Agency Name: Department of Employment and Workforce

Statutory Authority: 41‑31‑380, 41‑31‑390, 41‑31‑400, and 41‑41‑40

Document Number: 5147

Proposed in State Register Volume and Issue: 46/10

House Committee: Regulations and Administrative Procedures Committee

Senate Committee: Labor, Commerce and Industry Committee

120 Day Review Expiration Date for Automatic Approval: 05/10/2023

Final in State Register Volume and Issue: 47/5

Status: Final

Subject: Contributions: Interest

History: 5147

By Date Action Description Jt. Res. No. Expiration Date

‑ 10/28/2022 Proposed Reg Published in SR

‑ 01/10/2023 Received President of the Senate & Speaker 05/10/2023

S 01/10/2023 Referred to Committee

H 01/11/2023 Referred to Committee

S 01/31/2023 Resolution Introduced to Approve 467

‑ 05/10/2023 Approved by: Expiration Date

‑ 05/26/2023 Effective Date unless otherwise

provided for in the Regulation

Document No. 5147

**DEPARTMENT OF EMPLOYMENT AND WORKFORCE**

CHAPTER 47

Statutory Authority: 1976 Code Sections 41‑31‑380, 41‑31‑390, 41‑31‑400, and 41‑41‑40

47‑16. Contributions: Interest.

**Synopsis:**

Section 41‑31‑400 of the Code of Laws of South Carolina, 1976, confers upon the Department of Employment and Workforce all powers for collection of unpaid unemployment taxes, interest, and penalties that are conferred upon the Department of Revenue by Title 12 for the collection of unpaid income taxes. However, R.47‑16, as currently written, provides the Department of Employment and Workforce with only the collection remedies set forth in Chapter 54 of Title 12 rather than the entire title. The Department proposes amending this regulation, removing the reference to “Chapter 54,” to allow the Department to exercise all powers and collection remedies conferred by statute. In addition, because Section 41‑41‑40 of the Code of Laws of South Carolina, 1976, provides for collection of overpaid unemployment insurance benefits in the same manner provided in Sections 41‑31‑380 through 41‑31‑400 for the collection of past due employer contributions, the proposed regulation incorporates collection of overpaid unemployment insurance benefits into the text of this regulation.

The Notice of Drafting was published in the *State Register* on August 26, 2022.

**Instructions:**

Replace R.47‑16, *Contributions: Interest,* in its entirety with this amendment.

**Text:**

47‑16. Contributions: Interest.

A. Contributions shall be payable quarterly with respect to wages paid within each calendar quarter.

B. Contributions shall become due on, and shall be paid on or before, the last day of the month following the quarter for which they are payable. However, an application may be filed with the Department for extension of the due date of contributions payable and upon approval of such application the due date for such contributions may be extended not more than fifteen (15) calendar days.

C. Employers who are delinquent in the payment of contributions with respect to any calendar year or portion thereof, may upon application, be authorized to pay the delinquent contributions, with interest on deferred amounts until actually paid, in consecutive installments of such amounts and over such periods and at such times as may be approved by the Department or the Executive Director thereof, provided that the entire unpaid balance shall become due immediately if the employer fails to pay any installment when due.

D. In the event a lien in favor of the Department is filed against an employer or claimant, all collection remedies set forth in Title 12 of the South Carolina 1976 Code may be used to enforce payment of the amount due.

**Fiscal Impact Statement:**

There will be no cost incurred by the State or any of its political subdivisions for these regulations.

**Statement of Rationale:**

Section 41‑31‑400 of the Code of Laws of South Carolina, 1976, confers upon the Department of Employment and Workforce all powers for collection of unpaid unemployment taxes, interest, and penalties that are conferred upon the Department of Revenue by Title 12 for the collection of unpaid income taxes. However, R.47‑16, as currently written, provides the Department of Employment and Workforce with only the collection remedies set forth in Chapter 54 of Title 12 rather than the entire title. The proposed amendments to this regulation would allow the Department to exercise all powers and collection remedies conferred by statute. The proposed amendments also incorporate collection of overpaid unemployment insurance benefits consistent with Section 41‑41‑40 of the Code of Laws of South Carolina, 1976, which provides for collection of overpaid unemployment insurance benefits in the same manner provided in Sections 41‑31‑380 through 41‑31‑400 for the collection of past due employer contributions.