**A** **BILL**

TO AMEND ARTICLE 3, CHAPTER 11, TITLE 49 OF THE 1976 CODE, RELATING TO THE DAMS AND RESERVOIRS SAFETY ACT, BY ADDING SECTION 49-11-125, TO PROVIDE THAT AN OWNER OF A DAM MAY SUBMIT SPECIFICATIONS OF A DAM TO THE DEPARTMENT FOR A DETERMINATION THAT THE DAM IS EXCLUDED UNDER THIS ARTICLE IN ACCORDANCE WITH 49-11-120(4), AND TO PROVIDE THAT A PROPERTY OWNER INTENDING TO CONSTRUCT A DAM ON HIS PROPERTY MAY SUBMIT SPECIFICATIONS OF THE PROPOSED DAM TO THE DEPARTMENT FOR A DETERMINATION THAT THE DAM WILL BE EXCLUDED UNDER THIS ARTICLE IN ACCORDANCE WITH 49-11-120(4); TO AMEND SECTION 49-11-160 OF THE 1976 CODE, RELATING TO ORDERS TO MAINTAIN, ALTER, REPAIR, OR REMOVE A DAM OR RESERVOIR, TO PROVIDE THAT THE DEPARTMENT MAY ISSUE AN ORDER DIRECTING THE OWNER OF A DAM OR RESERVOIR TO MAKE AT HIS EXPENSE THE NECESSARY MAINTENANCE, ALTERATION, REPAIR, OR REMOVAL UPON A FINDING THAT THE DAM OR RESERVOIR IS OR HAS BECOME UNSAFE AND IS DANGEROUS TO HUMAN LIFE OR THE PROPERTY OF OTHERS; TO AMEND SECTION 49-11-200 OF THE 1976 CODE, RELATING TO APPROVAL FOR CONSTRUCTION OR ALTERATION OF A DAM OR RESERVOIR, TO PROVIDE THAT THE REQUIREMENTS OF SUBSECTION (A), SECTION 49-11-210, AND SECTION 49-11-220 DO NOT APPLY IF THE LOCATION AND SIZE OF A PROPOSED DAM OR RESERVOIR WILL POSE NO SIGNIFICANT DANGER TO HUMAN LIFE OR THE PROPERTY OF OTHERS IN CERTAIN INSTANCES, OR IF THE ENLARGEMENT, REMOVAL, OR REPAIR OF AN EXISTING DAM OR RESERVOIR WILL NOT CAUSE THE DAM TO POSE A SIGNIFICANT DANGER TO HUMAN LIFE OR THE PROPERTY OF OTHERS; AND TO DEFINE NECESSARY TERMS.

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

SECTION 1. Section 49-11-120(4) of the 1976 Code is amended to read:

“(4) ‘Dam’ means an artificial barrier with appurtenant works, including, but not limited to, dams~~,~~; levees~~,~~; dikes~~,~~; or floodwalls for the impoundment or diversion of waters or other fluids, or creation of a reservoir, where failure may cause danger to human life or the property of others. However, this does not include a dam:

(a) less than twenty five feet in height from the natural bed of the stream or watercourse measured at the downstream toe of the dam, or less than twenty five feet from the lowest elevation of the outside limit of the dam, if it is not across a stream channel or watercourse, to the maximum water storage elevation and has an impounding capacity at maximum water storage elevation of less than fifty acre feet unless a situation exists where the hazard potential as determined by the department is such that dam failure or improper reservoir operation may cause loss of human life;

(b) classified as low hazard potential by the department;

~~(b)~~(c) owned or operated by a department or an agency of the federal government;

~~(c)~~(d) owned or licensed by the Federal Energy Regulatory Commission, the South Carolina Public Service Authority, the Nuclear Regulatory Commission, the United States Corps of Engineers, or other responsible federal licensing agencies considered appropriate by the department;

~~(d)~~(e) upon which the Department of Transportation or county or municipal governments have accepted maintenance responsibility for a road or highway where that road or highway is the only danger to life or property with respect to failure of the dam.”

SECTION 2. Article 3, Chapter 11, Title 49 of the 1976 Code is amended by adding:

“Section 49-11-125. (A) An owner of a dam may submit the dam’s location, size, purpose, and impoundment capacity to the department for a determination that the dam is excluded under this article in accordance with Section 49-11-120(4).

(B) A property owner intending to construct a dam on his property may submit the proposed location, size, purpose, and impoundment capacity of the dam to the department for a determination that the dam will be excluded under this article in accordance with 49-11-120(4).”

SECTION 3. Section 49-11-160 of the 1976 Code is amended to read:

“Section 49-11-160. The department may issue an order directing the owner of a dam or reservoir to make at his expense the necessary maintenance, alteration, repair, or removal upon a finding that the dam or reservoir:

(a) is or has become unsafe and is dangerous to human life or the property of others; and

(b)(1) is not maintained in good repair or operating condition; or

~~(c)~~(2) is not maintained or operated in accordance with the terms and conditions of ~~the~~ a certificate of completion and operation issued by the department.”

SECTION 4. Section 49-11-200 of the 1976 Code is amended to read:

“Section 49-11-200. (A) The construction of a new dam or reservoir, or the enlargement, removal, or repair of an existing dam or reservoir, may not begin until the owner has applied for and obtained from the department written approval of plans and specifications.

(B)(1) ~~Where~~ If the location and size of ~~the~~ a proposed dam or reservoir ~~renders~~ will pose no significant danger to human life or the property of others in instances including, but not limited to, dams and reservoirs for agricultural, fish or wildlife, or recreational uses on private lands, then the requirements of subsection (A), ~~and~~ Section 49-11-210, and Section 49-11-220 do not apply ~~unnecessary, the department may grant approval and waive certain nonessential requirements in instances, including, but not limited to, small dams and reservoirs for agricultural, fish or wildlife, or recreational uses on private lands and of no danger to other life or property downstream~~.

(2) If the enlargement, removal, or repair of an existing dam or reservoir will not cause the dam to pose a significant danger to human life or property of others, then the requirements of subsection (A), Section 49-11-210, and Section 49-11-220 do not apply.”

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

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