

## Session 116 - (2005-2006)

### **S\*0095 (Rat #0161, Act #0128 of 2005) General Bill, By McConnell, Sheheen, Knotts and Elliott**

**Summary:** Procedure for Consumer Affairs to request hearing by administrative law judge division

AN ACT TO AMEND SECTION 16-17-445, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REGULATION OF UNSOLICITED CONSUMER TELEPHONE CALLS AND SECTION 34-36-40, RELATING TO LOAN BROKERS, BOTH SO AS TO PROVIDE A PROCEDURE FOR THE DEPARTMENT OF CONSUMER AFFAIRS TO REQUEST A HEARING BEFORE THE ADMINISTRATIVE LAW COURT AND TO PROVIDE THAT THE DEPARTMENT MAY REQUEST THAT THE ADMINISTRATIVE LAW JUDGE DIVISION IMPOSE A CIVIL FINE FOR A VIOLATION; TO AMEND SECTION 37-6-106, RELATING TO THE INVESTIGATORY POWERS OF THE ADMINISTRATOR OF THE DEPARTMENT OF CONSUMER AFFAIRS, SO AS TO PROVIDE THAT THE ADMINISTRATOR MAY APPLY TO THE ADMINISTRATIVE LAW COURT, RATHER THAN THE COURT OF COMMON PLEAS, FOR AN ORDER COMPELLING COMPLIANCE WITH A SUBPOENA; TO AMEND SECTIONS 37-6-108 AND 37-6-113, BOTH AS AMENDED AND RELATING TO AN ORDER OF THE ADMINISTRATOR OF THE DEPARTMENT OF CONSUMER AFFAIRS, SO AS TO PROVIDE A PROCEDURE FOR THE ADMINISTRATOR TO REQUEST A HEARING BEFORE THE ADMINISTRATIVE LAW COURT AND TO PROVIDE FOR JUDICIAL REVIEW OF THE ADMINISTRATIVE LAW COURT'S ORDER AS PROVIDED IN THE ADMINISTRATIVE PROCEDURES ACT AND THE RULES GOVERNING PRACTICE BEFORE THE ADMINISTRATIVE LAW COURT; TO AMEND SECTION 37-6-401, RELATING TO THE POWERS OF THE ADMINISTRATOR OF THE DEPARTMENT OF CONSUMER AFFAIRS, SO AS TO PROVIDE THAT A CONFLICT BETWEEN THE PROVISIONS OF PART 4, CHAPTER 6, TITLE 37 AND THE ADMINISTRATIVE PROCEDURES ACT MUST BE RESOLVED IN FAVOR OF THE LATTER; TO AMEND SECTION 37-6-414, RELATING TO JUDICIAL REVIEW OF CASES, SO AS TO PROVIDE THAT A PERSON WHO HAS EXHAUSTED ADMINISTRATIVE REMEDIES BEFORE THE ADMINISTRATOR AND WHO IS AGGRIEVED IS ENTITLED TO BRING A CONTESTED CASE HEARING BEFORE THE ADMINISTRATIVE LAW COURT; TO AMEND SECTION 37-11-100, RELATING TO LICENSING AND REGULATION OF CONTINUING CARE RETIREMENT COMMUNITIES, SO AS TO PROVIDE A PROCEDURE FOR THE DEPARTMENT OF CONSUMER AFFAIRS TO REQUEST A HEARING BEFORE THE ADMINISTRATIVE LAW COURT AND TO PROVIDE FOR JUDICIAL REVIEW OF THE ADMINISTRATIVE LAW'S ORDER AS PROVIDED IN THE ADMINISTRATIVE PROCEDURES ACT AND THE RULES GOVERNING PRACTICE BEFORE THE ADMINISTRATIVE LAW COURT; TO AMEND SECTION 37-16-70, RELATING TO PREPAID LEGAL SERVICES, SO AS TO PROVIDE FOR NOTICE AND OPPORTUNITY FOR A HEARING BEFORE THE ADMINISTRATIVE LAW COURT BY A PREPAID LEGAL SERVICES COMPANY FOR A VIOLATION OF THE PROVISIONS OF THE CHAPTER, TO PROVIDE THAT THE ADMINISTRATOR OF THE DEPARTMENT OF CONSUMER AFFAIRS MAY ISSUE AN ORDER REQUIRING THE CLUB REPRESENTATIVE TO CEASE AND DESIST FROM THE VIOLATION, AND TO PROVIDE THAT THE CLUB REPRESENTATIVE MAY REQUEST A HEARING BEFORE THE ADMINISTRATIVE LAW COURT; TO AMEND SECTIONS 39-61-100 AND 39-61-130, BOTH AS AMENDED AND RELATING TO MOTOR CLUB SERVICES, SO AS TO PROVIDE A PROCEDURE FOR THE ADMINISTRATOR OF THE DEPARTMENT OF CONSUMER AFFAIRS TO REQUEST A HEARING BEFORE THE ADMINISTRATIVE LAW COURT AND TO PROVIDE FOR JUDICIAL REVIEW OF THE ADMINISTRATIVE LAW COURT'S ORDER AS PROVIDED IN THE ADMINISTRATIVE PROCEDURES ACT AND THE RULES GOVERNING PRACTICE BEFORE THE ADMINISTRATIVE LAW COURT; TO AMEND SECTION 40-39-150, RELATING TO PAWNBROKERS, SECTIONS 40-58-55, 40-58-80, AND 40-58-90, AS AMENDED, ALL RELATING TO MORTGAGE LOAN BROKERS, SECTION 40-68-160, RELATING TO REGULATION OF STAFF LEASING SERVICES, SECTION 44-79-80, RELATING TO PHYSICAL FITNESS SERVICES, SECTION 56-28-110, RELATING TO NOTIFICATION OF SUBSEQUENT PURCHASERS OF A REPURCHASED MOTOR VEHICLE, AND SECTIONS 59-102-70 AND 59-102-170, RELATING TO REGISTRATION OF ATHLETE AGENTS, ALL SO AS TO PROVIDE A PROCEDURE FOR A HEARING BEFORE THE ADMINISTRATIVE LAW COURT AND TO PROVIDE FOR JUDICIAL REVIEW OF THE ADMINISTRATIVE LAW COURT'S ORDER AS PROVIDED IN THE ADMINISTRATIVE PROCEDURES ACT AND THE RULES GOVERNING PRACTICE BEFORE THE ADMINISTRATIVE LAW COURT; TO AMEND SECTION 37-11-100, RELATING TO LICENSING OF A CONTINUING CARE COMMUNITY, SO AS TO PROVIDE FOR A CONTESTED CASE HEARING BEFORE THE ADMINISTRATIVE LAW COURT FOR ENFORCEMENT; TO AMEND SECTION 37-6-402, RELATING TO ENFORCEMENT BY THE DEPARTMENT, SO AS TO DEFINE "CONTESTED CASE"; TO AMEND SECTION 1-23-660, RELATING TO A CONTESTED CASE HEARING BEFORE AN ABOLISHED ENTITY, SO AS TO CREATE THE DIVISION OF MOTOR VEHICLE HEARINGS WITHIN THE ADMINISTRATIVE LAW COURT AND TO PROVIDE FOR ITS COMPOSITION AND OPERATION; TO AMEND SECTION 56-5-2952, AS AMENDED, RELATING TO THE FILING FEE FOR A HEARING BEFORE THE DEPARTMENT OF MOTOR VEHICLES, SO AS TO INCREASE THE FEE AND PROVIDE FOR ITS RETENTION BY THE ADMINISTRATIVE LAW COURT; AND TO REPEAL SECTIONS 37-6-415 AND 37-11-110,

RELATING TO APPEALS OF DECISIONS OF THE DEPARTMENT OF CONSUMER AFFAIRS. - ratified title

12/15/04	Senate	Prefiled
12/15/04	Senate	Referred to Committee on Judiciary
01/11/05	Senate	Introduced and read first time SJ-129
01/11/05	Senate	Referred to Committee on Judiciary SJ-129
01/26/05	Senate	Committee report: Favorable with amendment Judiciary SJ-20
01/27/05	Senate	Amended SJ-21
01/27/05	Senate	Read second time SJ-21
01/28/05		Scrivener's error corrected
02/01/05	Senate	Read third time and sent to House SJ-13
02/02/05	House	Introduced and read first time HJ-9
02/02/05	House	Referred to Committee on Judiciary HJ-11
02/03/05		Scrivener's error corrected
05/18/05	House	Committee report: Favorable with amendment Judiciary HJ-144
05/24/05	House	Amended HJ-42
05/24/05	House	Read second time HJ-78
05/25/05	House	Read third time and returned to Senate with amendments HJ-24
05/25/05	Senate	House amendment amended SJ-160
05/25/05	Senate	Returned to House with amendments SJ-160
05/31/05	House	Debate adjourned on Senate amendments until Wednesday, June 1, 2005 HJ-110
06/01/05	House	Concurred in Senate amendment and enrolled HJ-23
06/02/05		Ratified R 161
06/07/05		Signed By Governor
06/13/05		Copies available
06/13/05		Effective date See Act for Effective Date
06/16/05		Act No. 128