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CHAPTER 8.

 UNIFORM AIRCRAFT FINANCIAL RESPONSIBILITY ACT

**SECTION 55‑8‑10.** Definitions.

As used in this chapter:

(a) “Agency” means the Division of Aeronautics of the Department of Commerce.

(b) “Aircraft” means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

(c) “Judgment” means any judgment which has become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a claim for damages suffered by a claimant arising out of the ownership, operation, maintenance or use of any aircraft, including damages for care and loss of services, because of bodily injury to or death of any person or injury to or destruction of property, including the loss of use thereof, or upon an agreement of settlement for such damages.

(d) “Nonresident’s Operating Privilege” means the privilege conferred upon a nonresident by the law of this State pertaining to the operation by him of an aircraft, or the use of an aircraft owned by him, in this State.

(e) “Operator” means any person who is exercising actual physical control of an aircraft.

(f) “Owner” means any of the following persons who may be legally responsible for the operation of an aircraft:

(1) A person who holds the legal title to an aircraft;

(2) A lessee of an aircraft;

(3) A conditional vendee, a trustee under a trust receipt, a mortgagor or other person holding an aircraft subject to a security interest.

(g) “Passenger” means any person in, on or boarding an aircraft for the purpose of riding therein, or alighting therefrom following a flight or attempted flight therein.

(h) “Person” means any individual, firm, co‑partnership, association, or corporation, public or private, including his or its successors, assignees or legal representatives.

(i) “Registration” means a certificate of registration of aircraft, or of operators thereof, issued by the Federal Aviation Administration.

(j) “Notification” means notice in writing served upon a person by either:

(1) Actual delivery or offer of delivery to such person by any adult individual whose rights are not affected by the proceeding involved; or

(2) Registered mail addressed to the person at the last address known to the agency.

(k) “State” means any state, the District of Columbia, any territory or possession of the United States and the Commonwealth of Puerto Rico.

(l) “Claimant” means any person having a claim for damages as the result of an accident within this State involving an aircraft.

**SECTION 55‑8‑20.** Enforcement of chapter and promulgation of regulations; review.

(a) The agency shall administer and enforce the provisions of this chapter and may promulgate regulations necessary for its administration, which become effective pursuant to Chapter 23, Title 1.

(b) The agency shall provide for hearings upon request of a person who may be affected by its orders or acts pursuant to the provisions of this chapter and may provide for a stay until a hearing may be held.

A person aggrieved by an order or act of the agency may have appellate review by appeal to the Administrative Law Court by the filing of a notice of appeal with the Administrative Law Court within thirty days after the order or act becomes final in accordance with its rules of procedure. The Administrative Law Court shall determine whether the filing of the appeal as a stay of an order or act of the agency and the terms of the stay.

**SECTION 55‑8‑30.** Reports of aircraft accidents.

(a) The operator of any aircraft involved in an accident within this State in which any person is killed or injured or damage in excess of five hundred dollars is sustained to the property of any person, other than property owned by the owner or operator or in his custody or control or carried in or on the aircraft, shall immediately but not later than forty‑eight hours after the accident report the matter in writing to the agency. If the operator is physically incapable of making the report, the owner of the aircraft involved in the accident, shall immediately but not later than forty‑eight hours after learning of the accident make the report. If neither the operator nor the owner is physically capable of making the report, then each passenger shall, within ten days after learning of the incapacity of the operator or owner, make the report. If the owner or operator dies as as a result of the accident, the legal representative of the operator or owner shall make the report within ten days after his qualification. Any law enforcement officer who has knowledge of an aircraft accident shall immediately notify the agency.

(b) The report, the form of which shall be prescribed by the agency shall include information to enable the agency to determine whether the requirements for the deposit of security under Section 55‑8‑40 are inapplicable by reason of existence of insurance or other exceptions specified in this chapter. The agency may rely upon the accuracy of the information until it has reason to believe that the information is erroneous.

(c) The operator and the owner shall furnish such additional information as the agency may require.

(d) Any person, other than the owner, operator or sheriff having knowledge of the accident or any Federal Aviation Administration, Federal Department of Transportation or National Transportation Safety Board (NTSB), or Civil Aeronautics Board (CAB) violation, incident, or accident, shall immediately notify the agency of such occurrence and failure to so notify shall be a misdemeanor and be punishable as provided in Section 55‑8‑140.

**SECTION 55‑8‑40.** Security to satisfy potential judgments; suspensions for nonpayment; exceptions; notice.

(a) Within thirty days after receipt of an accident report as required in Section 55‑8‑30, the agency shall determine by an order entered of record, (1) the amount of security within the limits specified in Section 55‑8‑50, which it deems sufficient to satisfy any judgment for damages which may be recovered against each owner or operator and (2) the name and address of each claimant.

(b) Within thirty days after the entry of the order required by subsection (a) of this section the agency, unless there is deposited for the benefit of the owner or operator, or both, as the case may be, security in the sum so determined by the agency, upon ten days notification shall impose a civil penalty of one thousand dollars a day against the affected owner or operator or both for each day after the ten‑day notification period has expired that the provisions of subsection (a) have not been complied with.

(c) The requirements as to security and suspension do not apply:

(1) To the operator or the owner of the aircraft if the agency determines that he is not charged with responsibility for the accident by the claimants, or to the operator of an aircraft involved in an accident in which no injury was caused to the person of any one other than the operator and no damage in excess of five hundred dollars was caused to property not owned, rented, occupied or used by the operator nor in his custody or control nor carried in or on the aircraft;

(2) To the operator or owner of an aircraft if at the time of the accident the aircraft was stationary, without passengers thereon or boarding the aircraft or alighting therefrom and the aircraft was parked in an area legally used for aircraft parking with no engine running nor in the process of being started;

(3) To the owner of an aircraft if at the time of the accident the aircraft was being operated, or was parked, without his permission express or implied;

(4) To the owner if there is in effect at the time of the accident an aircraft liability policy or bond with respect to the aircraft involved in the accident;

(5) To the operator, if not the owner of the aircraft, if there is in effect at the time of the accident an aircraft liability policy or bond with respect to his operation of the aircraft involved in the accident;

(6) To the operator or owner if his liability for damages resulting from such accident is covered by any other form of liability insurance policy or bond in effect at the time of the accident;

(7) To any person qualifying as a self‑insurer under Section 55‑8‑70 or to any person operating an aircraft for the self‑insurer for whose acts the self‑insurer is legally responsible; nor

(8) After there is filed with the agency satisfactory evidence that the person otherwise required to deposit security has

(i) been released from liability, or (ii) been adjudicated not to be liable by judgment, or (iii) executed a written agreement with all claimants providing for payment of an agreed amount with respect to all claims for injuries or damages resulting from the accident.

(d) The requirements as to suspension may be waived by the agency, in its discretion, if there is filed with the agency by all claimants consent in writing that the person hereunder chargeable be allowed continuing operating privilege. If such waiver is granted by the agency, it shall continue for six months from the date of the consent and thereafter unless the consent is revoked in writing.

(e) The agency may take the actions authorized hereby or may modify or rescind such actions at any time upon ten days’ notification of the persons affected thereby.

**SECTION 55‑8‑50.** Requirements of policy or bond.

(a) A policy or bond is not effective under Section 55‑8‑40 unless:

(1) Issued by an insurer or surety company authorized to do business in this State; or

(2) Issued by an insurer or surety company not authorized to do business in this State found by the agency to afford adequate protection and which has filed or shall file with the agency a power of attorney authorizing the Secretary of Commerce to accept service on its behalf of notice or process in any action upon the policy or bond arising out of such accident.

(3) If the accident results in bodily injury to or death of a person not a passenger, the policy or bond provides coverage of not less than one hundred thousand dollars because of bodily injury to or death of one person in any accident and three hundred thousand dollars because of bodily injury to or death of three or more persons in any one accident.

(4) If the accident involves an aircraft being operated for hire and the accident results in bodily injury to or death of a passenger, the policy or bond provides coverage of not less than seventy‑five thousand dollars, because of bodily injury to or death of one person in any one accident and not less than seventy‑five thousand dollars multiplied by three‑fourths the number of passenger‑seats in the aircraft because of bodily injury to or death of two or more persons in any one accident, limited to three hundred thousand dollars in any one accident.

(5) If the accident involves an aircraft not being operated for hire and the accident results in bodily injury to or death of a passenger, the policy or bond provides coverage of not less than one hundred thousand dollars because of bodily injury to or death of one person in any one accident and not less than one hundred thousand dollars multiplied by the number of passenger‑seats in the aircraft because of bodily injury to or death of two or more persons in any one accident, limited to three hundred thousand dollars in any one accident.

(6) If the accident results in damage to or destruction of property, the policy or bond provides coverage of not less than one hundred thousand dollars because of damage to or destruction of property in any one accident with the exception of the following property which is exempted from the security required under this chapter: property owned, rented, occupied or used by, or in the care, custody or control of the owner or operator or carried in or on the aircraft.

(b) The policy bond need not cover:

(1) Any liability on account of bodily injury to or death of any employee of the owner or operator while the employee is engaged in the duties of his employment; or

(2) Any obligation for which the owner or operator or his insurer may be held liable under any workmen’s compensation law.

**SECTION 55‑8‑60.** Repealed by 1988 Act No. 624, Section 6.

**SECTION 55‑8‑70.** Certificate of self‑insurance.

(a) Any person may at any time apply to the agency for a certificate of self‑insurance, whether or not there has occurred an accident as a result of which he might be affected by some other provision of this chapter.

(b) The agency may in its discretion issue a certificate of self‑insurance when satisfied that the applicant is possessed and will continue to be possessed of ability to pay judgments against him within the limits provided in this chapter.

(c) Upon not less than ten days’ notification of self‑insurer the agency may for reasonable cause cancel a certificate of self‑insurance and shall cancel such certificate upon failure to pay any judgment within thirty days.

**SECTION 55‑8‑80.** Repealed by 1988 Act No. 624, Section 6.

**SECTION 55‑8‑90.** Nature of security required; reduction or increase in amount of security.

(a) The security required under this chapter shall be cash or securities as approved by the agency and in such amount as the agency may require but in no case in excess of the limits specified in Section 55‑8‑50 in reference to the limits of a policy or bond. If at the time of the accident there is in effect a liability policy or a bond meeting the requisites of this chapter other than amount of coverage set forth in Section 55‑8‑50, the agency may reconsider such policy or bond in fixing the amount of security. The person depositing security shall specify in writing the person on whose behalf the deposit is made, and, at any time while such deposit is in the custody of the agency or the State Treasurer the person depositing it may, upon approval of the agency, amend in writing the specification of the person on whose behalf the deposit is made to include an additional person; provided, however, that a single deposit of security shall be applicable only on behalf of persons required to furnish security because of the same accident. Interest and other income securities deposited as herein provided shall be paid or inure to the benefit of the person making the deposit.

(b) Upon ten days’ notification of the parties concerned the agency may reduce, or, within the limits specified in Section 55‑8‑50, increase the amount of security ordered in any case if in its discretion the amount ordered is excessive or insufficient. In case the security originally ordered has been deposited, the excess shall be returned to the depositor notwithstanding the provisions of Section 55‑8‑100. Substitution of security shall be permitted.

**SECTION 55‑8‑100.** Release of security.

Security deposited in compliance with the requirements of this chapter shall be delivered to the agency and shall be placed by the agency in the custody of the State Treasurer and shall be released only:

(a) Upon certificate of the agency in the payment of a judgment rendered against the person or persons on whose behalf the deposit was made, for damages arising out of the accident in a civil action, begun not later than one year after the date of the accident or within one year after the date of deposit of any security under subsection (c) of Section 55‑8‑60, or in the payment of a settlement agreed to by the depositor and all the claimants, of a claim arising out of the accident.

(b) Upon certificate of the agency issued after ten days’ notification of all claimants upon evidence satisfactory to the agency that all such claims arising form such accident have been satisfied by either (1) a release from liability or (2) a judgment of non‑liability, or (3) a written agreement in accordance with paragraph eight of subsection (c) of Section 55‑8‑40, or whenever, after the expiration of one year from the time of the accident or from the date of deposit of any security under subsection (c) of Section 55‑8‑60, the agency is given evidence satisfactory that there is no such action pending and that no judgment rendered in any such action is unpaid.

(c) Upon the certificate of the agency that other security complying with subsection (a) of Section 55‑8‑90 and satisfactory in form, character and amount, has been deposited with it in lieu of the original security deposited hereunder.

**SECTION 55‑8‑110.** Records shall be inadmissible as evidence; disclosure of information.

The records of and proceedings before the agency shall be inadmissible in evidence and shall not be referred to at the trial of any civil action or criminal proceeding.

Subject to the foregoing provisions, the agency shall, upon written request, make available to persons whose legal rights may be affected thereby, information and material developed in the course of its administration of this chapter.

**SECTION 55‑8‑120.** Repealed by 1988 Act No. 624, Section 6.

**SECTION 55‑8‑130.** Repealed by 1988 Act No. 624, Section 6.

**SECTION 55‑8‑140.** Penalties.

(a) Any owner or operator or other person who knowingly refuses or fails to make any report of an accident as required in Section 55‑8‑30 is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

(b) Any owner or operator who knowingly makes a false statement or representation of a material fact in a report to or written instrument filed with the agency is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than one thousand dollars, or imprisoned for not more than ninety days, or both.

(c) Any owner or operator who operates any aircraft in this State, or knowingly permits any aircraft owned by him to be operated by another in this State, without meeting the requirements of this chapter, is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than twelve months, or both.

**SECTION 55‑8‑150.** Exceptions to operation of chapter.

This chapter shall not apply to:

(a) Any aircraft owned and operated by or leased to and subject to the sole control of the United States or any civil or military agency of the United States or of the District of Columbia, the Commonwealth of Puerto Rico or any territory or possession of the United States;

(b) Any aircraft owned and operated by or leased to and subject to the sole control of this or any other state or agency thereof or any political subdivision or municipality of this or any other state;

(c) Any aircraft owned and operated by or leased to and subject to the sole control of any foreign country or any civil or military agency thereof or any political subdivision or municipality thereof;

(d) Any aircraft owned or being operated by a public air carrier engaged in regularly scheduled interstate or foreign air transportation for hire under either a federal certificate of public convenience and necessity or under a letter of registration or exemption order issued by the Civil Aeronautics Board or its successor.

**SECTION 55‑8‑160.** Effect of chapter on other legal processes.

Nothing in this chapter shall be construed as precluding any party in any action or proceeding from employing other processes provided by law or as precluding the utilization by the agency of the injunctive or other process of the courts in aid of the enforcement of this chapter.

**SECTION 55‑8‑170.** Appointment of agency as attorney for receiving process; service of process.

(a) The operation of an aircraft on the land or waters of or in the air over this State shall be deemed an appointment by the owner or operator of the Secretary of Commerce to be his true and lawful attorney upon whom may be served all legal process in any action or proceeding against him, arising from the ownership, maintenance, use or operation of such aircraft and resulting in damage or loss to person or property, and the use or operations shall be signification of his agreement that any such process against him which is so served shall be of the same legal force and validity as though served upon him personally, provided such person is a nonresident of this State or at the time a cause of action arises is a resident of this State but subsequently becomes a nonresident of this State.

(b) Service of process shall be made by serving the original and a copy of the complaint together with a fee of two dollars upon the Secretary of Commerce of the South Carolina Department of Commerce and by mailing of a copy of such process and of the complaint by the plaintiff or his attorney to the defendant at his last known address, within five days thereafter by registered mail. In lieu of such mailing to defendant in a foreign state, plaintiff may cause a copy of the complaint and process to be served personally in the foreign state upon such defendant by any adult person not a party to the suit by actually delivering it to the defendant or by offering to make such delivery in case defendant refuses to accept delivery.

(c) Proof of service of process upon the Secretary of Commerce or proof of mailing or personal delivery to the defendant shall be made by the affidavit of the party doing the act, which shall be filed in the office of the clerk of court in which the suit is filed. Process shall be deemed to be completed upon the filing of such affidavit and of the original registry receipt issued by the post office upon the mailing of such registered letter, if service is obtained by mail.

**SECTION 55‑8‑180.** Policy or bond required for rented aircraft.

No aircraft shall be rented in this State nor be operated within the airspace above this State or upon the ground surface or waters of this State unless the owner of such rented aircraft shall have in effect a policy of insurance or bond as provided in Section 55‑8‑50 providing liability coverage for the operator of such rented aircraft.

**SECTION 55‑8‑190.** Effect of discharge in bankruptcy.

A discharge in bankruptcy shall not relieve any person from the requirements of this chapter.

**SECTION 55‑8‑200.** Construction.

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the laws of those states which enact it.

**SECTION 55‑8‑210.** Short title.

This chapter may be cited as the “Uniform Aircraft Financial Responsibility Act.”