Advance Sheet No. 1 | July 2, 2020 | Pages 1210-1319 Acts 113-142

2020 REGULAR SESSION

Acts and Joint Resolutions

of the

GENERAL ASSEMBLY
OF THE STATE OF SOUTH CAROLINA

Numbers in parenthesis to left of act numbers (numbers in bold face) refer as follows: number with R before it refers to ratification number, number with S before it refers to bill number in Senate, and number with H before it refers to bill number in House of Representatives.

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ACTS

AND

JOINT RESOLUTIONS

OF THE

General Assembly

OF THE

State of South Carolina

HENRY D. MCMASTER, Governor; PAMELA S. EVETTE, Lieutenant 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.

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.

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ASHLEY HARWELL-BEACH
Code Commissioner
P. O. Box 11489
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