**South Carolina General Assembly**

120th Session, 2013-2014

**A230, R235, S1089**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Davis, Campsen, Grooms and Pinckney

Document Path: l:\s-res\td\015port.kmm.td.docx

Companion/Similar bill(s): 4829

Introduced in the Senate on March 6, 2014

Introduced in the House on May 7, 2014

Last Amended on May 14, 2014

Passed by the General Assembly on May 20, 2014

Governor's Action: June 2, 2014, Signed

Summary: State Ports Authority

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/6/2014 Senate Introduced and read first time ([Senate Journal‑page 4](file:///H:\SJ%20Archive\2014\03-06-14.docx))

3/6/2014 Senate Referred to Committee on **Transportation** ([Senate Journal‑page 4](file:///H:\SJ%20Archive\2014\03-06-14.docx))

4/30/2014 Senate Committee report: Favorable with amendment **Transportation** ([Senate Journal‑page 22](file:///H:\SJ%20Archive\2014\04-30-14.docx))

5/1/2014 Senate Committee Amendment Adopted ([Senate Journal‑page 44](file:///H:\SJ%20Archive\2014\05-01-14.docx))

5/1/2014 Senate Read second time ([Senate Journal‑page 44](file:///H:\SJ%20Archive\2014\05-01-14.docx))

5/1/2014 Senate Roll call Ayes‑41 Nays‑1 ([Senate Journal‑page 44](file:///H:\SJ%20Archive\2014\05-01-14.docx))

5/2/2014 Scrivener's error corrected

5/6/2014 Senate Read third time and sent to House ([Senate Journal‑page 16](file:///H:\SJ%20Archive\2014\05-06-14.docx))

5/7/2014 House Introduced, read first time, placed on calendar without reference ([House Journal‑page 15](file:///H:\HJ%20Archive\2014\05-07-14.docx))

5/14/2014 House Amended ([House Journal‑page 27](file:///H:\HJ%20Archive\2014\05-14-14.docx))

5/14/2014 House Read second time ([House Journal‑page 27](file:///H:\HJ%20Archive\2014\05-14-14.docx))

5/14/2014 House Roll call Yeas‑94 Nays‑0 ([House Journal‑page 29](file:///H:\HJ%20Archive\2014\05-14-14.docx))

5/15/2014 House Read third time and returned to Senate with amendments ([House Journal‑page 26](file:///H:\HJ%20Archive\2014\05-15-14.docx))

5/20/2014 Senate Concurred in House amendment and enrolled ([Senate Journal‑page 42](file:///H:\SJ%20Archive\2014\05-20-14.docx))

5/20/2014 Senate Roll call Ayes‑41 Nays‑0 ([Senate Journal‑page 42](file:///H:\SJ%20Archive\2014\05-20-14.docx))

5/29/2014 Ratified R 235

6/2/2014 Signed By Governor

6/13/2014 Effective date 06/02/14

6/16/2014 Act No. 230

**VERSIONS OF THIS BILL**

[3/6/2014](file:///p:\pprever\2013-14\1089_20140306.docx)

[4/30/2014](file:///p:\pprever\2013-14\1089_20140430.docx)

[5/1/2014](file:///p:\pprever\2013-14\1089_20140501.docx)

[5/2/2014](file:///p:\pprever\2013-14\1089_20140502.docx)

[5/7/2014](file:///p:\pprever\2013-14\1089_20140507.docx)

[5/14/2014](file:///p:\pprever\2013-14\1089_20140514.docx)

(A230, R235, S1089)

**AN ACT TO AMEND SECTION 54‑3‑700, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CESSATION OF MARINE TERMINAL OPERATIONS AND THE SALE OF PROPERTY AT PORT ROYAL, SO AS TO RECOGNIZE THAT THE STATE PORTS AUTHORITY HAS CEASED OPERATIONS AT PORT ROYAL, TO DIRECT THE STATE PORTS AUTHORITY TO SELL THE PORT ROYAL PROPERTY AS SOON AS PRACTICABLE ON OR BEFORE JUNE 30, 2015, TO PROVIDE THE CONDITIONS AND REQUIREMENTS FOR THE SALE, TO PROVIDE FOR CERTAIN CIRCUMSTANCES WHERE THE SALE MAY BE CLOSED AFTER JUNE 30, 2015, BUT NOT LATER THAN DECEMBER 31, 2015, TO PROVIDE THAT IF THE PROPERTY IS NOT SOLD BY JUNE 30, 2015, SUBJECT TO CERTAIN CIRCUMSTANCES, OR NOT CLOSED BY DECEMBER 31, 2015, THE AUTHORITY MUST IRREVOCABLY TRANSFER THE PROPERTY ON JULY 1, 2015, TO THE DIVISION OF GENERAL SERVICES TO BE SOLD AT PUBLIC AUCTION; TO PROVIDE FOR AN APPRAISAL OF THE PROPERTY PRIOR TO SALE, TO PROVIDE THAT THE PROPERTY MAY BE SOLD BY THE STATE PORTS AUTHORITY OR GENERAL SERVICES FOR EIGHTY PERCENT OR MORE OF THE APPRAISED VALUE; TO PROVIDE THAT ALL SALES MUST BE MADE ACCORDING TO STATE PROCEDURES, TO PROVIDE FOR THE DISTRIBUTION OF SALES PROCEEDS, AND TO PROVIDE THAT A SALE OF THE PROPERTY PURSUANT TO THIS ACT SATISFIES THE STATE PORTS AUTHORITY BOARD’S FIDUCIARY DUTIES TO THE AUTHORITY AND TO THE AUTHORITY’S BOND HOLDERS.**

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

**Findings**

SECTION 1. The General Assembly finds that:

(1) Pursuant to Act 313 of 2004, the State Ports Authority was absolved of the statutory responsibility to operate a marine terminal at Port Royal.

(2) Subsequent to the enactment of Act 313 of 2004, the State Ports Authority ceased marine operations at Port Royal.

(3) Act 313 of 2004 further directed the State Ports Authority to sell its real and personal property at Port Royal and set forth the parameters of the potential sale.

(4) Pursuant to Section 54‑3‑700, the State Ports Authority’s real and personal property at Port Royal was to be transferred to the State Budget and Control Board because its real and personal property had not been sold by December 31, 2009.

(5) The State Budget and Control Board subsequently delegated the responsibility for selling the real and personal property at Port Royal back to the State Ports Authority.

(6) The State Ports Authority has been unsuccessful in its attempt to sell its real and personal property at Port Royal.

(7) The restrictions placed upon the State Ports Authority concerning the sale of its real and personal property at Port Royal, as well as challenging market conditions, have hindered its attempts at selling the property.

(8) It is in the best interest of the residents of the Town of Port Royal, the State of South Carolina, and the State Ports Authority, to sell the real and personal property at Port Royal so that a nonperforming asset may be placed into its highest and best use in the private sector.

(9) The conversion of a nonperforming asset into revenues in the most expeditious manner protects the interests of the authority’s bondholders as set forth in its bond covenants, and otherwise according to law.

**Sale of property, conditions and requirements of sale**

SECTION 2. Section 54‑3‑700 of the 1976 Code, as last amended by Act 73 of 2009, is further amended to read:

“Section 54‑3‑700. (A) The State Ports Authority has not had statutory responsibility to operate a marine terminal at Port Royal since September 21, 2004, and has ceased all marine operations at Port Royal.

(B) The State Ports Authority is hereby directed to sell all its real and personal property at Port Royal as soon as practicable. The property must be marketed for sale in whole, or in parcels, at the discretion of the State Ports Authority.

(C)(1)(a) The State Ports Authority, in its discretion, shall determine the manner of the sale. In no event shall terms of the sale extend beyond June 30, 2015, except as provided in subitems (b) and (c) . The sale of the property in an amount permitted by item (3) shall satisfy the board’s fiduciary duties to the authority and the authority’s bondholders.

(b) If the State Ports Authority has accepted a bona fide offer to purchase a parcel of the property, or an offer to purchase the property in whole, but the sale has not closed as of June 30, 2015, then the parcel that is the subject of the pending sale, or the property as a whole, shall not be transferred pursuant to item (2) on July 1, 2015. The State Ports Authority shall have until midnight on December 31, 2015, to close the sale. If the sale is not closed by midnight on December 31, 2015, then the parcel, or the property as a whole, shall be transferred pursuant to item (2).

(c) If the State Ports Authority has received a bona fide offer for a parcel of the property, or for the property as a whole, within ninety days prior to June 30, 2015, the transfer of the parcel that is the subject of the offer, or the property as a whole, shall not be transferred pursuant to item (2) on July 1, 2015. The State Ports Authority shall have until midnight on December 31, 2015, to close the sale. If the sale is not closed by midnight on December 31, 2015, then the parcel, or the property as a whole, shall be transferred pursuant to item (2).

(2)(a) Except as provided in subsection(C)(1)(b) and (c), on July 1, 2015, the property must be irrevocably transferred to the Division of General Services in the Department of Administration, as established by Act 121 of 2014, for sale at public auction. Upon the transfer of the property to General Services, the Department of Administration is vested with all of the board’s fiduciary duties to the authority and the authority’s bondholders.

(b) Sale of the property pursuant to this section, and in an amount permitted by item (3), shall satisfy the board’s fiduciary duties to the authority and the authority’s bondholders.

(3) The State Ports Authority and General Services may accept a sales price on any parcel of the property, or the property as a whole, that is equal to, or greater than, eighty percent of the appraised value of the property to be sold. General Services may deduct from the proceeds of the sale an amount equal to the actual costs incurred in conjunction with the sale of the property. The balance of the proceeds must be transmitted to the authority. The Town of Port Royal or Beaufort County, or a combination of the two, may purchase the property at a price within the parameters established in this item.

(D) Any real or personal property at Port Royal which is to be sold must be appraised prior to the sale. The real property appraiser must be a State Certified General Real Estate Appraiser, a member of the Appraisal Institute (MAI), and must be knowledgeable in appraisal and in appraising closed industrial sites. The appraisal of the real property should include its future development opportunities and those of the surrounding properties, and give due consideration to the possible existence of adverse environmental conditions and structurally unsound improvements. The sale of the real property shall comply with all state laws and procedures. All proceeds from the sale of real and personal property at Port Royal must be retained by the State Ports Authority, except as provided in subsection (C)(3), and except that the Town of Port Royal may petition the State Budget and Control Board, or its successor entity, for a portion of the net proceeds from a sale and may be allocated a portion of these net proceeds in an amount not to exceed five percent of the net proceeds upon showing the allocation is necessary to pay for infrastructure needs directly associated with and necessitated by the closing of the port as Port Royal. These funds must be expended at the direction of the Town Council of Port Royal with the approval of the State Budget and Control Board, or its successor entity, solely for infrastructure, and shall have priority over all other expenditures except usual and necessary closing costs attributable to a sales contract.”

**Time effective**

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

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