and limited by Section 6-29-720(C)(5):

(i) that has been established by the authority with regulatory control of zoning within the specified geographic area at least sixty days prior to the relevant application;

(ii) for which the special public interest to be protected is the preservation and protection of historic and architecturally valuable districts and neighborhoods or archaeologically significant resources according to uniform design standards; and

(iii) for which the authority maintains and enforces objective standards that are published in advance and applied on a uniform and nondiscriminatory basis.

(20) 'Law' means an enactment or a federal or state law, statute, common law, code, rule, regulation, or order.

(21) 'Micro wireless facility' means a small wireless facility that meets the following qualifications:

(a) is not larger in dimension than twenty-four inches in length, fifteen inches in width, and twelve inches in height; and

(b) any exterior antenna that is no longer than eleven inches.

(22) 'Network interface device' means the telecommunications demarcation device and cross connect point demarcating the boundary with any wireline backhaul facility and which is on or adjacent to the pole or support structure supporting the small wireless facility.

(23) 'Permit' means a written authorization, in electronic or hard copy format, required to be issued by an authority to initiate, continue, or complete the collocation of a small wireless facility or the installation, modification, or replacement of a pole upon which a small wireless facility is to be collocated.

(24) 'Person' means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an authority.

(25) 'Pole' means a vertical pole such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal, or other material that is lawfully located or to be located within a right of way including, but not limited to, a replacement pole and an authority pole. A 'pole' shall not include a support structure or electric transmission structure.

(26) 'Rate' means a recurring charge.

(27) 'Right of way' or 'ROW' means the area through, upon, over, or under a road, highway, street, sidewalk, alley, or similar property provided; however, that such term shall apply only to property or any interest therein that is under the ownership or control of an authority and shall not include property or any interest therein acquired for or devoted to a federal interstate highway.

(28) 'Small wireless facility' means radio transceivers; surface wave couplers; antennas; coaxial or fiber optic cable located on a pole or support structure, immediately adjacent to a pole or support structure, or directly associated with equipment located on a pole or support structure and within a one hundred-foot radius of the pole or support structure; regular and backup power supplies and rectifiers; and associated ancillary equipment, regardless of technological configuration, at a fixed location or fixed locations that enable communication or surface wave

communication between user equipment and a communications network and that meets both of the following qualifications:

(a) each wireless provider's antenna could fit within an enclosure of no more than six cubic feet in volume; and

(b) all other wireless equipment associated with the small wireless facility, whether ground or pole mounted, is cumulatively no more than twenty-eight cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of the volume of all other wireless equipment associated with any such facility: electric meters, concealment elements, network interface devices, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services. The term 'small wireless facility' does not include: the pole, support structure, or improvements on, under, or within which the equipment is located or collocated or to which the equipment is attached; wireline backhaul facilities; or coaxial or fiber optic cable that is between small wireless facilities, poles, or support structures or that is otherwise not immediately adjacent to or directly associated with a particular antenna. For purposes of this subsection, in order to be considered directly associated with equipment located on a pole or support structure, coaxial or fiber optic cable must not extend more than one hundred feet in radial circumference from the base of the pole or support structure to which the small wireless facility antenna is attached. No portion of a small wireless facility as defined in this subsection may be used as a wireline backhaul facility.

(29) 'Support structure' means a building, billboard, or any other structure in the ROW to which a small wireless facility is or may be attached. A 'support structure' shall not include an electric transmission structure or pole.

(30) 'Technically feasible' means that by virtue of engineering or spectrum usage the proposed placement for a small wireless facility, or its design, concealment measures, or site location can be implemented without a material reduction in the functionality of the small wireless facility.

(31) 'Underground district' means a group of buildings, properties, or sites:

(a) that has been established by the authority with regulatory control of zoning within the specified geographic area;

(b) in which the authority, at least sixty days prior to the relevant application, has required all communications and electric lines in the specified geographic area to be placed underground; and

(c) for which the authority maintains and enforces objective standards that are published in advance and applied on a uniform and nondiscriminatory basis.

(32) 'Wireless communications' means any communications using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public.

(33) 'Wireless infrastructure provider' means any person, including a person authorized to provide telecommunications service in the State, acting to build or install wireless communication transmission equipment, wireless facilities or support structures, but that is not a wireless services provider.

(34) 'Wireless provider' means a wireless infrastructure provider or a wireless services provider.

(35) 'Wireless services' means any services using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public.

(36) 'Wireless services provider' means a person who provides wireless services.

(37) 'Wireline backhaul facility' means an above-ground or underground wireline facility used to transport communications between a small wireless facility network interface device and a network or another small wireless network interface device.

Section 58-11-815. (A) If an authority and a wireless provider entered into a written agreement addressing the subject matter of this article prior to the effective date of this act:

(1) this article shall not apply until such agreement expires or is terminated pursuant to its terms with regard to poles, support structures, replacement poles, and small wireless facilities installed pursuant to such agreement prior to the effective date of this act; otherwise,

(2) the provisions of this article shall apply to poles, support structures, replacement poles, and small wireless facilities installed in the ROW on or after the effective date of this act.

(B) With regard to any enactment that was adopted prior to the effective date of this article and that addresses the subject matter of this article:

(1) any compliant provisions in such enactment remain in effect and, to the extent that such compliant provisions apply to decorative poles, underground districts, design districts, or historic districts, shall apply in lieu of Section 58-11-820(F)(2), (G)(1), and (H); and

(2) all other provisions of any such enactment are invalid, and all other provisions of this article apply in lieu thereof.

(C) An authority may adopt an enactment that:

(1) adopts compliant provisions, which to the extent that such compliant provisions apply to decorative poles, underground districts, design districts, or historic districts, shall apply in lieu of the provisions of Section 58-11-820(F)(2), (G)(1), and (H);

(2) authorizes wireless providers to install and operate small wireless facilities and associated poles and support structures in strict compliance with all other provisions of this article; and

(3) if the authority is a municipality, grants any consent that has not previously been granted, either expressly or otherwise, for wireless providers to install and operate small wireless facilities and associated poles and support structures in compliance with items (1) and (2).

(D) An enactment that strictly complies with subsection (B) or (C) complies with this article and shall be fully applicable within the territorial jurisdiction of such authority. In the absence of such an enactment, and until such an enactment is adopted, if at all, a wireless provider may install and operate small wireless facilities and associated poles and support structures under the requirements of this article on and after the effective date of this act.

(E)(1) Other than an agreement provided for in Section 58-11-815(G), an authority must not require a wireless provider to enter into an agreement including, but not limited to, a franchise agreement whether memorialized in an enactment or in any other manner, to implement this article, but nothing in this article prohibits an authority and a wireless provider from voluntarily entering one or more such agreements after the effective date of this article, including such agreements with rates, fees, and other terms that differ from those in this article provided; however, that the authority must make each such agreement available for public inspection and available for adoption upon the same terms and conditions to any requesting wireless provider.

(2) Agreements entered into pursuant to item (1) are public-private arrangements and are matters of legitimate and significant statewide concern.

(F) Nothing in this article limits an authority's powers with respect to wireless facilities that are not small wireless facilities in the ROW, or poles that are used for purposes other than installation of small wireless facilities in the ROW.

(G) Nothing in this article prevents an authority from requiring a provider seeking to collocate small wireless facilities on authority poles to enter an agreement establishing the terms and conditions for use of those authority poles. Upon request by a wireless provider, the authority must make available such an agreement with terms and conditions that

are just, reasonable, nondiscriminatory, and compliant with the provisions of this article. If the wireless provider requests additional or different terms and conditions, the parties shall seek to negotiate an agreement expeditiously and in good faith.

(H) Nothing in this article permits a wireless provider to use public property outside the ROW or private property without the consent of the property owner.

Section 58-11-820. (A) The provisions of this section shall apply only to activities of a wireless provider within the ROW to deploy small wireless facilities and associated poles.

(B) An authority may not enter into an exclusive arrangement with any person for use of the ROW for the collocation of small wireless facilities or the installation, operation, marketing, modification, maintenance, or replacement of poles.

(C)(1) Subject to the exceptions in Section 58-11-830(F)(1), an authority may charge a wireless provider a rate or fee for the use of the ROW with respect to the collocation of small wireless facilities or the installation, maintenance, modification, operation, or replacement of a pole in the ROW only if such rate or fee is nondiscriminatory and only if the authority charges other similarly situated entities for use of the ROW.

(2) Notwithstanding the provisions of item (1) of this subsection, an authority is permitted, on a nondiscriminatory basis, to refrain from charging any rate or fee to a wireless provider for the use of the ROW. The rates or fees for such use of the ROW and associated applications and attachments to authority poles are provided in Section 58-11-850.

(D) Subject to the provisions of this section, a wireless provider shall have the right, as a permitted use subject only to administrative review pursuant to Section 58-11-830, to collocate small wireless facilities and install, maintain, modify, operate, and replace poles in the ROW. These structures and facilities must be installed and maintained so as not to: create a safety hazard; obstruct or hinder the usual travel in or the public's safe use of the ROW; or obstruct the legal use of the ROW by utilities.

(E)(1) Each new or modified pole installed in the ROW may not exceed the greater of ten feet in height above the tallest existing pole in place as of the effective date of this article located within five hundred feet of the new pole in the same ROW, or fifty feet above ground level provided; however, that for applications to place poles in residential zoning districts to deploy small wireless facilities, the authority may propose an alternate location in the ROW within one hundred fifty feet

of the location set forth in the application, and the wireless provider shall use the authority's proposed alternate location unless the location is not technically feasible or imposes significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of an engineer licensed in South Carolina, and it shall provide a written summary of the basis for such determination.

(2) New small wireless facilities in the ROW may not extend more than ten feet above an existing pole in place as of the effective date of this article; or for small wireless facilities on a new pole, above the height permitted for a new pole pursuant to this section.

(3) To the extent permitted by and approved under applicable zoning or other regulations, a wireless provider shall have the right to collocate a small wireless facility on and install, maintain, modify, operate, and replace poles in the ROW that exceed the height limits set forth in item (1).

(F)(1) Subject to an authority's ability to deny the proposal as set forth in this article, a wireless provider must be permitted to collocate on or replace decorative poles when necessary to deploy a small wireless facility.

(2) An authority may require the collocation on a decorative pole or the replacement of a decorative pole to reasonably conform to the design aesthetics of the original decorative pole, provided these requirements are technically feasible.

(3)(a) For applications to replace decorative poles to deploy small wireless facilities, the authority may propose an alternate location in the ROW within one hundred fifty feet of the location set forth in the application, and the wireless provider shall use the authority's proposed alternate location unless the location is not technically feasible or imposes significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of an engineer licensed in South Carolina, and it shall provide a written summary of the basis for such determination.

(b) For applications to collocate small wireless facilities on decorative poles, the authority may propose collocation on a new pole or on an existing pole or structure in the ROW within one hundred fifty feet of the location set forth in the application, and the wireless provider shall use the authority's proposed alternative unless the location is not technically feasible or imposes significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of an engineer licensed in South Carolina, and it shall provide a written summary of the basis for such determination.

(G)(1) A wireless provider shall comply with reasonable and nondiscriminatory requirements that prohibit the installation of poles in the ROW in an underground district where:

(a) no less than sixty days prior to the submission of the application, the authority has required all such lines to be placed underground;

(b) poles the authority allows to remain are made available to wireless providers for the collocation of small wireless facilities and may be replaced by a wireless provider to accommodate the collocation of small wireless facilities in compliance with this article; and

(c) a wireless provider is allowed to install a new pole when it is not able to provide wireless service by collocating on a remaining pole or support structure provided; however, that for any such application to install a new pole, the authority may propose an alternate location in the ROW within one hundred fifty feet of the location set forth in the application, and the wireless provider shall use the authority's proposed alternate location unless the location is not technically feasible or imposes significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of an engineer licensed in South Carolina, and it shall provide a written summary of the basis for such determination.

(2) For small wireless facilities installed before an authority adopts requirements that comply with subsection (G)(1), an authority adopting such requirements shall:

(a) permit a wireless provider to maintain the small wireless facilities in place subject to any applicable pole attachment agreement with the pole owner; or

(b) permit the wireless provider to replace the associated pole within fifty feet of the prior location, provided that the wireless provider shall allow communications service providers with attachments on the existing pole to place those attachments on the replacement pole under the same or reasonably similar fees, rates, terms, and conditions as applied to those attachments on the existing pole.

(H)(1) Subject to Section 58-11-830(D), an authority may require reasonable, technically feasible, nondiscriminatory, and technologically neutral design requirements, height limitations of no less than forty feet, or concealment measures in a design district or historic district. These design requirements, height limitations, or concealment measures may not have the effect of prohibiting any provider's technology or the provision of wireless services; nor may any such measures be considered a part of the small wireless facility for purposes of the size restrictions in the definition of small wireless facility.

(2) For applications to place poles in a design district or a historic district to deploy small wireless facilities, the authority may propose an alternate location in the ROW within one hundred fifty feet of the location set forth in the application, and the wireless provider shall use the authority's proposed alternate location unless the location is not technically feasible or imposes significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of an engineer licensed in South Carolina, and it shall provide a written summary of the basis for such determination.

(I) The authority, in the exercise of its administration and regulation related to the management of the ROW, must be reasonable, competitively neutral, nondiscriminatory with regard to all users of the ROW, and compliant with applicable law.

(J) A wireless provider shall repair all damage to the ROW directly caused by the activities of the wireless provider in the ROW and shall restore the ROW to its condition before the damage occurred pursuant to the competitively neutral and reasonable requirements and specifications of the authority. If within thirty calendar days after written notice the wireless provider fails to the extent practicable in the reasonable judgment of the authority to restore the ROW to its condition prior to the damage in compliance with this subsection, the authority may, at the sole discretion of the authority, restore the ROW to such condition and charge the applicable party the reasonable, documented cost of the restoration, plus a penalty not to exceed five hundred dollars provided; however, that the wireless provider may request additional time to make such repairs, and the authority shall not unreasonably deny such a request. The authority may suspend the ability of the wireless provider to receive any new permits from the authority until the wireless provider has paid the amount assessed for such restoration costs, if any provided; however, that the authority shall not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by the Administrative Law Court.

(K) A wireless provider must not be required to replace or upgrade an existing pole except for reasons of structural necessity, compliance with applicable codes, or compliance with this article. A wireless provider may, with the permission of the pole owner, replace or modify existing poles, but any such replacement or modification must be consistent with the design aesthetics of the poles being modified or replaced.

(L) A wireless provider shall notify the authority in writing as soon as practicable, but no later than thirty days before its abandonment of a

small wireless facility. Following receipt of such notice, the authority may direct the wireless provider to remove all or any portion of the small wireless facility if the authority determines that such removal is in the best interest of the public safety and public welfare. If the wireless provider fails to remove the abandoned facility within ninety days after such notice, the authority may undertake to do so and recover the actual and reasonable expenses of doing so from the wireless provider, its successors or assigns, plus a penalty not to exceed five hundred dollars. The authority may suspend the ability of the wireless provider, its successors, or its assigns, as applicable, to receive any new permits from the authority until the wireless provider, its successors, or its assigns, as applicable, have paid the amount assessed for such removal costs, if any provided; however, that the authority shall not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by the Administrative Law Court.

(M) If the authority determines that a wireless provider's activity in a ROW pursuant to this article creates an imminent risk to public safety, the authority may provide written notice to the wireless provider and demand that the wireless provider address such risk. If the wireless provider fails to reasonably address the risk within twenty-four hours of the written notice, the authority may take or cause to be taken action to reasonably address such risk and charge the wireless provider the reasonable documented cost of such actions.

(N) Nothing in this article relieves any person including, but not limited to, any wireless provider, of any applicable obligation to pay business license taxes including, but not limited to, those provided for in Article 20, Chapter 9, Title 58, or franchise fees. Any entity that uses the ROW, directly or indirectly, including through leased facilities, to provide services in a municipality is responsible for all applicable taxes and fees related to the services provided.

Section 58-11-830. (A) The provisions of this section shall apply to the permitting of the collocation of small wireless facilities by a wireless provider in the ROW and to the permitting of the installation, modification, and replacement of associated poles by a wireless provider inside the ROW.

(B) Except as provided in this article, an authority may not prohibit, regulate, or charge for the collocation of small wireless facilities and associated poles described in subsection (A).

(C) An authority may require an applicant to obtain a permit to collocate a small wireless facility or to install a new, modified, or

replacement pole associated with a small wireless facility as provided in Section 58-11-830(E). An authority also may require an applicant to obtain additional permits for such activity, provided that: such additional permits are of general applicability and do not apply exclusively to wireless facilities; an applicant shall not be required to obtain or pay any fees for a building permit, as the permit issued pursuant to this article serves as a building permit for the applicable poles and small wireless facilities; and any applications for any such additional permits, once submitted, must be acted upon within the same number of days as an application for permit under this article. An authority requiring additional permits pursuant to this subsection must publish and keep current a list of each additional permit that is required, and the authority must make the list available to any person upon request.

(D) An authority may adopt a design manual for an applicant's installation and construction of small wireless facilities and new poles to support such facilities in the public ROW that allows for, but does not require, preapproval of designs in addition to those that may be authorized in compliance with this article.

(E) An authority shall receive applications for, process, and issue such permits subject to the following requirements:

(1) The application shall be made by the applicable wireless provider or its duly authorized representative and shall contain the following:

(a) the applicant's name, address, telephone number, and email address, including emergency contact information for the applicant;

(b) the names, addresses, telephone numbers, and email addresses of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application;

(c) a general description of the proposed work and the purposes and intent of the proposed facility. The scope and detail of such description shall be appropriate to the nature and character of the physical work to be performed, with special emphasis on those matters likely to be affected or impacted by the physical work proposed;

(d) detailed construction drawings regarding the proposed use of the ROW;

(e) to the extent the proposed facility involves collocation on a pole, decorative pole, or support structure, a structural report performed by a duly licensed engineer in South Carolina evidencing that the pole, decorative pole, or support structure will structurally support the collocation, or that the pole, decorative pole, or support structure may and will be modified to meet structural requirements, in accordance with applicable codes;

(f) for any new aboveground facilities, visual depictions or representations if such are not included in the construction drawings;

(g) information indicating the approximate horizontal and vertical locations, relative to the boundaries of the ROW, of the small wireless facility for which the application is being submitted;

(h) if the application is for the installation of a new pole or replacement of a decorative pole, a certification that the wireless provider has determined after diligent investigation that it cannot meet the service objectives of the permit by collocating on an existing pole or support structure on which:

(i) the wireless provider has the right to collocate subject to reasonable terms and conditions; and

(ii) such collocation would be technically feasible and would not impose significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of an engineer licensed in South Carolina, and shall provide a written summary of the basis for such determination;

(i) if the small wireless facility will be collocated on a pole or support structure owned by a third party, other than an authority pole, a certification that the wireless provider has permission from the owner to collocate on the pole or support structure;

(j) an affirmation that the applicant is, on the same date, submitting applications for the permits identified in the list the authority maintains pursuant to Section 58-11-830(C); and

(k) any additional information reasonably necessary to demonstrate compliance with the criteria set forth in item (10).

(2) An applicant must not be required to provide more information to obtain a permit than is set forth in item (1).

(3) An authority may not directly or indirectly require an applicant to perform services or provide goods unrelated to the permit, such as in-kind contributions to the authority including, but not limited to, reserving fiber, conduit, or pole space for the authority.

(4) Except as expressly permitted by this article, an authority may not require:

(a) the collocation of small wireless facilities on a specific pole or category of poles or require multiple antenna systems on a single pole;

(b) the use of specific pole types or configurations when installing new or replacement poles provided; however, that nothing in this subitem prohibits an authority from enforcing the provisions of Section 58-11-820(F)(2), (G)(1), and (H) or any compliant provisions adopted pursuant to Section 58-11-815(B) or (C); or

(c) except as authorized by Section 58-11-820(G)(1) or any compliant provisions adopted pursuant to Section 58-11-815(B) or (C), the underground placements of small wireless facilities that are or are designated in an application to be pole-mounted or ground-mounted.

(5) Without limiting an authority's ability to adopt spacing requirements for ground-mounted equipment and new poles in accordance with this article, an authority may not limit the collocation of small wireless facilities by minimum horizontal separation distance requirements between small wireless facilities and: (a) existing small wireless facilities; (b) poles; or (c) other structures.

(6) The authority may require an applicant to include an attestation that the small wireless facilities will be operational for use by a wireless services provider within one year after the permit issuance date, unless: the authority and the applicant agree to extend this period; or delay is caused by lack of commercial power or by the lack of communications transport facilities to be provided to the site by an entity that is not an affiliate, as that term is defined in 47 U.S.C. Section 153(2), of the applicant.

(7) An authority may require an applicant that is not a wireless services provider to include an attestation that a wireless services provider has requested in writing that the applicant collocate the small wireless facilities or install, modify, or replace the pole at the requested location, and the authority may require the applicant to submit proof that such wireless services provider is licensed by the FCC or otherwise authorized to provide wireless services within the geographic jurisdiction of the authority.

(8) Within ten days of receiving an application, an authority must determine and notify the applicant in writing whether the application is complete. If an application is incomplete, an authority shall specifically identify the missing information in writing. The processing deadline in item (9) is tolled from the time the authority sends the notice of incompleteness to the time the applicant provides the missing information. That processing deadline also may be tolled by agreement of the applicant and the authority, confirmed in writing.

(9) An application must be processed on a nondiscriminatory basis. The authority shall make its final decision to approve or deny the application within sixty days of receipt of a complete application for collocation of small wireless facilities and within ninety days of receipt of a complete application for the installation, modification, or replacement of a pole and the collocation of associated small wireless facilities on the installed, modified, or replaced pole. If the authority fails to act on an application within the applicable time period, the applicant

may provide the authority written notice that the time period for acting has lapsed, and the authority shall then have twenty days after receipt of such notice to render its written decision. The application shall be deemed to have been approved by passage of time and operation of law if the authority does not render its written decision within the noticed twenty days.

(10) An authority may deny an applicant's proposed collocation of a small wireless facility or a proposed installation, modification, or replacement of a pole that meets the requirements in Section 58-11-820(E) only if the proposed collocation, installation, modification, or replacement:

(a) interferes with the safe operation of traffic control or public safety equipment;

(b) interferes with sight lines or clear zones for transportation or pedestrians;

(c) interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement;

(d) requests that ground-mounted small wireless facility equipment be located more than seven and one-half feet in radial circumference from the base of the pole, decorative pole, or support structure to which the small wireless facility antenna is to be attached, provided that the authority shall not deny the application if a greater distance from the base of the pole, decorative pole, or support structure is necessary to avoid interfering with sight lines or clear zones for transportation or pedestrians or to otherwise protect public safety;

(e) fails to comply with the height limitations permitted by this article or with reasonable and nondiscriminatory horizontal spacing requirements of general application adopted by an enactment that concern the location of ground-mounted equipment and new poles. These spacing requirements may not be applied in a manner that constitutes an effective prohibition of service that is prohibited by federal law;

(f) designates the location of a new pole for the purpose of collocating a small wireless facility within seven feet in any direction of an electrical conductor, unless the wireless provider obtains the written consent of the power supplier that owns or manages the electrical conductor;

(g) fails to comply with applicable codes;

(h) fails to comply with Section 58-11-820(F), (G)(1), or (H) or any compliant provisions adopted in accordance with Section 58-11-815(B) or (C);

(i) fails to comply with laws of general applicability that address pedestrian and vehicular traffic and safety requirements; or

(j) fails to comply with laws of general applicability that address the occupancy or management of the ROW and that are not otherwise inconsistent with this article.

(11) The authority shall document the basis for a denial, including the specific provisions of this article on which the denial was based, and send the documentation to the applicant on or before the day the authority denies an application. The applicant may cure the deficiencies identified by the authority and resubmit the application within thirty days of the denial without paying an additional application fee. The authority shall approve or deny the revised application within thirty days of resubmission and limit its review to the deficiencies cited in the denial. If the authority fails to act on a revised application within this thirty-day period, the applicant may provide the authority written notice that the time period for acting has lapsed, and the authority shall then have five days after receipt of such notice to render its written decision approving or denying the revised application. The revised application shall be deemed to have been approved by passage of time and operation of law if the authority does not render its written decision within the noticed five days.

(12) An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority may submit a single consolidated application, provided that such a consolidated application shall be for a geographic area no more than two miles in diameter, for up to thirty small wireless facilities and receive a single permit for the collocation of multiple small wireless facilities provided; however, the denial of one or more small wireless facilities in a consolidated application must not delay processing of any other small wireless facilities in the same consolidated application. Solely for purposes of calculating the number of small wireless facilities in a consolidated application, a small wireless facility includes any pole on which such small wireless facility will be collocated.

(13) Installation or collocation for which a permit is granted pursuant to this section must be completed within one year of the permit issuance date unless: the authority and the applicant agree to extend this period, or a delay is caused by the lack of commercial power or by the lack of communications facilities to be provided to the site by an entity that is not an affiliate, as that term is defined in 47 U.S.C. Section 153(2), of the applicant. Approval of an application authorizes the applicant to:

(a) undertake the installation or collocation; and

(b) subject to applicable relocation requirements and the applicant's right to terminate at any time, operate and maintain the small wireless facilities and any associated pole covered by the permit for a period of no less than ten years, which must be renewed for equivalent durations so long as the installation or collocation is in compliance with the criteria set forth in item (10).

(14) An authority may not institute, either expressly or de facto, a moratorium on filing, receiving, or processing applications, or issuing permits or other approvals, if any, for the collocation of small wireless facilities or the installation, modification, or replacement of poles to support small wireless facilities.

(15) The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this section neither constitutes an authorization nor affects any authorization a provider may have to provide a communication service or to install, place, maintain, or operate any other communications facility, including a wireline backhaul facility, in a ROW.

(F)(1) Subject to item (2), an authority may not require a permit or any other approval or charge fees or rates for:

(a) routine maintenance;

(b) the replacement of small wireless facilities with small wireless facilities that are substantially similar or the same size or smaller; or

(c) the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables that are suspended between poles or support structures in compliance with applicable codes.

(2) Notwithstanding the provisions of item (1), an authority may require that prior to performing the activities described in item (1), an applicant must apply for and receive a permit for work that requires excavation or closure of sidewalks or vehicular lanes within the ROW for the activities described in item (1). Such a permit must be issued to the applicant on a nondiscriminatory basis upon terms and conditions that are consistent with applicable codes and that apply to the activities of any other person in the ROW that require excavation or the closing of sidewalks or vehicular lanes.

(G) No wireless provider shall collocate any small wireless facility in the ROW or install, modify, or replace a pole or decorative pole for collocation of a small wireless facility in the ROW without first filing an application and obtaining a permit therefor, except as otherwise expressly provided in subsection (F). Any failure to comply with this subsection by a wireless provider shall allow the applicable authority, at

the sole discretion of the authority, to restore the ROW, to the extent practicable in the reasonable judgment of the authority, to its condition prior to the unpermitted collocation or installation and to charge the responsible wireless provider its reasonable, documented cost of restoration, plus a penalty not to exceed one thousand dollars. The authority may suspend the ability of the wireless provider to receive any new permits from the authority until the wireless provider has paid the amount assessed for such restoration costs, if any provided; however, that the authority shall not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by the Administrative Law Court.

(H) If, in the reasonable exercise of police powers, an authority requires widening, repair, reconstruction, or relocation of a public road or highway, or relocation of poles, support structures, or small wireless facilities as a result of a public project, a wireless provider shall relocate poles and support structures that such wireless provider has installed in the ROW for the collocation of small wireless facilities pursuant to this article at no cost to the authority if such poles and support structures are found by the authority to unreasonably interfere with the widening, repair, reconstruction, or relocation project or the public project. If widening, repair, reconstruction, or relocation is required as a condition or result of a project by a person other than an authority, such person shall bear the cost of relocating such poles or support structures and any communications facilities on such poles or support structures.

Section 58-11-840. (A) The provisions of this section apply to the collocation of small wireless facilities on an authority pole in the ROW by a wireless provider.

(B) A person owning, managing, or controlling authority poles in the ROW may not enter into an exclusive arrangement with any person for the right to attach to such poles. A person who purchases or otherwise acquires an authority pole is subject to the requirements of this section.

(C) Subject to an authority's ability to deny a permit application as set forth in this article, an authority shall allow the collocation of small wireless facilities on authority poles on nondiscriminatory terms and conditions in compliance with this article.

(D) The rates to collocate on authority poles must be nondiscriminatory regardless of the services provided by the collocating wireless provider and must be as set forth in Section 58-11-850.

(E)(1) The rates, fees, terms, and conditions for make-ready work to collocate on an authority pole must be nondiscriminatory, competitively neutral, commercially reasonable, and in compliance with this article.

(2)(a) The authority shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested collocation by a wireless provider, including pole replacement if necessary, within sixty days after receipt of a complete application. Alternatively, the authority may require the wireless provider to perform the make-ready work and notify the wireless provider of such within the sixty-day period. If the wireless provider or its contractor performs the make-ready work, the wireless provider shall indemnify the authority for any negligence by the wireless provider or its contractor in the performance of such make-ready work and the work shall otherwise comply with applicable law.

(b) Make-ready work performed by or on behalf of an authority, including any pole replacement, must be completed within sixty days of written acceptance of the good faith estimate by the applicant. An authority may require replacement of the authority pole only if it demonstrates that the collocation would make the authority pole structurally unsound.

(3) The person owning, managing, or controlling the authority pole must not require more make-ready work than required to meet applicable codes or industry standards. Fees assessed by or on behalf of an authority for make-ready work, including any pole replacement, must not:

(a) include costs related to preexisting or prior damage or noncompliance;

(b) exceed either actual costs or the amount charged to other communications service providers for similar work on similar types of authority poles; or

(c) include any revenue or contingency-based consultant's fees or expenses of any kind.

(4) A wireless provider collocating on an authority pole pursuant to this article is responsible for reimbursing third parties for their actual and reasonable costs of any make-ready work reasonably required by the third party to accommodate the collocation. If the authority includes such costs of a third party in the good faith estimate provided pursuant to item (2), payment of that estimate to the authority constitutes reimbursement of the third party by the wireless provider. Otherwise, the third party may bill the wireless provider for such reimbursement within six months of the completion of the third party's make-ready work.

Section 58-11-850. (A) Except as provided in Section 58-11-830(F), this section governs an authority's rates and fees for the collocation of a

small wireless facility and the installation, modification, or replacement of an associated pole.

(B) Except to the extent permitted by this article or otherwise specifically authorized by state or federal law including, but not limited to, Article 20, Chapter 9, Title 58 and Chapter 12, Title 58, an authority may not:

(1) adopt or enforce any regulations or requirements on the placement or operation of communications facilities in a ROW by a communications service provider authorized by federal, state, or local law to operate in a ROW;

(2) regulate any communications services; or

(3) impose or collect any tax, fee, or charge for the provision of any communications service over the communications service provider's communications facilities in a ROW.

(C) Without limiting the foregoing, a wireless provider is authorized to deploy small wireless facilities and associated poles in a ROW in compliance with this article regardless of whether the provider has sought or obtained any certificate or other authority from the Public Service Commission of South Carolina provided; however, that nothing in this article prohibits an authority from requiring proof that a wireless services provider is licensed by the FCC or otherwise authorized to provide service within the geographic jurisdiction of the authority.

(D)(1) A municipality may charge an application fee to a wireless provider regardless of whether the provider is subject to a business license tax that is or may be imposed upon it pursuant to Section 58-9-2220 and a franchise, consent, or administrative fee that is or may be imposed upon it pursuant to Section 58-9-2230.

(2) A municipality may charge an application fee to a communications service provider regardless of whether the provider is subject to a franchise fee that is or may be imposed upon it pursuant to Section 58-12-330.

(3) An authority may charge an application fee, so long as the fee is reasonable, nondiscriminatory, and recovers no more than an authority's direct costs for processing an application provided; however, the fee may not exceed:

(a) for applications to collocate small wireless facilities on existing poles or structures, one hundred dollars each for the first five small wireless facilities in the same application and fifty dollars for each additional small wireless facility in the same application; or

(b) for applications to collocate small wireless facilities on new poles, one thousand dollars for each pole, which fee covers both the installation of the new pole and the collocation on the new pole of

associated small wireless facilities that are a permitted use in accordance with the specifications in Section 58-11-820(D); and

(c) for applications to collocate small wireless facilities on modified or replacement poles, two hundred fifty dollars for each pole, which fee covers both the modification or replacement of the pole and the collocation on the pole of associated small wireless facilities that are permitted uses in accordance with the specifications in Section 58-11-820(D).

(4)(a) Beginning on the effective date of this section and ending upon completion of the fourth year immediately following the effective date of this section, a municipality with a need for consultation in the review of a permit application may engage an outside consultant for consultation, review, and processing of the application and may charge the applicant the fees described in subitem (b) for such engagement. The fee the authority charges the applicant for such review shall not be used for:

(i) travel expenses incurred in the review of a collocation application by an outside consultant or other third party; or

(ii) direct payment or reimbursement for an outside consultant or other third party based on a contingent fee basis or results-based arrangement.

(b) The fee the municipality charges an applicant pursuant to subitem (a) may not exceed the lesser of:

(i) the amount the municipality pays the outside consultant for engagements that are consistent with subitem (a); or

(ii) the following amounts:

(aa) for applications to collocate small wireless facilities on existing poles or structures: seventy dollars each for the first five small wireless facilities in the same application and thirty-five dollars for each additional small wireless facility in the same application during the first year immediately following the effective date of this section; sixty dollars each for the first five small wireless facilities in the same application and thirty dollars for each additional small wireless facility in the same application during the second year immediately following the effective date of this section; fifty dollars each for the first five small wireless facilities in the same application and twenty-five dollars for each additional small wireless facility in the same application during the third year immediately following the effective date of this section; and forty dollars each for the first five small wireless facilities in the same application and twenty dollars for each additional small wireless facility in the same application during the fourth year immediately following the effective date of this section;

(bb) for applications to collocate small wireless facilities on new poles: six hundred fifty dollars during the first year immediately following the effective date of this section; five hundred twenty dollars during the second year immediately following the effective date of this section; four hundred fifty-five dollars during the third year immediately following the effective date of this section; and three hundred ninety-nine dollars during the fourth year immediately following the effective date of this section; and

(cc) for applications to collocate small wireless facilities on modified or replacement poles: two hundred dollars during the first year immediately following the effective date of this section; one hundred eighty-five dollars during the second year immediately following the effective date of this section; one hundred fifty dollars during the third year immediately following the effective date of this section; and one hundred twenty-five dollars during the fourth year immediately following the effective date of this section.

(c) In any dispute concerning the appropriateness of a fee under this subitem, the municipality has the burden of proving that the fee meets the requirements of this subitem.

(E)(1) A municipality may charge a rate for the occupancy and use of the ROW to a wireless provider regardless of whether the provider is subject to a business license tax that is or may be imposed upon it pursuant to Section 58-9-2220 and a franchise, consent, or administrative fee that is or may be imposed upon it pursuant to Section 58-9-2230.

(2) A municipality may charge a rate for the occupancy and use of the ROW to a communications service provider regardless of whether the provider is subject to a franchise fee that is or may be imposed upon it pursuant to Section 58-12-330.

(3) An authority may charge a wireless provider for the occupancy and use of the ROW, so long as such rate is reasonable, nondiscriminatory, and does not exceed: one hundred dollars per year for each small wireless facility collocated on any existing or replacement pole, including an existing or replacement authority pole; or two hundred dollars per year for each small wireless facility collocated on a new pole, other than a replacement pole, which two hundred dollar rate shall cover the new pole and the small wireless facility collocated on it.

(F)(1) An authority may charge a rate for collocation of a small wireless facility on an authority pole, but any such rate must be reasonable, nondiscriminatory, and recover no more than the authority's direct costs associated with such collocation, not to exceed fifty dollars per authority pole per year.

(2) Other than requiring a wireless provider to pay attachment rates as permitted by item (1), an authority may not require any person or entity with facilities installed on a pole or support structure to pay any additional attachment rates or fees as a result of the granting of an application for a permit under this article.

(G) The applicant or the person that owns or operates the small wireless facility collocated in the ROW may remove its small wireless facilities at any time from the ROW upon not less than thirty days' prior written notice to the authority and may cease paying to the authority any applicable fees and rates for such use, as of the date of the actual removal of the small wireless facilities. In the event of such removal, the ROW shall be, to the extent practicable in the reasonable judgment of the authority, restored to its condition prior to the removal. If the applicant fails, to the extent practicable in the reasonable judgment of the authority, to return the ROW to its condition prior to the removal within ninety days of the removal, the authority may, at the sole discretion of the authority, restore the ROW to such condition and charge the applicant the authority's reasonable, documented cost of removal and restoration, plus a penalty not to exceed five hundred dollars. The authority may suspend the ability of the applicant to receive any new permits from the authority until the applicant has paid the amount assessed for such restoration, if any provided; however, that the authority shall not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by the Administrative Law Court.

Section 58-11-853. The construction, installation, maintenance, modification, operation, and replacement of wireline backhaul facilities in the ROW are not addressed by this article, and any such activity shall comply with the applicable provisions of the 1976 Code including, but not limited to, Section 58-9-280(A) and (B) and Chapter 12, Title 58.

Section 58-11-857. An applicant in the ROW must not install, maintain, modify, operate, repair, or replace any small wireless facilities, support structures, or poles in a manner that interferes with any existing infrastructure, equipment, or service including, but not limited to, infrastructure, equipment, or service used to provide communications, electric, gas, water, sewer, or public safety services.

Section 58-11-860. The provisions of this section apply only to activities in the ROW. Nothing in this article must be interpreted to:

(1) allow an entity to provide services regulated pursuant to 47 U.S.C. Sections 521 to 573, without compliance with all laws applicable to such providers; or

(2) impose any new requirements on cable providers for the provision of such service in this State.

Section 58-11-870. Pursuant to the provisions of this article and applicable federal law, an authority may continue to exercise zoning, land use, planning and permitting authority within its territorial boundaries with respect to small wireless facilities, poles, and support structures outside of the ROW, including the enforcement of applicable codes. An authority does not have and may not exercise any jurisdiction or authority over the design, engineering, construction, installation, or operation of a small wireless facility located in an interior structure or upon the site of a campus, stadium, or athletic facility not owned or controlled by the authority, other than to require compliance with applicable codes. Nothing in this article authorizes the State or any agency, department, or instrumentality thereof, including an authority, to require any wireless facility deployment or to regulate wireless services.

Section 58-11-880. This article does not apply to poles owned by an investor-owned utility, except as it concerns a wireless provider's access to the ROW and permits for the collocation of small wireless facilities on such poles.

Section 58-11-900. The Administrative Law Court has contested case jurisdiction to determine all disputes arising under this article between an applicant and an authority or any person or entity acting on behalf of an authority. Any request filed with the Administrative Law Court pursuant to this article must be filed in accordance with its Rules of Procedure. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on authority poles, the person owning or controlling the pole must allow the collocating person to collocate on its poles at annual rates of no more than fifty dollars, with the actual rate to be settled upon final resolution of the dispute. Disputes subject to this section must be adjudicated pursuant to accelerated docket or complaint procedures including, but not limited to, procedures in Section 1-23-600(B), if available.

Section 58-11-910. (A) Subject to the requirements of this section, an authority may adopt reasonable indemnification, insurance, and bonding

requirements related to facilities, poles, or support structures that are subject to this article.

(B) With regard to facilities, poles, and support structures that are subject to this article, an authority may not require a wireless provider to indemnify and hold the authority and its officers and employees harmless against any claims, lawsuits, judgments, costs, liens, losses, expenses, or fees, except when a court of competent jurisdiction has found that the negligence of the wireless provider while siting, installing, maintaining, repairing replacing, relocating, permitting, operating, or locating facilities, poles, or support structures pursuant to this article caused the harm that created such claims, lawsuits, judgments, costs, liens, losses, expenses, or fees. In no event shall any authority or any officer, employee, or agent affiliated therewith, while in the performance of its or his or her official duties, be liable for any claim related to the siting, installation, maintenance, repair, replacement, relocation, permitting, operation or location of facilities, poles, or support structures that are subject to this article. An authority is immune under the laws of South Carolina against any claim of violating a private deed when enforcing the terms of this article for the deployment of small wireless facilities and associated poles and support structures in the ROW.

(C) An authority may require a wireless provider to have in effect insurance coverage consistent with this section, so long as the authority imposes similar requirements on other ROW users and such requirements are reasonable and nondiscriminatory.

(1) An authority may not require a wireless provider to obtain insurance naming the authority or its officers and employees as additional insureds.

(2) An authority may require a wireless provider to furnish proof of insurance, if required, prior to the effective date of a permit issued for a small wireless facility.

(D) An authority may adopt bonding requirements for small wireless facilities if the authority imposes similar requirements in connection with permits issued for other ROW users.

(1) The purpose of such bonds must be to provide for the:

(a) removal of abandoned or improperly maintained small wireless facilities, including those that an authority determines must be removed to protect public health, safety, or welfare;

(b) restoration of the ROW as provided in Section 58-11-820(J); and

(c) recoupment of rates or fees that have not been paid by a wireless provider in over twelve months, so long as the wireless provider

has received reasonable notice from the authority of any of the noncompliance listed in this subitem and given an opportunity to cure.

(2) Bonding requirements may not exceed two hundred dollars per small wireless facility. For wireless providers with multiple small wireless facilities within the jurisdiction of a single authority, the total bond amount across all facilities may not exceed ten thousand dollars and that amount may be combined into one bond instrument.

Section 58-11-920. (A) Neither the State nor any agency, department, or instrumentality thereof may condition a wireless provider's access to any ROW or a wireless provider's deployment of small wireless facilities and associated poles in any ROW on the wireless provider's seeking or obtaining any certificate or other authority from the Public Service Commission of South Carolina.

(B) Without limiting the provisions of subsection (A):

(1) a wireless services provider seeking access to a ROW as described in subsection (A) may be required to provide proof that it is licensed by the FCC or otherwise authorized to provide wireless services within the State; and

(2) a wireless provider seeking access to a ROW as described in subsection (A) that is not also a wireless services provider may be required to submit an attestation that a wireless services provider has requested in writing that the wireless provider deploy small wireless facilities or associated poles at the requested location and provide proof that such wireless services provider is licensed by the FCC or otherwise authorized to provide service within the State.

(C) To the extent that an authority is otherwise authorized to address a wireless provider's deployment of small wireless facilities and associated poles in the ROW of the State or of any agency, department, or instrumentality thereof, the authority must do so in strict compliance with the provisions of this article.

Section 58-11-930. (A) Within thirty days after written request by any authority with a population of greater than twenty-seven thousand according to the official 2010 United States Decennial Census and with which the applicant has not previously held a meeting that complies with this section, an applicant shall meet with the requesting authority to inform the authority in good faith:

(1) when the applicant expects to commence deployment of small wireless facilities and poles within the authority pursuant to this article;

(2) the number of small wireless facilities and poles it expects to deploy during the twenty-four months after commencement; and

(3) the expected timing of such deployments.

(B) All documents or other information provided by the applicant in the course of, or in association with, any meetings provided for in this section:

(1) are presumed to be 'trade secrets' as defined in Section 30-4-40(a)(1);

(2) are not public information under the Freedom of Information Act; and

(3) are not subject to public disclosure.

(C) The pendency of a meeting requested pursuant to this section shall not relieve an authority from reviewing and acting upon applications that have been or are submitted as set forth in this article."

Severability

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.

Ratified the 25th day of September, 2020.

Approved the 29th day of September, 2020.

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PART II
LOCAL AND TEMPORARY LAWS

No. 180

(R154, S426)

A JOINT RESOLUTION TO TRANSFER FUNDS APPROPRIATED TO THE DEPARTMENT OF TRANSPORTATION FOR A BOAT RAMP IN GEORGETOWN COUNTY TO THE DEPARTMENT OF NATURAL RESOURCES AND TO CREDIT SUCH FUNDS AS WATER RECREATIONAL RESOURCE FUNDS FOR GEORGETOWN COUNTY.

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

Transfer to Georgetown County water recreational resource fund

SECTION 1. In the current fiscal year, the Department of Transportation must transfer to the Department of Natural Resources any funds remaining from the $150,000 appropriation for the Sandy Island Boat Ramp in Georgetown County in Act 101 of 2013. Once transferred, the Department of Natural Resources shall credit the funds to the water recreational resource fund for Georgetown County. The crediting of such transferred funds must not be considered to be part of the annual allocation formula for water recreational resource funds.

Time effective

SECTION 2. This joint resolution takes effect upon approval by the Governor.

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 181

(R118, S996)

AN ACT TO REQUIRE THE PUBLIC UTILITIES REVIEW COMMITTEE TO EXTEND THE SCREENING FOR CANDIDATES FOR THE PUBLIC SERVICE COMMISSION,

SEATS 1, 3, 5, AND 7; TO REQUIRE THESE POSITIONS TO BE ADVERTISED FOR AN ADDITIONAL TIME PERIOD AND IN ACCORDANCE WITH CERTAIN PROCEDURAL REQUIREMENTS; TO ACCEPT APPLICATIONS FROM FEBRUARY 3, 2020, THROUGH NOON ON FEBRUARY 28, 2020; TO PROVIDE WHO THE PUBLIC UTILITIES REVIEW COMMITTEE MAY CONSIDER; TO PROVIDE WHEN TRANSCRIPTS FROM PUBLIC HEARINGS MAY BE RELEASED; AND TO PROVIDE INSTRUCTIONS TO THE PUBLIC UTILITIES REVIEW COMMITTEE.

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

Candidate screening extended for Public Service Commission Seats 1, 3, 5, and 7

SECTION 1. The Public Utilities Review Committee conducted a screening of candidates for the Public Service Commission, Seats 1, 3, 5, and 7. After the committee's public hearings, held on January 7 and 8, 2020, a total of six candidates were found qualified.

The Public Utilities Review Committee shall extend the screening for candidates for the Public Service Commission, Seats 1, 3, 5, and 7. The committee previously fulfilled the notice requirements pursuant to Section 2-20-15 of the Code of Laws of South Carolina, 1976; however, the committee is directed to advertise for these positions for an additional time period, to begin no later than Sunday, January 26, 2020, through Sunday, February 23, 2020. This advertisement shall be forwarded to three newspapers of general circulation in Congressional Districts 1, 3, 5, and 7 with a request that the advertisement be published once a week. The committee also must forward the advertisement to media outlets for a general press release as well as make reasonable efforts to notify professional organizations within South Carolina, if applicable, that represent the areas of background and expertise listed in Section 58-3-20(A)(2) regarding the vacancies.

The committee will accept applications from Monday, February 3, 2020, through noon on Friday, February 28, 2020. These applications will be considered by the committee, in addition to the applications of those persons whom the committee found qualified on January 8, 2020. Applicants who either withdrew, or who the committee failed to find

"qualified" for Seats 1, 3, 5, or 7 from October 11, 2019, through this joint resolution's effective date, shall not receive further consideration.

The committee shall simultaneously release the transcripts, including exhibits, from all public hearings during this screening process within a reasonable time upon the completion of all public hearings for candidates.

In screening candidates for the Public Service Commission and making its findings, the Public Utilities Review Committee must seek to find the best qualified people by giving due consideration to the: (1) ability, dedication, compassion, common sense, and integrity of the candidates; and (2) race and gender of the candidates and other demographic factors to assure nondiscrimination to the greatest extent possible of all segments of the population of the State.

Time effective

SECTION 2. This joint resolution takes effect upon approval by the Governor.

Ratified the 6th day of February, 2020.

Approved the 6th day of February, 2020.

No. 182

(R147, H5034)

AN ACT TO AMEND ACT 340 OF 1967, AS AMENDED, RELATING TO THE CHARLESTON COUNTY SCHOOL DISTRICT, THE GOVERNING BODY THEREOF, AND THE MANNER IN WHICH ITS MEMBERS ARE ELECTED, SO AS TO REVISE THE AREAS FROM WHICH BOARD MEMBERS ARE ELECTED; TO PROVIDE THAT IF A PERSON ESTABLISHES A NEW RESIDENCE IN CHARLESTON COUNTY AND THE SCHOOL TO WHICH THE NEW RESIDENCE IS ASSIGNED IS FIFTEEN OR MORE ROAD MILES AWAY FROM THE NEW RESIDENCE, THEN THE RECEIVING CONSTITUENT SCHOOL DISTRICT MUST

ACCEPT A CHILD RESIDING IN THE NEWLY ESTABLISHED RESIDENCE; AND TO REPEAL INCONSISTENT LOCAL ACTS.

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

Composition of Charleston County School District Board of Trustees

SECTION 1. Section 2 of Act 340 of 1967, as last amended by Act 161 of 1995, is further amended to read:

"Section 2. The governing body of the Charleston County School District shall be a board of trustees which shall be composed of nine members, each of whom shall be a qualified elector of the area he represents. The initial members shall be appointed by the Governor upon the recommendation of a majority of the Charleston County Legislative Delegation. One member shall be appointed from that portion of the county included in Moultrie School District No. 2 and St. James Santee School District No. 1; three members shall be appointed from that portion of the county included in St. Andrews District No. 10, St. John's School District No. 9, St. Paul's School District No. 23, and James Island School District No. 3; three members shall be appointed from that portion of the county included in Cooper River School District No. 4; and two members shall be appointed from that portion of the county included in School District No. 20. Of the members first appointed, one shall be from each of the foregoing portions of the county, all of whom shall serve through December 31, 1970; one shall be appointed from the portion of the county included in School District No. 20, two from the portion of the county included in St. Andrews School District No. 10, St. John's School District No. 9, St. Paul's School District No. 23, and James Island School District No. 3, and two from the portion of the county included in Cooper River School District No. 4, each of whom shall serve through December 31, 1972. For the 2020 General Election, notwithstanding any provision of law to the contrary, candidates for election shall file a statement of candidacy with the Charleston County Board of Voter Registration and Elections as provided in Section 7-13-352 as the means to be placed on the ballot. Members of the Charleston County School District Board of Trustees elected at the 2020 General Election shall be elected to a two-year term.

(A)(1) After the 2020 United States Census and beginning with the 2022 General Election, the Charleston County School District Board of

Trustees shall be comprised of nine defined single-member election districts, the composition of which shall correspond with the composition of the Charleston County Council election districts, unless the Charleston County Legislative Delegation apportions the election districts differently. Each district shall be assigned a numeric district designation.

(2) One member of the Charleston County School District Board of Trustees must be elected from each of the nine defined single-member election districts. A school district board member must be a qualified elector of the election district from which he is elected. Candidates for election shall file a statement of candidacy with the Charleston County Board of Voter Registration and Elections as provided in Section 7-13-352.

(B)(1) In the 2022 General Election, the members of the Charleston County School District Board of Trustees elected from:

(a) Districts 1, 3, 5, 7, and 9 shall serve terms of four years each and until their successors are elected and qualify; and

(b) Districts 2, 4, 6, and 8 shall serve terms of two years each and until their successors are elected and qualify.

(2) Members of the Charleston County School District Board of Trustees elected at the General Election of 2024, and thereafter, shall be elected to four-year terms. All members of the board shall serve until their successors are elected and qualify.

(C) The Charleston County Board of Voter Registration and Elections shall conduct and supervise the elections for members of the Charleston County School District Board of Trustees in the manner governed by the election laws of this State, mutatis mutandis. The board shall prepare the necessary ballots, appoint managers for the voting precincts, and do all things necessary to carry out the elections, including the counting of ballots and declaring of results. The board shall publish notices of the elections pursuant to Section 7-13-35. The results of the elections must be determined by the nonpartisan plurality method contained in Section 5-15-61. The members of the consolidated school district elected in these nonpartisan elections shall take office one week following certification of their election pursuant to Section 59-19-315."

Constituent school district acceptance procedures

SECTION 2. If a person establishes a new residence in Charleston County and the school to which the new residence is assigned is fifteen or more road miles away from his new residence, then the receiving

constituent school district must accept a child residing in the newly established residence.

Severability

SECTION 3. 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.

Local inconsistent acts repealed

SECTION 4. All provisions of local acts concerning the election of members of the Charleston County School District Board of Trustees inconsistent with the provisions of this act are repealed; it being the intent of the General Assembly to have this act and the general law be the only provisions of law governing the election of members of the Charleston County School District Board of Trustees.

Severability

SECTION 5. If any provision of this act for any reason is held by a court of competent jurisdiction to be unconstitutional or invalid, that holding shall not affect the constitutionality or validity of the remaining portions of this act. The General Assembly declares that it would have passed this act and each and every provision in it, irrespective of the fact that any one or more provisions of it may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

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

Ratified the 25th day of June, 2020.

Approved the 29th day of June, 2020.

No. 183

(R115, S975)

AN ACT TO CONSOLIDATE CLARENDON COUNTY SCHOOL DISTRICT NO. 1 AND EAST CLARENDON COUNTY SCHOOL DISTRICT NO. 3 (CLARENDON COUNTY SCHOOL DISTRICT NO. 3) INTO ONE SCHOOL DISTRICT TO BE KNOWN AS CLARENDON COUNTY SCHOOL DISTRICT NO. 4; TO ABOLISH CLARENDON COUNTY SCHOOL DISTRICT NO. 1 AND CLARENDON COUNTY SCHOOL DISTRICT NO. 3 ON JULY 1, 2021; TO PROVIDE THAT CLARENDON COUNTY SCHOOL DISTRICT NO. 4 MUST BE GOVERNED BY A BOARD OF TRUSTEES CONSISTING OF SEVEN MEMBERS, WHICH INITIALLY MUST BE APPOINTED BY THE CLARENDON COUNTY LEGISLATIVE DELEGATION, AND BEGINNING IN 2022, SIX MEMBERS MUST BE ELECTED FROM A DEFINED SINGLE-MEMBER ELECTION DISTRICT AND ONE MEMBER MUST BE ELECTED FROM THE COMBINED GEOGRAPHIC AREA OF THE FORMER CLARENDON COUNTY SCHOOL DISTRICT NO. 1 AND CLARENDON COUNTY SCHOOL DISTRICT NO. 3; TO PROVIDE THAT THE MEMBERS OF THE CLARENDON COUNTY SCHOOL DISTRICT NO. 4 BOARD OF TRUSTEES MUST BE ELECTED IN NONPARTISAN ELECTIONS CONDUCTED AT THE SAME TIME AS THE 2022 GENERAL ELECTION AND EVERY FOUR YEARS THEREAFTER, EXCEPT AS PROVIDED IN THIS ACT TO STAGGER THE MEMBERS' TERMS; TO ESTABLISH THE BOARD'S POWERS, DUTIES, AND RESPONSIBILITIES; TO PROVIDE THAT THE DISTRICT SUPERINTENDENT IS THE CHIEF OPERATING OFFICER OF THE DISTRICT AND IS RESPONSIBLE TO THE BOARD FOR THE PROPER ADMINISTRATION OF ALL AFFAIRS OF THE DISTRICT AND SUBJECT TO ALL OTHER PROVISIONS OF LAW RELATING TO HIS DUTIES; TO INCLUDE INTERIM MILLAGE PROVISIONS FOR YEARS 2021 AND 2022, AND TO PROVIDE THAT BEGINNING IN 2023, CLARENDON COUNTY SCHOOL DISTRICT NO. 4 SHALL HAVE TOTAL FISCAL AUTONOMY.

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

Clarendon County School Districts Nos. 1 and 3 consolidated

SECTION 1. (A) Notwithstanding the provisions of Act 593 of 1986, Act 277 of 1989, or of subsequent acts of the General Assembly amending these acts, or of any other provision of law:

(1) on the effective date of this act, Clarendon County School District No. 1 and Clarendon County School District No. 3 (the two present school districts) shall commence all prudent and essential preparations necessary to achieve an efficient and well-organized consolidation of the two districts;

(2) effective July 1, 2021, Clarendon County School District No. 1 and Clarendon County School District No. 3 must be abolished. The powers and duties of the two present school districts' respective boards of trustees must be devolved on the board of trustees of the consolidated school district to be known as Clarendon County School District No. 4; and

(3) the first audit report that Clarendon County School District No. 4 is required to provide to the State Department of Education pursuant to Section 59-17-100 must be submitted to the department on or before December 1, 2021.

(B) In order to facilitate the efficient consolidation of the two present school districts, the members of the districts' respective boards of trustees and their superintendents, administrators, and personnel shall cooperate fully with the Clarendon County Legislative Delegation and delegation staff, the initial seven member appointed board of trustees for Clarendon County School District No. 4, and the South Carolina Department of Education officials assisting with the consolidation. In addition, after January 13, 2020, the two present school districts may not:

(1) create new full-time or part-time district-level positions;

(2) approve, award, or authorize any salary increases, raises, bonuses, or severance pay or separation incentives of any type;

(3) create or incur new bonded indebtedness;

(4) approve requests for out-of-state travel or requests for reimbursement for out-of-state travel; or

(5) make any significant district purchases unless exigent circumstances exist that justify the purchase and the Clarendon County Legislative Delegation has approved the purchase. For purposes of this

item, "significant district purchase" means any district purchase in excess of five thousand dollars.

(C) Any current district-level administrator for either of the two present school districts whose position will be eliminated due to the creation of an equivalent position in the consolidated district has priority consideration for the equivalent position if the administrator remains in his role at the time of hiring for the consolidated district and desires to be considered for the new position. Priority consideration is limited to review of an application for employment, or an interview; however, priority consideration does not mean that a position with the consolidated district must be offered. For purposes of this subsection, "current" means as of the effective date of this act, and "district level administrator" includes superintendents, chief academic officers, associate superintendents, assistant superintendents, and district directors. Position equivalency must be determined based on the position's title and responsibilities.

Clarendon County School District No. 4 Board of Trustees, initial appointments, election

SECTION 2. (A) Clarendon County School District No. 4 must be governed by a board of trustees of seven members to be appointed initially by a majority of the Clarendon County Legislative Delegation. The seven members initially appointed by the legislative delegation after the effective date of this act must be qualified electors of either Clarendon County School District No. 1 or Clarendon County School District No. 3, and these appointed members shall serve on the Clarendon County School District No. 4 Board of Trustees until their successors are elected in school district elections conducted at the same time as the 2022 General Election and qualify.

(B) Beginning in 2022, members of the Clarendon County School District No. 4 Board of Trustees must be elected in nonpartisan elections to be conducted at the same time as the general election and every four years thereafter, except as provided in this act to stagger the members' terms. Also beginning in 2022, six members of the Clarendon County School District No. 4 Board of Trustees must be elected from defined single-member election districts to be established in subsequent legislation after the release of pertinent demographic data obtained in the 2020 decennial census, but prior to the opening of the filing period for the 2022 school district elections. Each of these six members must be a qualified elector of the election district from which he is elected. A seventh member must be elected at large by the qualified electors

residing in Clarendon County School District No. 4, which consists of the combined geographic area encompassed by the two present school districts as they existed on the effective date of this act. The seventh member also must be a qualified elector of Clarendon County School District No. 4. Members of the consolidated school district board of trustees must be elected for four-year terms and until their successors are elected and qualify; however, in order to stagger the members' terms, of the seven trustees elected in 2022, the trustees elected from election districts two, four, and six shall serve initial two-year terms, and the successors to these members must be elected in school district elections to be conducted at the same time as the 2024 General Election. The trustees elected in the 2024 school district elections and their successors shall serve full four-year terms and until their successors are elected and qualify. The members elected in 2022 from election districts one, three, five, and at-large seat seven shall serve full four-year terms to expire in November 2026, when their successors elected at the 2026 school district elections qualify and take office. In the event of a vacancy on the board occurring for any reason other than the expiration of a term, the vacancy must be filled for the remainder of the unexpired term through appointment by the county legislative delegation.

(C) All persons desiring to qualify as a candidate for the Clarendon County School District No. 4 Board of Trustees shall file written notice of candidacy with the Clarendon County Board of Voter Registration and Elections on forms furnished by the board. The filing period shall open at 12:00 p.m. on August first or, if August first falls on Saturday or Sunday, then 12:00 p.m. on the following Monday and shall run until 12:00 p.m. on August fifteenth or, if August fifteenth falls on Saturday or Sunday, no later than 12:00 p.m. on the following Monday. This notice of candidacy must be a sworn statement and shall include the candidate's name, age, election district in which he resides and from which he seeks election, voting precinct, period of residence in the county and election district, and other information that the board requires. The Clarendon County Board of Voter Registration and Elections shall conduct and supervise the elections for members of the Clarendon County School District No. 4 Board of Trustees in the manner governed by the election laws of this State, mutatis mutandis. The board shall prepare the necessary ballots, appoint managers for the voting precincts, and do all things necessary to carry out the elections, including the counting of ballots and declaring the results. The commission shall publish notices of the elections pursuant to Section 7-13-35. The results of the elections must be determined by the nonpartisan plurality method contained in Section 5-15-61. The members of the consolidated school

district elected in these nonpartisan elections shall take office one week following certification of their election pursuant to Section 59-19-315.

Board of Trustees' duties, powers, and responsibilities

SECTION 3. (A) The members of the Clarendon County School District No. 4 Board of Trustees shall elect a chairman and other officers they consider necessary for terms that are coterminous with their appointed or elected terms of office.

(B) The Clarendon County School District No. 4 Board of Trustees has the power, duty, and responsibility provided by law including to:

(1) employ a superintendent as the chief executive officer;

(2) establish other administrative departments upon the recommendation of the superintendent;

(3) adopt the annual school district budget;

(4) inquire into the conduct of an office, department, or agency of the school district;

(5) adopt and modify attendance zones of schools within the school district;

(6) provide for an independent annual audit of the books and business affairs of the school district and for a general survey of school district business;

(7) cooperate to establish and maintain a central purchasing system for the purchase of contractual services, equipment, and supplies;

(8) cooperate to establish and maintain educational consortia;

(9) be responsible for policymaking action and the review of regulations established to put these policies into operation; and

(10) set by majority vote of the board a salary that each member shall receive for attending meetings of the board, which may not exceed four hundred fifty dollars per month.

School district superintendent, duties and responsibilities

SECTION 4. The district superintendent is the chief operating officer of the district and is responsible to the board for the proper administration of all affairs of the district and subject to all other provisions of law relating to his duties. He shall:

(1) appoint and, when necessary for the good of the district, remove an appointed officer or employee of the district and fix the salaries of these officers and employees, unless otherwise provided by law and except as he may authorize the head of a department or office to appoint and remove subordinates in the department or office;

(2) prepare the budget annually, submit it to the board, and be responsible for its administration after adoption;

(3) prepare and submit to the board at the end of each fiscal year a complete annual report on the finances and administrative activities of the board for the preceding year and make other financial reports from time to time that may be required by the board or by law;

(4) keep the board advised of the financial condition and future needs of the district and make recommendations that seem desirable;

(5) perform other duties prescribed by law or required of him by the board not inconsistent with the provisions of law; and

(6) centralize all administrative functions including, but not limited to, human resources, accounting, procurement, transportation, school bus services, and maintenance.

Preparation of annual budget

SECTION 5. (A)(1) For purposes of determining the 2021 property tax millage levy of Clarendon County School District No. 4 upon its creation, the millage levy for the district must be determined and calculated by the Department of Revenue based on the 2020 levy of the two present school districts and the value of a mill in each district. Thereafter, the millage levy for the year 2022 must be the millage levy for the previous year. To the allowed millage levy for 2021 and 2022 may be added any millage determined by the Department of Revenue necessary to comply with educational mandates imposed by federal or state law.

(2) The provisions of this subsection apply for school millages set for years ending in 2022.

(B) Beginning in 2023, Clarendon County School District No. 4 is vested with total fiscal autonomy. In order to obtain funds for school purposes the board of trustees is authorized to impose an annual tax levy, exclusive of any millage imposed for bond debt service. Upon certification by the board of trustees to the county auditor of the tax levy to be imposed, the auditor shall levy and the county treasurer shall collect the millage so certified upon all taxable property in the district. The consolidated school district may raise its millage by no more than two mills over that levied for the previous year, in addition to any millage needed to adjust for the EFA inflation factor and sufficient to meet the requirements of Section 59-21-1030. An increase above this two mills for operations may be levied only after a majority of the registered electors of the district vote in favor of the millage increase in a referendum called by the district school board and conducted by the

county election commission. If the school district calls for the referendum provided for in this subsection to be held at any time other than at the general election conducted pursuant to Section 7-13-10, Code of Laws of South Carolina, 1976, then the school district shall pay the cost of the referendum. To the extent the provisions of this section relating to increases in school millages conflict with the provisions of Section 6-1-320, relating to the millage rate increase limitation, the provisions of Section 6-1-320 control.

Assets and liabilities of two present school districts transferred to the consolidated district on July 1, 2021

SECTION 6. (A)(1) On July 1, 2021, the assets and liabilities of Clarendon County School District No. 1 and Clarendon County School District No. 3 must be transferred to the Clarendon County School District No. 4. The records and employees of the two present school districts must be transferred to and, if applicable, assumed by the consolidated school district.

(2) Any funds under paragraph 1.88(A), Part I(B) of Act 91 of 2019 to support school district consolidation and related purposes in certain specified school districts, which have been distributed to or which are to be made available to the two present school districts must be transferred to or made available to Clarendon County School District No. 4 to be used for the same purposes.

(B) The constitutional debt limitation on the issuance of general obligation bonds applicable to Clarendon County School District No. 4 is to be computed according to the law of this State and based on the assessed value of all taxable property in the district minus that bonded indebtedness of each of the present school districts made a part of the district that was includable against the constitutional debt limit of the present school districts.

(C) During the transition period, beginning on the effective date of this act to July 1, 2021, no new general obligation bonds may be issued against the constitutional debt limitation of the two present school districts, except in the case of an emergency. If new general obligation bonds are issued, then the board of trustees of the issuing school district must adopt an ordinance declaring the emergency and specifying the necessity of the issue.

Two present school districts abolished on July 1, 2021

SECTION 7. (A) Clarendon County School District No. 1 and Clarendon County School District No. 3 are abolished on July 1, 2021, at which time Clarendon County School District No. 4 must be established as provided in this act. The terms of all members of the boards of trustees of the two present school districts of the county will expire on this date. However, the members of the consolidated school district board of trustees appointed after the effective date of this act shall take office on the date they take the oath of office. From this date and until July 1, 2021, the boards shall organize, begin planning for the changeover to the consolidated district, enter into contracts to effectuate these purposes, and perform other related matters, except that the responsibility and authority to manage the schools of the two present school districts rests solely with the individual boards for each of the two present school districts until July 1, 2021, and the appointed consolidated board of trustees may not interfere with this authority.

(B) Funding for the activities of the appointed consolidated board of trustees, from the date the members assume office until July 1, 2021, must be paid from funds provided to Clarendon County School District No. 4 by the State Department of Education for this purpose.

(C)(1) After the effective date of this act, a member of one of the two present school districts' governing boards may:

(a) be appointed to the Clarendon County School District No. 4 Board of Trustees; or

(b) seek election to the Clarendon County School District No. 4 Board of Trustees in 2022.

(2) If a member of one of the present boards is either appointed or elected to the Clarendon County School District No. 4 Board of Trustees pursuant to item (1):

(a) prior to assuming his new duties on the consolidated school district board of trustees, he must first resign as a member of the present board; and

(b) notwithstanding another provision of law, the vacancy on the present board must be filled for the remainder of the unexpired term by appointment of the county legislative delegation.

All inconsistent local acts repealed on July 1, 2021

SECTION 8. All local acts concerning Clarendon County School District No. 1 and Clarendon County School District No. 3 inconsistent with the provisions of this act are repealed as of July 1, 2021, it being

the intent of the General Assembly to have this act and the general law be the only provisions of law governing the school district of the county.

Severability

SECTION 9. If any provision of this act for any reason is held by a court of competent jurisdiction to be unconstitutional or invalid, that holding shall not affect the constitutionality or validity of the remaining portions of this act. The General Assembly declares that it would have passed this act and each and every provision in it, irrespective of the fact that any one or more provisions of it may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 10. This act takes effect thirty days after approval by the Governor.

Ratified the 29th day of January, 2020.

Approved the 3rd day of February, 2020.

No. 184

(R167, S1121)

AN ACT TO CONSOLIDATE HAMPTON COUNTY SCHOOL DISTRICT NO. 1 AND HAMPTON COUNTY SCHOOL DISTRICT NO. 2 INTO ONE SCHOOL DISTRICT TO BE KNOWN AS THE HAMPTON COUNTY SCHOOL DISTRICT; TO ABOLISH HAMPTON COUNTY SCHOOL DISTRICT NO. 1 AND HAMPTON COUNTY SCHOOL DISTRICT NO. 2 ON JULY 1, 2021; TO PROVIDE THAT THE HAMPTON COUNTY SCHOOL DISTRICT MUST BE GOVERNED INITIALLY BY A BOARD OF TRUSTEES CONSISTING OF NINE MEMBERS, WHICH MUST BE APPOINTED BY THE HAMPTON COUNTY LEGISLATIVE DELEGATION; TO PROVIDE THAT BEGINNING IN 2022, THE INITIAL NINE-MEMBER APPOINTED BOARD SHALL BEGIN THE PROCESS OF TRANSITIONING TO A SEVEN-MEMBER ELECTED BOARD

OF TRUSTEES BY ELECTING FOUR MEMBERS TO SERVE FOUR-YEAR TERMS FROM SINGLE-MEMBER ELECTION DISTRICTS 1, 3, 5, AND 7 IN NONPARTISAN ELECTIONS TO BE CONDUCTED AT THE SAME TIME AS THE 2022 GENERAL ELECTION; TO ESTABLISH CONTINUITY OF LEADERSHIP PROVISIONS BY REQUIRING THE HAMPTON COUNTY LEGISLATIVE DELEGATION TO SELECT THREE MEMBERS FROM THE INITIAL NINE-MEMBER APPOINTED BOARD TO SERVE ALONGSIDE THE FOUR MEMBERS ELECTED IN 2022 UNTIL THE THREE APPOINTED MEMBERS' SUCCESSORS ARE ELECTED TO SERVE FOUR-YEAR TERMS FROM SINGLE-MEMBER ELECTION DISTRICTS 2, 4, AND 6 IN NONPARTISAN ELECTIONS TO BE CONDUCTED AT THE SAME TIME AS THE 2024 GENERAL ELECTION, AND, THEREAFTER, TO PROVIDE THAT MEMBERS OF THE HAMPTON COUNTY SCHOOL DISTRICT BOARD OF TRUSTEES MUST BE ELECTED IN NONPARTISAN SCHOOL DISTRICT ELECTIONS TO BE CONDUCTED AT THE SAME TIME AS THE GENERAL ELECTION FOR TERMS OF FOUR YEARS AND UNTIL THEIR SUCCESSORS ARE ELECTED AND QUALIFY; TO ESTABLISH THE BOARD'S POWERS, DUTIES, AND RESPONSIBILITIES; TO PROVIDE THAT THE DISTRICT SUPERINTENDENT IS THE CHIEF OPERATING OFFICER OF THE DISTRICT AND IS RESPONSIBLE TO THE BOARD FOR THE PROPER ADMINISTRATION OF ALL AFFAIRS OF THE DISTRICT AND SUBJECT TO ALL OTHER PROVISIONS OF LAW RELATING TO HIS DUTIES; TO INCLUDE INTERIM MILLAGE PROVISIONS FOR YEARS 2021, 2022, 2023, AND 2024, AND TO PROVIDE THAT BEGINNING IN 2025, THE HAMPTON COUNTY SCHOOL DISTRICT IS AUTHORIZED TO APPROVE AN ANNUAL TAX LEVY IN ORDER TO OBTAIN FUNDS FOR SCHOOL PURPOSES AS PROVIDED IN THIS ACT; TO TRANSFER THE ASSETS AND LIABILITIES OF HAMPTON COUNTY SCHOOL DISTRICT NO. 1 AND HAMPTON COUNTY SCHOOL DISTRICT NO. 2 TO THE HAMPTON COUNTY SCHOOL DISTRICT ON JULY 1, 2021; AND TO REPEAL ALL LOCAL ACTS INCONSISTENT WITH THE PROVISIONS OF THIS ACT.

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

Hampton County School Districts Nos. 1 and 2 consolidated

SECTION 1. (A) Notwithstanding the provisions of Act 286 of 1986, Act 141 of 2007, or of subsequent acts of the General Assembly amending these acts, or of any other provision of law:

(1) on the effective date of this act, Hampton County School District No. 1 and Hampton County School District No. 2 (the two present school districts) shall commence all prudent and essential preparations necessary to achieve an efficient and well-organized consolidation of the two districts;

(2) effective July 1, 2021, Hampton County School District No. 1 and Hampton County School District No. 2 must be abolished. The powers and duties of the two present school districts' respective boards of trustees must be devolved on the board of trustees of the consolidated school district to be known as the Hampton County School District; and

(3) the first audit report that the Hampton County School District is required to provide to the State Department of Education pursuant to Section 59-17-100 must be submitted to the department on or before December 1, 2022.

(B) In order to facilitate the efficient consolidation of the two present school districts, the members of the districts' respective boards of trustees and their superintendents, administrators, and personnel shall cooperate fully with the Hampton County Legislative Delegation and delegation staff, the initial nine-member appointed board of trustees for the Hampton County School District, and the South Carolina Department of Education officials assisting with the consolidation. In addition, after the effective date of this act, the two present school districts may not:

(1) create new full-time or part-time district-level positions;

(2) approve, award, or authorize any salary increases, raises, bonuses, or severance pay or separation incentives of any type;

(3) create or incur new bonded indebtedness;

(4) approve requests for out-of-state travel or requests for reimbursement for out-of-state travel; or

(5) make any significant district purchases unless the nine-member Hampton County School District Board of Trustees created pursuant to SECTION 2 of this act has approved the purchase. For purposes of this item, "significant district purchase" means any district purchase in excess of twenty-five thousand dollars.

(C) Any current district-level administrator for either of the two present school districts whose position will be eliminated due to the creation of an equivalent position in the consolidated district has priority

consideration for the equivalent position if the administrator remains in his role at the time of hiring for the consolidated district and desires to be considered for the new position. Priority consideration is limited to review of an application for employment, or an interview; however, priority consideration does not mean that a position with the consolidated district must be offered. For purposes of this subsection, "current" means as of the effective date of this act, and "district level administrator" includes superintendents, chief academic officers, associate superintendents, assistant superintendents, and district directors. Position equivalency must be determined based on the position's title and responsibilities.

Hampton County School District Board of Trustees initial appointments, elections

SECTION 2. (A) The Hampton County School District must be governed initially by a board of trustees of nine members to be appointed by a majority of the Hampton County Legislative Delegation. The nine members initially appointed by the legislative delegation after the effective date of this act must be qualified electors of Hampton County, and these appointed members shall serve on the Hampton County School District Board of Trustees until four trustees have been duly elected and qualify in school district elections held at the same time as the 2022 General Election pursuant to the provisions of this section. These four trustees must be elected from defined single-member election districts to be established in subsequent legislation enacted after the release of pertinent demographic data obtained in the 2020 decennial census, but prior to the opening of the filing period for the 2022 school district elections.

(B)(1) Beginning in 2022, four members of the Hampton County School District Board of Trustees must be elected from single-member districts provided for by the General Assembly in nonpartisan elections to be conducted at the same time as the general election and every four years thereafter, except as may be provided to stagger the members' terms. The four candidates elected in the 2022 school district elections must be elected from election districts 1, 3, 5, and 7 and shall serve four-year terms and until their successors are elected and qualify. Each of these four members and their successors must be a qualified elector of the election district from which he is elected. Beginning in 2024, three additional members of the Hampton County School District Board of Trustees must be elected from election districts 2, 4, and 6 in nonpartisan elections to be conducted at the same time as the general election and

every four years thereafter, except as may be provided to stagger the members' terms. The three candidates elected in the 2024 school district elections shall serve four-year terms and until their successors are elected and qualify. Each of these three members and their successors must be a qualified elector of the election district from which he is elected. In order to provide continuity of experienced leadership to the district, when the four duly elected trustees from election districts 1, 3, 5, and 7 take office following the 2022 school district elections, a majority of the Hampton County Legislative Delegation shall select three members from the initial nine-member appointed board of trustees to serve as school district trustees together with the four elected members, and the terms of the remaining appointed trustees not selected to serve with the four elected members must be terminated. The three members of the initial nine-member appointed board selected to serve alongside the four elected members shall serve until their successors are elected in school district elections conducted at the same time as the 2024 General Election and qualify.

(2)(a) The four trustees elected from districts 1, 3, 5, and 7 in the 2022 school district elections shall serve four-year terms and until their successors are elected and qualify, and the successors to these members must be elected in nonpartisan school district elections to be conducted at the same time as the 2026 General Election. The trustees elected in the 2026 school district election and their successors shall serve four-year terms and until their successors are elected and qualify.

(b) Pursuant to item (1) of this subsection, the three members of the initial nine-member appointed board selected by the Hampton County Legislative Delegation to serve alongside the four elected members shall serve until their successors are elected from districts 2, 4, and 6 in school district elections conducted at the same time as the 2024 General Election and qualify. At such time, the terms of the three appointed members shall terminate. The three trustees elected from districts 2, 4, and 6 in the 2024 school district elections and their successors shall serve four-year terms and until their successors are elected and qualify. Thereafter, members of the Hampton County School District Board of Trustees must be elected in nonpartisan school district elections to be conducted at the same time as the general election for terms of four years and until their successors are elected and qualify.

(3) In the event of a vacancy on the board occurring for any reason other than the expiration of a term, the vacancy must be filled for the remainder of the unexpired term through appointment by the Hampton County Legislative Delegation.

(C) All persons desiring to qualify as a candidate for the Hampton County School District Board of Trustees shall file written notice of candidacy with the Hampton County Board of Voter Registration and Elections on forms furnished by the board. The filing period shall open at 12:00 p.m. on August first or, if August first falls on Saturday or Sunday, then 12:00 p.m. on the following Monday and shall run until 12:00 p.m. on August fifteenth or, if August fifteenth falls on Saturday or Sunday, no later than 12:00 p.m. on the following Monday. This notice of candidacy must be a sworn statement and shall include the candidate's name, age, address, voting precinct, period of residence in the county, and other information that the board requires. The Hampton County Board of Voter Registration and Elections shall conduct and supervise the elections for members of the Hampton County School District Board of Trustees in the manner governed by the election laws of this State, mutatis mutandis. The board shall prepare the necessary ballots, appoint managers for the voting precincts, and do all things necessary to carry out the elections, including the counting of ballots and declaring the results. The board shall publish notices of the elections pursuant to Section 7-13-35. The results of the elections must be determined by the nonpartisan plurality method contained in Section 5-15-61. The members of the Hampton County School District Board of Trustees elected in these nonpartisan elections shall take office one week following certification of their election pursuant to Section 59-19-315.

Board of Trustees' duties, powers, and responsibilities

SECTION 3. (A) The members of the Hampton County School District Board of Trustees shall elect a chairman and other officers they consider necessary for terms that are coterminous with their appointed or elected terms of office.

(B) The Hampton County School District Board of Trustees has the power, duty, and responsibility provided by law including to:

(1) employ a superintendent as the chief executive officer;

(2) establish other administrative departments upon the recommendation of the superintendent;

(3) adopt the annual school district budget;

(4) inquire into the conduct of an office, department, or agency of the school district;

(5) adopt and modify attendance zones of schools within the school district;

(6) provide for an independent annual audit of the books and business affairs of the school district and for a general survey of school district business;

(7) cooperate to establish and maintain a central purchasing system for the purchase of contractual services, equipment, and supplies;

(8) cooperate to establish and maintain educational consortia;

(9) be responsible for policymaking action and the review of regulations established to put these policies into operation; and

(10) set by majority vote of the board a salary that each member shall receive for attending meetings of the board, which may not exceed four hundred fifty dollars per month.

School district superintendent, duties and responsibilities

SECTION 4. The district superintendent is the chief operating officer of the district and is responsible to the board for the proper administration of all affairs of the district and subject to all other provisions of law relating to his duties. He shall:

(1) appoint and, when necessary for the good of the district, remove an appointed officer or employee of the district and fix the salaries of these officers and employees, unless otherwise provided by law and except as he may authorize the head of a department or office to appoint and remove subordinates in the department or office;

(2) prepare the budget annually, submit it to the board, and be responsible for its administration after adoption;

(3) prepare and submit to the board at the end of each fiscal year a complete annual report on the finances and administrative activities of the board for the preceding year and make other financial reports from time to time that may be required by the board or by law;

(4) keep the board advised of the financial condition and future needs of the district and make recommendations that seem desirable;

(5) perform other duties prescribed by law or required of him by the board not inconsistent with the provisions of law; and

(6) centralize all administrative functions including, but not limited to, human resources, accounting, procurement, transportation, school bus services, and maintenance.

Preparation of annual budget

SECTION 5. (A)(1) For purposes of determining the 2021 property tax millage levy of the Hampton County School District upon its creation, the millage levy for the district must be determined and calculated by the

Department of Revenue based on the 2020 levy of the two present school districts and the value of a mill in each district. Thereafter, the millage levy for the years 2022, 2023, and 2024 must be the millage levy for the previous year. To the allowed millage levy for years 2021, 2022, 2023, and 2024 may be added any millage determined by the county governing body necessary to comply with educational mandates imposed by federal or state law.

(2) The provisions of this subsection apply for school millages set for years 2022, 2023, and 2024.

(B) Beginning in 2025, in order to obtain funds for school purposes the board of trustees is authorized to impose an annual tax levy upon approval of the county governing body, exclusive of any millage imposed for bond debt service. Upon certification to the county auditor of the tax levy to be imposed, the auditor shall levy and the county treasurer shall collect the millage so certified upon all taxable property in the district. Upon approval of the county governing body, the consolidated school district may raise its millage by no more than two mills over that levied for the previous year, in addition to any millage needed to adjust for the EFA inflation factor and sufficient to meet the requirements of Section 59-21-1030. An increase above this two mills for operations may be levied only after a majority of the registered electors of the district vote in favor of the millage increase in a referendum called by the county governing body and conducted by the county election commission at the same time as the general election. To the extent the provisions of this section relating to increases in school millages conflict with the provisions of Section 6-1-320, relating to the millage rate increase limitation, the provisions of Section 6-1-320 control.

Assets and liabilities of the two present districts transferred to the consolidated district on July 1, 2021

SECTION 6. (A)(1) On July 1, 2021, the assets and liabilities of Hampton County School District No. 1 and Hampton County School District No. 2 must be transferred to the Hampton County School District. The records and employees of the two present school districts must be transferred to and, if applicable, assumed by the consolidated school district.

(2) Any funds under paragraph 1.88(A), Part I(B) of Act 91 of 2019 to support school district consolidation and related purposes in certain specified school districts, which have been distributed to or which are to be made available to the two present school districts must

be transferred to or made available to the Hampton County School District to be used for the same purposes.

(B) The constitutional debt limitation on the issuance of general obligation bonds applicable to the Hampton County School District is to be computed according to the law of this State and based on the assessed value of all taxable property in the district minus that bonded indebtedness of each of the present school districts made a part of the district that was includable against the constitutional debt limit of the present school districts.

(C) During the transition period, beginning on the effective date of this act to July 1, 2021, no new general obligation bonds may be issued against the constitutional debt limitation of the two present school districts, except in the case of an emergency. If new general obligation bonds are issued, then the board of trustees of the issuing school district must adopt an ordinance declaring the emergency and specifying the necessity of the issue.

Two present school districts abolished on July 1, 2021

SECTION 7. (A) Hampton County School District No. 1 and Hampton County School District No. 2 are abolished on July 1, 2021, at which time the Hampton County School District must be established as provided in this act. The terms of all members of the boards of trustees of the two present school districts will expire on this date. However, the members of the Hampton County School District Board of Trustees appointed after the effective date of this act shall take office on the date they take the oath of office. From this date and until July 1, 2021, the boards shall organize, begin planning for the changeover to the consolidated district, enter into contracts to effectuate these purposes, and perform other related matters, except that the responsibility and authority to manage the schools of the two present school districts rests solely with the individual boards for each of the two present school districts until July 1, 2021, and the appointed consolidated board of trustees may not interfere with this authority.

(B) Funding for the activities of the appointed consolidated board of trustees, from the date the members assume office until July 1, 2021, must be paid from funds provided to the Hampton County School District by the State Department of Education for this purpose.

(C)(1) After the effective date of this act, a member of one of the two present school districts' governing boards may:

(a) be appointed to the Hampton County School District Board of Trustees pursuant to the provisions of SECTION 2 of this act; or

(b) seek election to the Hampton County School District Board of Trustees.

(2) If a member of one of the present boards is either appointed or elected to the Hampton County School District Board of Trustees pursuant to item (1):

(a) prior to assuming his new duties on the consolidated school district board of trustees, and if his term on one of the present boards has not otherwise expired, he must first resign as a member of the present board; and

(b) notwithstanding another provision of law, the vacancy on the present board must be filled for the remainder of the unexpired term by appointment of the Hampton County Legislative Delegation.

All inconsistent local acts repealed on July 1, 2021

SECTION 8. All local acts concerning Hampton County School District No. 1 and Hampton County School District No. 2 inconsistent with the provisions of this act are repealed as of July 1, 2021, it being the intent of the General Assembly to have this act and the general law be the only provisions of law governing the Hampton County School District.

Severability

SECTION 9. If any provision of this act for any reason is held by a court of competent jurisdiction to be unconstitutional or invalid, that holding shall not affect the constitutionality or validity of the remaining portions of this act. The General Assembly declares that it would have passed this act and each and every provision in it, irrespective of the fact that any one or more provisions of it may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 10. This act takes effect thirty days after approval by the Governor.

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 185

(R168, S1191)

AN ACT TO AMEND ACT 278 OF 1985, AS AMENDED, RELATING TO THE JASPER COUNTY BOARD OF EDUCATION, SO AS TO REQUIRE CANDIDATES SEEKING ELECTION TO SUBMIT A STATEMENT OF CANDIDACY RATHER THAN SIGNED PETITIONS.

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

Candidates for Jasper County Board of Education to submit statements of candidacy

SECTION 1. Section 1 of Act 278 of 1985, as last amended by Act 476 of 1998 is further amended to read:

"Section 1. The central authority of Jasper County's education system is the Jasper County Board of Education (board) which is, ex officio, the board of trustees of the Jasper County School District, and all powers and functions vested in school trustees by general or special enactment are vested in the board.

Notwithstanding any other provision of law, the board is composed of nine members whose terms shall be four years except that the initial term for Districts 2, 4, 6, and 8 shall be two years and four years thereafter. Each trustee must be a resident elector of the single-member district from which the trustee is elected as designated in Section 2 of this act. A vacancy must be filled by special election as provided in Section 7-13-190.

Notice of the election must be published by the Jasper County Board of Elections and Voter Registration in a newspaper of general circulation in the district which shall contain appropriate information concerning the election, such as the date of the election, the qualifications of a candidate for election, the method of securing a place on the ballot, all pertinent deadlines, and the authority to whom the candidate's statement of candidacy must be submitted. The notice must be published no earlier than one hundred fifty days, and no later than one hundred twenty days, before the date of the election. The notice published pursuant to this act is additional to any general law requirements of notice of election pursuant to Title 7 of the Code of Laws of South Carolina, 1976.

To have his name placed on the ballot as a candidate in the general election, a person shall submit to the Jasper County Board of Voter Registration and Elections a statement of candidacy no later than twelve o'clock noon on August first or, if August first falls on a Saturday or Sunday, no later than twelve o'clock noon on the following Monday. Section 7-13-352 of the 1976 Code shall govern the process of nomination by statement of candidacy and verification of candidates' qualifications for election."

Time effective

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

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 186

(R183, H4724)

A JOINT RESOLUTION TO ESTABLISH THE COMMITTEE TO STUDY VETERAN HOMELESSNESS, UNEMPLOYMENT, JOB PLACEMENT, INCIDENCE OF POST-TRAUMATIC STRESS DISORDER, ACCESS TO BASIC HUMAN SERVICES, AND OTHER ISSUES AFFECTING SOUTH CAROLINA VETERANS AND TO PROVIDE FOR RELATED MATTERS INCLUDING, BUT NOT LIMITED TO, COMMITTEE MEMBERSHIP AND DUTIES, THE FILLING OF VACANCIES, COMMITTEE MEETINGS, AND STAFFING.

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

Establishment of Committee to Study Certain Issues Affecting Veterans

SECTION 1. There is established the Committee to Study Certain Issues Affecting Veterans. The committee is comprised of three members of the Senate, to be appointed by the President of the Senate, three members of the House of Representatives, to be appointed by the

Speaker of the House, and the Secretary of the South Carolina Department of Veterans' Affairs or his designee. The members of the committee shall elect a chairman and a vice chairman and shall meet as often and at any locale in the State as the committee considers necessary or expedient for the duration of the committee's existence as provided by this joint resolution. A vacancy on the committee must be filled in the manner of original appointment as provided by this section.

Committee responsibilities

SECTION 2. (A) The committee shall study the following:

(1) the approximate number of homeless veterans residing in this State;

(2) the approximate number of South Carolina veterans who have been diagnosed with post-traumatic stress disorder (PTSD);

(3) the root causes of veteran homelessness and reasons why traditional Veterans Affairs Services are not alleviating the situation, particularly with regard to job placement services;

(4) the availability of basic human services to South Carolina's most economically disadvantaged veterans.

(B) When formulating its findings and recommendations, the committee shall consider information and recommendations from the State Office of Veterans Affairs, representatives of the veteran community, as well as organizations and health care facilities that provide services for homeless veterans.

Written findings and recommendations required

SECTION 3. The committee shall render a written report of its findings and recommendations based upon its study conducted pursuant to SECTION 2. The report must be presented to both houses of the General Assembly and to the Governor no later than January 31, 2021. Upon presenting the written report in accordance with the provisions of this section, the committee is dissolved and this joint resolution expires.

Clerical and administrative assistance

SECTION 4. 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. The members of the committee may not receive compensation and are not entitled to receive

mileage, subsistence, and per diem authorized by law for members of state boards or committees.

Time effective

SECTION 5. This joint resolution takes effect upon approval by the Governor.

Ratified the 25th day of September, 2020.

Approved the 28th day of September, 2020.

No. 187

(R186, H4940)

A JOINT RESOLUTION TO ESTABLISH THE ELECTRICITY MARKET REFORM MEASURES STUDY COMMITTEE, TO PROVIDE FOR THE STUDY COMMITTEE'S MEMBERSHIP AND THE COMMITTEE'S AFFILIATED NONVOTING ADVISORY BOARD, TO PROVIDE THAT THE COMMITTEE SHALL STUDY WHETHER TO RECOMMEND THE ADOPTION OF VARIOUS ELECTRICITY MARKET REFORM MEASURES AFFECTING THE PROVISION OF ELECTRIC SERVICE IN SOUTH CAROLINA AND THE POTENTIAL PUBLIC BENEFITS ASSOCIATED WITH THESE MEASURES, TO REQUIRE THE STUDY COMMITTEE TO ISSUE A REPORT WITH FINDINGS AND RECOMMENDATIONS, TO REQUIRE THE STUDY COMMITTEE TO RETAIN A THIRD-PARTY, INDEPENDENT, EXPERT CONSULTANT, OR CONSULTANTS, TO ADVISE THE STUDY COMMITTEE, AND TO PROVIDE FOR THE DISSOLUTION OF THE STUDY COMMITTEE.

Whereas, much of the electric service provided in South Carolina is currently provided by vertically integrated providers of electric distribution and transmission services; and

Whereas, the State recognizes that existing nuclear power plant units in operation and located in this State or in the balancing authority of

electrical utilities or public power agencies operating in this State provide an emissions-free generating source of power while also providing employment and economic benefits for a significant number of South Carolinians, and this study is not intended to force divestiture of ownership or cessation or operation of any nuclear power plant unit in operation; and

Whereas, the State has adopted measures to diversify the resources used to reliably meet the energy needs of consumers in the State through Act 62 of 2019 and through other measures; and

Whereas, the adoption of measures to reform the structure of the existing electric generation, transmission, or distribution service may further promote the development of and access to low cost, reliable resources for the benefit of South Carolina consumers; and

Whereas, any electricity sector regulatory framework changes, the restructuring of existing electric transmission service, or joining an existing or creating a new regional transmission organization (RTO) may require changes to state law as well as federal authorization. Now, therefore,

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

Electricity Market Reform Measures Study Committee created

SECTION 1. (A)(1) There is created the Electricity Market Reform Measures Study Committee. The study committee is comprised of eight members:

(a) four members of the House of Representatives, all serving ex officio, appointed by the Chairman of the House Labor, Commerce and Industry Committee; one member shall be a customer of Dominion Energy, one member shall be a customer of Duke Energy, one member shall be a direct-serve customer of the Public Service Authority, and one member shall be a customer of an electric cooperative; and

(b) four members of the Senate, all serving ex officio, appointed by the Chairman of the Senate Judiciary Committee; one member shall be a customer of Dominion Energy, one member shall be a customer of Duke Energy, one member shall be a direct-serve customer of the Public Service Authority, and one member shall be a customer of an electric cooperative.

(2) The study committee shall meet as soon as practicable after the enactment of this joint resolution to organize and to elect one co-chairman from the Senate appointees and one co-chairman from the House appointees. The co-chairmen shall be elected by a majority vote of the study committee members.

(B) The study committee shall include a nonvoting advisory board. The advisory board is comprised of:

(1) the Executive Director of the Office of Regulatory Staff, or her designee;

(2) a representative of AARP South Carolina;

(3) the South Carolina President of Duke Energy, or his designee;

(4) the Chief Executive Officer of the South Carolina Public Service Authority, or his designee;

(5) the President of Dominion Energy South Carolina, or his designee;

(6) two representatives of residential consumers of electricity in South Carolina appointed by the Chairman of the Senate Judiciary Committee;

(7) two representatives of commercial consumers of electricity in South Carolina appointed by the Chairman of the House of Representatives Labor, Commerce and Industry Committee;

(8) two representatives of industrial consumers of electricity in South Carolina, one of the representatives must be appointed by the Chairman of the House of Representatives Labor, Commerce and Industry Committee, and one representative must be appointed by the Chairman of the Senate Judiciary Committee;

(9) a representative of the Coastal Conservation League;

(10) a member company of, and appointed by, the South Carolina Solar Business Alliance;

(11) a member company of, and appointed by, the South Carolina Chamber of Commerce;

(12) a representative of the South Carolina Electric Cooperatives;

(13) a representative of Piedmont Municipal Power Agency;

(14) a representative of the South Carolina Municipal Power Association;

(15) a member company of, and appointed by, the South Carolina Manufacturers' Alliance;

(16) a representative of a renewable power developer primarily engaged in the development of utility-scale solar projects appointed by the Chairman of the House of Representatives Labor, Commerce and Industry Committee;

(17) a representative of a renewable power developer primarily engaged in the development of residential-rooftop solar projects appointed by the Chairman of the Senate Judiciary Committee;

(18) a representative of Central Electric Cooperative;

(19) the South Carolina President of Lockhart Power, or his designee; and

(20) a representative of the farming or agricultural community appointed by the Chairman of the House of Representatives Labor, Commerce and Industry Committee.

(C) The nonvoting advisory board members shall be permitted to utilize for study committee-related matters technical support staff, including outside consultants and counsel, from the entity that the member represents.

Study committee responsibilities

SECTION 2. (A) For purposes of this section, "RTO" means regional transmission organization or other entity established for the purpose of promoting the efficiency and reliability in the operation and planning of the electric transmission grid and ensuring nondiscrimination in the provision of electric transmission services meeting the minimum criteria established by the Federal Energy Regulatory Commission under 18 C.F.R. Section 35.34.

(B) The study committee shall:

(1) study whether to recommend any of a variety of electricity market reform measures, encompassing the full range of possible market reforms that may benefit South Carolina consumers including, but not limited to, the following:

(a) establishing a South Carolina Regional Transmission Organization or an RTO including South Carolina and other Southeastern states;

(b) joining an existing RTO;

(c) establishing an energy imbalance market;

(d) requiring vertically integrated electrical utilities to divest their generation or transmission assets, or both;

(e) enabling full consumer retail electric service choice;

(f) enabling partial consumer retail electric service choice such as nonresidential customer choice;

(g) authorizing community choice aggregation in South Carolina;

(h) redesigning the distribution system operator role in South Carolina to accommodate a modernized distribution grid featuring high

levels of distributed energy resources, including exploration of establishing an independent distribution system operator and distribution-level electricity markets;

(i) measures to accelerate reductions in emissions associated with South Carolina's electricity supply;

(j) establishing joint dispatch agreements among state or regional utilities;

(k) other beneficial regulatory framework changes; and

(l) establishing or preserving consumer rate structures that more closely align consumer interests with electric system interests;

(2) study whether the General Assembly should require any electrical utility, electric cooperative, or the Public Service Authority of South Carolina to take actions necessary to implement one or more of the studied electricity market reform measures; and

(3) study the costs and benefits to consumers and the financial and operational impacts to integrated service providers of any market reform measures recommended.

(C) At a minimum, the study shall address the following issues:

(1) the legal and procedural requirements associated with adoption of any recommended electricity market reform measures, including identification of existing laws, regulations, and policies that may need to be amended in order to implement the electricity market reform measures;

(2) the potential costs and benefits to South Carolina electric consumers and ratepayers of each electricity market reform measure studied based on factors including, but not limited to: generation production cost savings, fuel savings, transmission cost savings, battery storage, reliability, resiliency, generation resource diversity, generator availability, the promotion and integration of demand response and energy efficiency, deployment of renewable resources, deferral of capital investments, the effect on economic development and retention of industry, stranded costs and regulatory mechanisms to mitigate any stranded costs, and the long-term impact on consumer rates and service quality in the short and long term; and

(3) the experience of other states with adopting each electricity market reform measure studied.

(D) By November 1, 2021, the study committee shall issue a report on its work to the General Assembly that may include recommendations that the State take action or not take action on any of the market reform measures studied. A recommendation that the State take action shall be based upon a finding by a majority of the voting members that one or more electricity market reform measures is in the public interest, taking

into consideration expected consumer costs and benefits of the electricity market reform measures, and is otherwise consistent with the provision of reliable, safe, and low-cost electric service to ratepayers in South Carolina and within the balancing authority of the electrical utility.

(E) If the study committee recommends that the State take action, the report issued by the study committee shall include draft legislation and identify requirements that should be established, as applicable, that, including, but not limited to:

(1) promoting:

(a) the reliable planning, operating, maintaining, and upgrading of the transmission and distribution systems and any necessary additions;

(b) the safe, reliable, and efficient operation of transmission and distribution systems; and

(c) policies for the pricing and access for service over such systems that are not unduly discriminatory and are consistent with the orderly development of competition in the State;

(2) are consistent with lawful requirements of the Federal Energy Regulatory Commission regarding the establishment of an RTO, if applicable; and

(3) generally promote the public interest and are consistent with:

(a) ensuring that consumers' needs for economic and reliable electric service are met, including creating cost savings and reduced electric rates over the long term for consumers as compared to maintaining the status quo; and

(b) meeting the transmission and distribution needs of electric generation suppliers and consumers both within and without this State and respective balancing authorities, including those that do not own, operate, control, or have an entitlement to transmission and distribution capacity.

Independent expert consultant required

SECTION 3. The study committee shall retain a third-party, independent, expert consultant or consultants to advise the study committee and issue its own opinion as to what market reform measures studied, if any, benefit South Carolina consumers. The third-party, independent, expert consultant or consultants must advise on the economic costs and benefits of each course of action and also must make its recommendation to the study committee. The third-party, independent, expert consultant or consultants must be selected by the

co-chairmen of the study committee. Engagements procured under this provision are exempt from the South Carolina Procurement Code.

Study committee's dissolution

SECTION 4. The Electricity Market Reform Measures Study Committee shall dissolve and terminate upon its submission to the General Assembly of the committee's final report.

Time effective

SECTION 5. This joint resolution takes effect upon approval by the Governor and is contingent upon appropriations by the General Assembly.

Ratified the 25th day of September, 2020.

Approved the 29th day of September, 2020.

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REGULATIONS OF STATE AGENCIES
August 23, 2019 - July 24, 2020

Index

The regulations contained in this index have been filed in the office of the Legislative Council and processed in accordance with the provisions of Article 1, Chapter 23, Title 1, *Code of Laws of South Carolina, 1976*, and became effective August 23, 2019 through July 24, 2020.

The texts of all regulations listed in this index have been published in the volume and issue of the *South Carolina State Register* noted opposite each entry and are available on the South Carolina General Assembly Home Page: **www.scstatehouse.gov.** If you do not have access to the Internet, the regulations are available for public inspection in the office of the promulgating agency, the Legislative Council, the State Library and the Department of Archives and History.

An explanation of abbreviations opposite regulations contained in this index, e.g. "SR44-1", means *South Carolina State Register*, Volume 44, Issue 1. Page numbers can be determined from the table of contents in the issue concerned. The number in parenthesis is the filing Document Number.