~~Indicates Matter Stricken~~

Indicates New Matter

The House assembled at 10:00 a.m.

Deliberations were opened with prayer by Rev. Charles E. Seastrunk, Jr., as follows:

Our thought for today is from Psalm 130:5: “I wait for the Lord...and in his word I hope.”

Let us pray. Gracious God, grant that we might always discern between Your job and our job. May we respond to Your call to strive for justice and to bring Your grace to all people. When we encounter obstacles and frustrations, give us hope. If our hope fades, help us to refocus, take a deep breath, and wait for the Lord’s guidance. Bestow Your guidance and hope upon our Nation, President, State, Governor, Speaker, and all who labor in these Halls of Government. Protect our defenders of freedom at home and abroad as they protect us. Hear us, O Lord, as we pray. Amen.

Pursuant to Rule 6.3, the House of Representatives was led in the Pledge of Allegiance to the Flag of the United States of America by the SPEAKER.

After corrections to the Journal of the proceedings of yesterday, the SPEAKER ordered it confirmed.

**MOTION ADOPTED**

Rep. GILLIARD moved that when the House adjourns, it adjourn in memory of Ogretta Whipper Hawkins, sister of Representative Whipper, which was agreed to.

**INVITATIONS**

On motion of Rep. KIRSH, with unanimous consent, the following were taken up for immediate consideration and accepted:

April 27, 2009

The Honorable Herb Kirsh

Chairman, House Invitations Committee

503-A Blatt Building

Columbia, South Carolina 29201

Dear Chairman Kirsh:

On behalf of the South Carolina Association of NonProfit Organizations, the Members of the House of Representatives are invited to a Legislative Reception. This event will be held on Tuesday, May 12, 2009, from 6:00 p.m. until 8:00 p.m. at the Clarion Townhouse Hotel.

Sincerely,

Mason Hardy

President

April 27, 2009

The Honorable Herb Kirsh

Chairman, House Invitations Committee

503-A Blatt Building

Columbia, South Carolina 29201

Dear Chairman Kirsh:

On behalf of the Electric, Telephone and Gas Utilities and the South Carolina Manufacturers Alliance, the Members and staff of the House of Representatives are invited to the annual Spring Fling and “Made in South Carolina Day”. This event will be held on Tuesday, May 12, 2009, from 7:00 p.m. until 9:00 p.m. at the Coop located at 1100 Key Road, Columbia, S.C.

Sincerely,

Gene Upchurch

Vice President

April 27, 2009

The Honorable Herb Kirsh

Chairman, House Invitations Committee

503-A Blatt Building

Columbia, South Carolina 29201

Dear Chairman Kirsh:

On behalf of the South Carolina Association of Heating and Air Conditioning Contractors, the Members and staff of the House of Representatives are invited to a Legislative Breakfast. This event will be held on Wednesday, May 13, 2009, from 8:00 a.m. until 10:00 a.m. in Room 112 of the Blatt Building.

Sincerely,

Leigh M. Faircloth

Executive Director

April 27, 2009

The Honorable Herb Kirsh

Chairman, House Invitations Committee

503-A Blatt Building

Columbia, South Carolina 29201

Dear Chairman Kirsh:

On behalf of the South Carolina Coroner’s Association, the Members and staff of the House of Representatives are invited to a Legislative Luncheon. This event will be held on Wednesday, May 13, 2009, from 12:00 p.m. until 2:00 p.m. in Room 112 of the Blatt Building.

Sincerely,

Tim Carlton

President

April 27, 2009

The Honorable Herb Kirsh

Chairman, House Invitations Committee

503-A Blatt Building

Columbia, South Carolina 29201

Dear Chairman Kirsh:

On behalf of BlueCross BlueShield of South Carolina, the Members and staff of the House of Representatives are invited to the 16th Annual Legislative Softball Game. This event will be held on Wednesday, May 13, 2009, beginning at 6:00 p.m. at the Capital City Stadium.

Sincerely,

M. Edward Sellers

April 27, 2009

The Honorable Herb Kirsh

Chairman, House Invitations Committee

503-A Blatt Building

Columbia, South Carolina 29201

Dear Chairman Kirsh:

On behalf of the South Carolina Association of School Administrators, the Members of the House of Representatives are invited to a Legislative Breakfast. This event will be held on Thursday, May 14, 2009, from 8:00 a.m. until 10:00 a.m. in Room 112 of the Blatt Building.

Sincerely,

Molly M. Spearman

Executive Director

April 27, 2009

The Honorable Herb Kirsh

Chairman, House Invitations Committee

503-A Blatt Building

Columbia, South Carolina 29201

Dear Chairman Kirsh:

On behalf of the South Carolina Primary Health Care Association, the Members of the House of Representatives are invited to a Legislative Breakfast. This event will be held on Wednesday, May 20, 2009, from 8:00 a.m. until 10:00 a.m. in Room 112 of the Blatt Building.

Sincerely,

Catherine A. Warner

Health Policy Analyst

April 27, 2009

The Honorable Herb Kirsh

Chairman, House Invitations Committee

503-A Blatt Building

Columbia, South Carolina 29201

Dear Chairman Kirsh:

On behalf of the South Carolina Health Information Management Association, the Members of the House of Representatives are invited to a Legislative Luncheon. This event will be held on Wednesday, May 20, 2009, from 12:00 p.m. until 2:00 p.m. in Room 112 of the Blatt Building.

Sincerely,

Wanda K. Puryear

Health Information Manager

April 27, 2009

The Honorable Herb Kirsh

Chairman, House Invitations Committee

503-A Blatt Building

Columbia, South Carolina 29201

Dear Chairman Kirsh:

On behalf of the Alpha Kappa Alpha Sorority, the Members of the House of Representatives are invited to a Legislative Breakfast. This event will be held on Thursday, May 21, 2009, from 8:00 a.m. until 10:00 a.m. in Room 112 of the Blatt Building.

Sincerely,

DeVetta Williams Hughes

AKA State of South Carolina Connection Coordinator

April 27, 2009

The Honorable Herb Kirsh

Chairman, House Invitations Committee

503-A Blatt Building

Columbia, South Carolina 29201

Dear Chairman Kirsh:

On behalf of the South Carolina Public Defender’s Association, the Members of the House of Representatives are invited to a Legislative Luncheon. This event will be held on Wednesday, May 27, 2009, from 12:00 p.m. until 2:00 p.m. in Room 112 of the Blatt Building.

Sincerely,

A.C. Stephens

Chief Circuit Defender, 4th Judicial Circuit

April 27, 2009

The Honorable Herb Kirsh

Chairman, House Invitations Committee

503-A Blatt Building

Columbia, South Carolina 29201

Dear Chairman Kirsh:

On behalf of the South Carolina HIV/AIDS Council, the Members of the House of Representatives are invited to a Legislative Breakfast. This event will be held on Thursday, May 28, 2009, from 8:00 a.m. until 10:00 a.m. in Room 112 of the Blatt Building.

Sincerely,

Dr. Bambi Gaddist

Executive Director

**CONCURRENT RESOLUTION**

The following was introduced:

H. 3974 -- Reps. Funderburk, Gunn, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Gambrell, Gilliard, Govan, Gullick, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO RECOGNIZE AND COMMEND THE ALPHA & OMEGA VOLLEYBALL CLUB'S 12 BLACK FOR A SUCCESSFUL SEASON AND TO CONGRATULATE THE PLAYERS AND THEIR COACH FOR GARNERING THE JUNIOR GIRLS' 2009 PALMETTO VOLLEYBALL REGION CHAMPIONSHIP.

The Concurrent Resolution was agreed to and ordered sent to the Senate.

**CONCURRENT RESOLUTION**

The Senate sent to the House the following:

S. 763 -- Senators Bryant and O'Dell: A CONCURRENT RESOLUTION TO CONGRATULATE MR. RICK L. ADKINS OF ANDERSON, SOUTH CAROLINA, THE OUTGOING MEMBER OF THE SOUTH CAROLINA STATE BOARD OF EDUCATION, FOR HIS DISTINGUISHED SERVICE AND HIS DEDICATION FROM CIRCUIT 10 TO THE BETTERMENT OF THE SOUTH CAROLINA EDUCATION SYSTEM.

The Concurrent Resolution was agreed to and ordered returned to the Senate with concurrence.

**INTRODUCTION OF BILLS**

The following Bills were introduced, read the first time, and referred to appropriate committees:

H. 3975 -- Rep. G. M. Smith: A BILL TO AMEND SECTION 50-9-320, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REQUIREMENT THAT CERTAIN PERSONS MUST SUCCESSFULLY COMPLETE A HUNTER'S EDUCATION PROGRAM BEFORE THEY ARE ELIGIBLE TO RECEIVE A SOUTH CAROLINA HUNTING LICENSE, SO AS TO PROVIDE THAT THIS REQUIREMENT DOES NOT APPLY TO ACTIVE OR RETIRED UNITED STATES ARMED SERVICES PERSONNEL WHO CAN DEMONSTRATE TO THE DEPARTMENT OF NATURAL RESOURCES THAT THEY RECEIVED WEAPONS TRAINING DURING THEIR MILITARY CAREER.

Referred to Committee on Agriculture, Natural Resources and Environmental Affairs

H. 3976 -- Rep. G. M. Smith: A BILL TO AMEND SECTIONS 24-13-1530 AND 24-13-1590, CODE OF LAWS OF SOUTH CAROLINA, 1976, BOTH RELATING TO ELIGIBILITY FOR OFFENDERS TO BE PLACED ON HOME DETENTION, SO AS TO ALLOW CERTAIN DRUG AND CONTROLLED SUBSTANCE OFFENDERS TO PARTICIPATE IN THE HOME DETENTION PROGRAM UNDER CERTAIN CIRCUMSTANCES.

Referred to Committee on Judiciary

H. 3977 -- Rep. Nanney: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-1-295 SO AS TO DEFINE DRUG-RELATED HAZARDOUS WASTE, TO PROVIDE WHERE DRUG-RELATED HAZARDOUS WASTE IS FOUND ON A SPECIFIC PARCEL OF PROPERTY AND A DOCUMENT WARNING OF THE POSSIBLE CONTINUED PRESENCE OF THIS WASTE ON THE PROPERTY IS RECORDED IN THE OFFICE OF THE CLERK OF COURT OR REGISTER OF MESNE CONVEYANCE IN THE COUNTY WHERE THE PROPERTY IS SITUATED, THE PROPERTY'S OWNER MAY SEEK FROM THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL A WRITTEN DETERMINATION OF WHETHER DRUG-RELATED HAZARDOUS WASTE EXISTS ON THE PROPERTY; TO PROVIDE THE DEPARTMENT MUST MAKE THIS WRITTEN DETERMINATION WITHIN NINETY DAYS OF THE REQUEST OR THE DEPARTMENT IS CONSIDERED TO HAVE DETERMINED THE PROPERTY FREE FROM DRUG-RELATED HAZARDOUS WASTE; TO PROVIDE WHERE THIS WRITTEN DETERMINATION INDICATES THE ABSENCE OF DRUG-RELATED HAZARDOUS WASTE ON THE PROPERTY OR THE DEPARTMENT FAILS TO PROVIDE A WRITTEN DETERMINATION WITHIN NINETY DAYS, THE OWNER OF THE PROPERTY MAY RECORD WITH THE CLERK OF COURT OR REGISTER OF MESNE CONVEYANCE IN THE COUNTY WHERE THE PROPERTY IS SITUATED EITHER THE DEPARTMENT'S WRITTEN DETERMINATION OR AN AFFIDAVIT STATING THE DEPARTMENT FAILED TO RESPOND WITHIN NINETY DAYS, AMONG OTHER THINGS; AND TO PROVIDE A WRITTEN CROSS-REFERENCE TO THESE RECORDED DOCUMENTS MUST BE NOTED ON THE PREVIOUSLY RECORDED DOCUMENT THAT PROVIDED NOTICE OF THE CONTINUED POSSIBLE PRESENCE OF DRUG-RELATED HAZARDOUS WASTE ON THE PROPERTY.

Referred to Committee on Agriculture, Natural Resources and Environmental Affairs

H. 3978 -- Rep. Cobb-Hunter: A BILL TO AMEND SECTION 59-17-155, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REQUIREMENT THAT EACH SCHOOL DISTRICT IMPLEMENT AN AUTOMATED EXTERNAL DEFIBRILLATOR (AED) PROGRAM FOR EACH HIGH SCHOOL IN THE DISTRICT, SO AS TO REQUIRE BIANNUAL EMERGENCY AED PRACTICE EXERCISES ON SCHOOL GROUNDS, TO REQUIRE EACH HIGH SCHOOL TO OBTAIN AND DESIGNATE AN AED FOR TRAINING PURPOSES, AND TO PROVIDE THE REQUIREMENTS FOR THE TRAINING PROGRAM.

Referred to Committee on Education and Public Works

H. 3986 -- Rep. E. H. Pitts: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40-5-395 SO AS TO PROVIDE, NOTWITHSTANDING ANOTHER PROVISION OF LAW, A LICENSED ATTORNEY IS NOT NECESSARY TO SUPERVISE OR CONDUCT ANY ASPECT OF THE REFINANCING OF AN EXISTING REAL ESTATE MORTGAGE INCLUDING TITLE EXAMINATION, LOAN DOCUMENT PREPARATION, CLOSING, OR PERFECTING SETTLEMENT OF THE OLD MORTGAGE AND RECORDATION OF THE NEW MORTGAGE; AND TO AMEND SECTION 37-10-102, RELATING TO ATTORNEYS' FEES FOR MORTGAGES, SO AS TO MAKE CONFORMING CHANGES.

Referred to Committee on Judiciary

H. 3987 -- Reps. Lowe and Crawford: A BILL TO PROVIDE THAT IN FLORENCE COUNTY A PERSON MUST OBTAIN PERMISSION FROM THE GOVERNING BODY OF A HOMEOWNER'S ASSOCIATION OR A RESIDENTIAL SUBDIVISION BEFORE HE MAY DISCHARGE A FIREARM ON ANY PROPERTY OWNED BY OR UNDER THE CONTROL OF THE HOMEOWNER'S ASSOCIATION OR THE RESIDENTIAL SUBDIVISION, TO PROVIDE A FINE FOR THE VIOLATION OF THE SECTION, AND TO PROVIDE THAT A FINE MAY NOT BE IMPOSED UPON A PERSON WHOSE DISCHARGE OF A FIREARM IS COVERED BY A LEGAL DEFENSE.

Rep. LOWE asked unanimous consent to have the Bill placed on the Calendar without reference.

Rep. KENNEDY objected.

Referred to Committee on Judiciary

H. 3988 -- Rep. Funderburk: A BILL TO AMEND SECTION 39-20-45, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ENFORCEMENT OF A LIEN IN CONNECTION WITH A SELF-SERVICE STORAGE FACILITY, SO AS TO PROVIDE FOR ANOTHER PROCEDURE FOR ENFORCEMENT OF A LIEN AGAINST A TITLED VEHICLE.

Referred to Committee on Judiciary

S. 362 -- Senator Alexander: A BILL TO AMEND SECTION 42-11-30 OF THE 1976 CODE, RELATING TO FIREFIGHTERS COVERED UNDER WORKERS' COMPENSATION LAW AND THE PRESUMPTION REGARDING IMPAIRMENT OR INJURY FROM HEART DISEASE AND/OR RESPIRATORY DISEASE, TO PROVIDE THAT THE IMPAIRMENT OR INJURY IS CONSIDERED TO HAVE ARISEN OUT OF AND IN THE COURSE OF EMPLOYMENT IF THEY HAVE SUCCESSFULLY PASSED A PHYSICAL EXAM WITHIN THE LAST TEN YEARS.

Referred to Committee on Labor, Commerce and Industry

S. 390 -- Senator Hayes: A BILL TO ENACT THE "MENTAL HEALTH PARITY AND ADDICTION ACT OF 2009"; AND TO AMEND SECTION 38-71-880, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MEDICAL AND SURGICAL BENEFITS AND MENTAL BENEFITS COVERAGE, SO AS TO ADD PROVISIONS RELATING TO SUBSTANCE USE DISORDER COVERAGE, FINANCIAL REQUIREMENTS, AND TREATMENT LIMITATIONS AND TO PROVIDE FOR DEFINITIONS.

Referred to Committee on Labor, Commerce and Industry

S. 589 -- Senator Hayes: A BILL TO AMEND SECTION 25-1-380, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ASSISTANT ADJUTANT GENERALS FOR THE ARMY, SO AS TO PROVIDE UPON NATIONAL GUARD BUREAU AUTHORIZATION, AN ADDITIONAL ASSISTANT ADJUTANT GENERAL WITH THE RANK OF MAJOR GENERAL.

Rep. E. H. PITTS asked unanimous consent to have the Bill placed on the Calendar without reference.

Rep. KENNEDY objected.

Referred to Committee on Judiciary

**HOUSE RESOLUTION**

The following was introduced:

H. 3979 -- Reps. Harrell, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A HOUSE RESOLUTION TO RECOGNIZE AND HONOR LIEUTENANT COLONEL SPANN WATSON OF THE UNITED STATES AIR FORCE (RETIRED) FOR HIS MANY YEARS OF OUTSTANDING MILITARY SERVICE.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 3980 -- Reps. Harrell, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A HOUSE RESOLUTION TO RECOGNIZE AND HONOR FIRST LIEUTENANT LESTER E. PHILLIPS III OF THE UNITED STATES ARMY (RETIRED) FOR HIS MORE THAN THIRTY YEARS OF OUTSTANDING MILITARY SERVICE.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 3981 -- Reps. Harrell, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A HOUSE RESOLUTION TO RECOGNIZE AND HONOR MASTER SERGEANT WILLIAM T. "BILL" SIMMONS OF THE UNITED STATES AIR FORCE (RETIRED) FOR HIS TWENTY YEARS OF OUTSTANDING MILITARY SERVICE.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 3982 -- Reps. Harrell, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A HOUSE RESOLUTION TO RECOGNIZE AND HONOR LIEUTENANT LEROY BOWMAN OF THE UNITED STATES ARMY (RETIRED) FOR HIS MANY YEARS OF OUTSTANDING MILITARY SERVICE.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 3983 -- Reps. Harrell, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A HOUSE RESOLUTION TO RECOGNIZE THE DEDICATED SERVICE AND IMMEASURABLE SACRIFICE OF SOUTH CAROLINA'S COMBAT VETERANS AND MILITARY PERSONNEL AND TO EXPRESS PROFOUND APPRECIATION FOR THEIR STEADFAST AND COURAGEOUS EFFORTS IN THE DEFENSE OF OUR NATION'S FREEDOM AS AMERICANS OBSERVE THIS COUNTRY'S FIFTY-NINTH ANNUAL ARMED FORCES DAY ON MAY 16, 2009.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 3984 -- Rep. Hodges: A HOUSE RESOLUTION TO HONOR DR. HORACE WILLIAMS, JR., OF BEAUFORT COUNTY UPON THE OCCASION OF THE CELEBRATION OF HIS TWENTY-FIVE YEARS OF FAITHFUL SERVICE AS PASTOR OF FAITH MEMORIAL BAPTIST CHURCH AND TO RECOGNIZE HIM FOR OVER FORTY YEARS OF DEDICATED SERVICE TO EDUCATION IN SOUTH CAROLINA.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 3985 -- Reps. Allen, G. R. Smith, Agnew, Alexander, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A HOUSE RESOLUTION TO HONOR DR. ROBERT E. DENNIS, PASTOR OF CEDAR GROVE BAPTIST CHURCH IN SIMPSONVILLE, FOR HIS FORTY YEARS OF MINISTRY AT CEDAR GROVE AND TO WISH HIM GOD'S RICHEST BLESSINGS AS HE CONTINUES TO SERVE THE LORD.

The Resolution was adopted.

**ROLL CALL**

The roll call of the House of Representatives was taken resulting as follows:

|  |  |  |
| --- | --- | --- |
| Allen | Allison | Anderson |
| Anthony | Bales | Ballentine |
| Bannister | Barfield | Battle |
| Bedingfield | Bingham | Bowen |
| Brady | Branham | Brantley |
| G. A. Brown | R. L. Brown | Cato |
| Chalk | Clemmons | Clyburn |
| Cobb-Hunter | Cole | Crawford |
| Daning | Delleney | Dillard |
| Duncan | Edge | Erickson |
| Forrester | Frye | Funderburk |
| Gambrell | Gilliard | Govan |
| Gullick | Gunn | Haley |
| Hardwick | Harrell | Harrison |
| Harvin | Hayes | Hearn |
| Herbkersman | Hiott | Hodges |
| Horne | Hosey | Hutto |
| Jefferson | Jennings | Kelly |
| Kennedy | King | Kirsh |
| Knight | Limehouse | Littlejohn |
| Loftis | Long | Lowe |
| Lucas | Mack | McEachern |
| McLeod | Merrill | Miller |
| Millwood | Moss | Nanney |
| J. H. Neal | J. M. Neal | Ott |
| Owens | Parker | Parks |
| Pinson | E. H. Pitts | M. A. Pitts |
| Rice | Sandifer | Scott |
| Sellers | Simrill | Skelton |
| D. C. Smith | G. R. Smith | J. E. Smith |
| J. R. Smith | Sottile | Spires |
| Stavrinakis | Stewart | Stringer |
| Thompson | Toole | Umphlett |
| Weeks | White | Williams |
| Wylie | A. D. Young | T. R. Young |

**STATEMENT OF ATTENDANCE**

I came in after the roll call and was present for the Session on Wednesday, April 29.

|  |  |
| --- | --- |
| Chip Huggins | William R. "Bill" Whitmire |
| Mark Willis | William Bowers |
| Denny Neilson | Boyd Brown |
| Dan Hamilton | Chris Hart |
| Todd Rutherford | Thad Viers |
| Leon Howard | G. Murrell Smith |
| Paul Agnew | Harold Mitchell |
| Ted Vick | Terry Alexander |

**Total Present--121**

**STATEMENTS OF ATTENDANCE**

Reps. KIRSH, CLYBURN, HOSEY, A. D. YOUNG and CATO signed a statement with the Clerk that they came in after the roll call of the House and were present for the Session on Tuesday, April 28.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. WHIPPER a leave of absence for the day due to a death in the family.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. COOPER a leave of absence for the day due to a death in the family.

**DOCTOR OF THE DAY**

Announcement was made that Dr. William Simpson of Charleston was the Doctor of the Day for the General Assembly.

**SPECIAL PRESENTATION**

Rep. FUNDERBURK presented to the House the Camden High School "Bulldogs" Varsity Boys Basketball Team, the 2009 Class AAA Champions, their coaches and other school officials.

**SPECIAL PRESENTATION**

Rep. ALLEN presented to the House the Southside High School "Tigers" Varsity Boys Basketball Team, the 2009 Class AA Champions, their coaches and other school officials.

**CO-SPONSORS ADDED AND REMOVED**

In accordance with House Rule 5.2 below:

"5.2 Every bill before presentation shall have its title endorsed; every report, its title at length; every petition, memorial, or other paper, its prayer or substance; and, in every instance, the name of the member presenting any paper shall be endorsed and the papers shall be presented by the member to the Speaker at the desk. A member may add his name to a bill or resolution or a co‑sponsor of a bill or resolution may remove his name at any time prior to the bill or resolution receiving passage on second reading. The member or co‑sponsor shall notify the Clerk of the House in writing of his desire to have his name added or removed from the bill or resolution. The Clerk of the House shall print the member’s or co‑sponsor’s written notification in the House Journal. The removal or addition of a name does not apply to a bill or resolution sponsored by a committee.”

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3888 |
| Date: | ADD: |
| 04/29/09 | HUTTO |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3393 |
| Date: | ADD: |
| 04/29/09 | A. D. YOUNG |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3118 |
| Date: | ADD: |
| 04/29/09 | HUTTO |

**CO-SPONSORS ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3231 |
| Date: | ADD: |
| 04/29/09 | BEDINGFIELD and HART |

**CO-SPONSORS ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3279 |
| Date: | ADD: |
| 04/29/09 | BEDINGFIELD, HART and WYLIE |

**CO-SPONSORS ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3280 |
| Date: | ADD: |
| 04/29/09 | BEDINGFIELD, HART and WYLIE |

**CO-SPONSORS ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3707 |
| Date: | ADD: |
| 04/29/09 | HUTTO and RICE |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3063 |
| Date: | ADD: |
| 04/29/09 | WILLIS |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3044 |
| Date: | ADD: |
| 04/29/09 | SELLERS |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3199 |
| Date: | ADD: |
| 04/29/09 | HUTTO |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3628 |
| Date: | ADD: |
| 04/29/09 | HUTTO |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3707 |
| Date: | ADD: |
| 04/29/09 | SELLERS |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3919 |
| Date: | ADD: |
| 04/29/09 | HUTTO |

**CO-SPONSORS ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3945 |
| Date: | ADD: |
| 04/29/09 | SCOTT, JEFFERSON and G. M. SMITH |

**CO-SPONSOR REMOVED**

|  |  |
| --- | --- |
| Bill Number: | H. 3253 |
| Date: | REMOVE: |
| 04/29/09 | SOTTILE |

**S. 537--DEBATE ADJOURNED**

Rep. E. H. PITTS moved to adjourn debate upon the following Joint Resolution until Tuesday, May 5, which was adopted:

S. 537 -- Senator Setzler: A JOINT RESOLUTION TO PROVIDE THAT THE SCHOOL DAY MISSED BY STUDENTS RESIDING IN SCHOOL DISTRICTS THAT CLOSED DUE TO SNOW ON MARCH 2, 2009, IS WAIVED FOR STUDENTS IN LEXINGTON SCHOOL DISTRICTS ONE, TWO, THREE, AND FOUR.

**SENT TO THE SENATE**

The following Bills and Joint Resolutions were taken up, read the third time, and ordered sent to the Senate:

H. 3550 -- Reps. Cato, Herbkersman, Agnew, Merrill, Stavrinakis, Funderburk, Brady, Anderson, R. L. Brown, Kelly, Limehouse, J. E. Smith, Whipper, Hutto, Allison, Parker, Sottile, Erickson and Bales: A BILL TO AMEND CHAPTER 10, TITLE 6, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE BUILDING ENERGY EFFICIENCY STANDARD ACT, SO AS TO REVISE THE TITLE OF THE ACT TO THE "ENERGY STANDARD ACT", TO REVISE DEFINITIONS, TO ADOPT THE INTERNATIONAL ENERGY CONSERVATION CODE AS THE ENERGY STANDARD AND TO PROVIDE THAT ALL NEW AND RENOVATED BUILDINGS MUST COMPLY WITH THIS STANDARD, TO PROVIDE THAT LOCAL BUILDING OFFICIALS SHALL ENFORCE THE ENERGY STANDARD AND TO PROVIDE ALTERNATIVE ENFORCERS IN AREAS WITHOUT A BUILDING OFFICIAL, TO PROVIDE THAT BUILDING OFFICIALS SHALL ISSUE AND REVOKE BUILDING PERMITS AND INSPECT CONSTRUCTION OF BUILDINGS PURSUANT TO THE PERMITS ISSUED, TO REQUIRE LOCAL JURISDICTIONS TO PROVIDE AN APPEALS BOARD AND PROCESS FOR GRANTING OF CERTAIN VARIANCES, TO PROVIDE AN EXCEPTION AND TO ALLOW CERTAIN APPEALS TO BE HEARD BY THE SOUTH CAROLINA BUILDING CODES COUNCIL, AND TO PROVIDE THAT A PERSON OR PARTY MAY OBTAIN INJUNCTIVE RELIEF; AND TO AMEND SECTION 6-9-50, AS AMENDED, RELATING TO THE MANDATORY ADOPTION OF CERTAIN NATIONAL BUILDING CODES, BUILDING ENVELOPE REQUIREMENTS OF THE ENERGY CODE, FREE ACCESS TO CODE DOCUMENTS, AND THREE STORY HOMES, SO AS TO DELETE PROVISIONS RELATING TO WHAT CONSTITUTES COMPLIANCE WITH THE BUILDING ENVELOPE REQUIREMENTS OF THE ENERGY CODE, FREE ACCESS TO DOCUMENTS CONTAINING CODES ADOPTED BY THE BUILDING CODES COUNCIL, AND BUILDING PERMITS FOR THREE STORY HOMES.

H. 3377 -- Reps. Moss, Vick, Simrill, Anthony, Bedingfield, H. B. Brown, Duncan, Gambrell, Gullick, Jennings and A. D. Young: A BILL TO AMEND SECTION 23-1-212, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ENFORCEMENT OF STATE CRIMINAL LAWS BY FEDERAL LAW ENFORCEMENT OFFICERS, SO AS TO PROVIDE THAT NATIONAL PARK SERVICE RANGERS ARE FEDERAL LAW ENFORCEMENT OFFICERS WHO ARE AUTHORIZED TO ENFORCE THE STATE'S CRIMINAL LAWS.

H. 3761 -- Rep. Cooper: A BILL TO AMEND SECTION 44-53-530, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FORFEITURE PROCEDURES RELATED TO DRUG PROCEEDS, SO AS TO ALLOW THE USE OF FORFEITED MONIES AND PROCEEDS FROM THE SALE OF PROPERTY FOR TRAINING AND EDUCATION BY LAW ENFORCEMENT IN ADDITION TO OTHER USES PREVIOUSLY DELINEATED.

H. 3130 -- Rep. Harvin: A BILL TO AMEND SECTION 12-37-3150, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DETERMINING WHEN A PARCEL OF REAL PROPERTY MUST BE APPRAISED AS A RESULT OF AN ASSESSABLE TRANSFER OF INTEREST, SO AS TO PROVIDE THAT A CONVEYANCE TO A TRUST DOES NOT CONSTITUTE AN ASSESSABLE TRANSFER OF INTEREST IN THE REAL PROPERTY IF THE SETTLOR OR SETTLOR'S SPOUSE CONVEYS THE PROPERTY TO A TRUST THE BENEFICIARIES OF WHICH ARE A CHILD OR CHILDREN OF THE SETTLOR OR THE SETTLOR'S SPOUSE AND TO PROVIDE THAT A CONVEYANCE BY DISTRIBUTION UNDER A WILL OR BY INTESTATE SUCCESSION DOES NOT CONSTITUTE AN ASSESSABLE TRANSFER OF INTEREST IN THE REAL PROPERTY IF THE DISTRIBUTEE IS A CHILD OR CHILDREN OF A DECEDENT AND THE DECEDENT DID NOT HAVE A SPOUSE AT THE DECEDENT'S DATE OF DEATH.

H. 3252 -- Reps. Sellers and Weeks: A BILL TO AMEND SECTION 56-1-745, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MANDATORY SUSPENSION OF A PERSON'S DRIVER'S LICENSE FOR CERTAIN CONTROLLED SUBSTANCE CONVICTIONS, SO AS TO PROVIDE THAT DRIVER'S LICENSE SUSPENSION UNDER THESE CIRCUMSTANCES IS IN THE DISCRETION OF THE JUDGE.

H. 3087 -- Reps. Brady and M. A. Pitts: A BILL TO AMEND SECTION 23-3-535, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LIMITATIONS ON PLACES OF RESIDENCE FOR SEX OFFENDERS, SO AS TO PROVIDE THAT A LOCAL GOVERNMENT MAY NOT ENACT AN ORDINANCE THAT EXPANDS OR CONTRACTS THE BOUNDARIES OF THE AREAS IN WHICH A SEX OFFENDER MAY OR MAY NOT RESIDE THAT ARE CONTAINED IN THIS SECTION.

H. 3942 -- Agriculture, Natural Resources and Environmental Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE RIVERBANKS PARKS COMMISSION, RELATING TO RIVERBANKS PARKS COMMISSION, DESIGNATED AS REGULATION DOCUMENT NUMBER 4022, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

H. 3841 -- Reps. Owens, Cooper, Skelton, Sottile, J. M. Neal, R. L. Brown, Simrill, Battle, Govan, Barfield, Gullick, Stavrinakis, Hutto, Jefferson, Umphlett, Daning, Kirsh, Knight, Williams, Merrill, Weeks, Whipper, Mack, G. M. Smith, Lowe, Clemmons, Gilliard, Sellers, Erickson, Willis, Wylie, Mitchell, Stewart, Gunn, Vick, Harrell and J. R. Smith: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ENACTING THE "TECHNICAL COLLEGE ADMINISTRATIVE EFFICIENCIES ACT OF 2009" SO AS TO REQUIRE THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION TO ESTABLISH A TIERED SYSTEM FOR CATEGORIZING TECHNICAL COLLEGES WITH RESPECT TO THEIR FINANCIAL STRENGTH AND ABILITY TO MANAGE DAY-TO-DAY OPERATIONS AND A REVIEW SYSTEM FOR CERTAIN HUMAN RESOURCES, FACILITIES AND CAPITAL IMPROVEMENT, PROCUREMENT, AND GRANTS MANAGEMENT REQUESTS BY TECHNICAL COLLEGES; BY ADDING SECTION 2-47-70 SO AS TO ALLOW TECHNICAL COLLEGES TO ENTER INTO ONE OR MORE LEASE AGREEMENTS UPON CERTAIN CONDITIONS AND SUBJECT TO APPROVAL BY THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION AND REVIEW BY THE JOINT BOND REVIEW COMMITTEE AND THE STATE BUDGET AND CONTROL BOARD; BY ADDING SECTION 6-1-137 SO AS TO ALLOW TECHNICAL COLLEGES TO BE A PART OF CERTAIN CONTRACTS MADE BY COUNTIES, MUNICIPALITIES, OR SCHOOL DISTRICTS; TO AMEND SECTION 1-11-65, RELATING TO APPROVAL AND RECORDATION OF REAL PROPERTY TRANSACTIONS INVOLVING GOVERNMENTAL BODIES, SO AS TO EXCLUDE CERTAIN REAL PROPERTY TRANSACTIONS MADE FOR OR BY A TECHNICAL COLLEGE; TO AMEND SECTION 2-47-50, AS AMENDED, RELATING TO THE ESTABLISHMENT OF PERMANENT IMPROVEMENT PROJECTS BY THE STATE BUDGET AND CONTROL BOARD, SO AS TO PROVIDE FOR THE ESTABLISHMENT AND AUTHORIZATION OF CERTAIN PERMANENT IMPROVEMENT PROJECTS BY THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION UNDER CERTAIN CONDITIONS, TO PROVIDE THAT A TECHNICAL COLLEGE MAY NOT ADVERTISE AND INTERVIEW FOR PROJECT ARCHITECTURAL AND ENGINEERING SERVICES WITHOUT PRIOR APPROVAL OF THE ARCHITECTURAL AND ENGINEERING PHASE OF A PERMANENT IMPROVEMENT PROJECT BY THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION, AND TO PROVIDE FOR THE APPROVAL OF SCOPE AND BUDGET CHANGES FOR PREVIOUSLY APPROVED PROJECTS UP TO AN INCREASE OF TWENTY PERCENT OR TOTALING UP TO TWO MILLION DOLLARS BY THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION AND FOR THE PUBLICATION OF SUCH APPROVAL TO THE JOINT BOND REVIEW COMMITTEE; TO AMEND SECTION 2-65-30, RELATING TO RECEIPT AND EXPENDITURE OF UNANTICIPATED FUNDS, SO AS TO EXCLUDE TECHNICAL COLLEGES FROM STATE BUDGET AND CONTROL BOARD REVIEW OF EXPENDITURE PROPOSALS, AND TO REQUIRE THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION TO MONITOR FEDERAL FUNDS WITHIN THE TECHNICAL COLLEGE SYSTEM; TO AMEND SECTION 8-11-35, RELATING TO SALARY PAYMENT SCHEDULES, SO AS TO PROVIDE THAT THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION MAY APPROVE ALTERNATIVE SALARY PAYMENT SCHEDULES FOR TECHNICAL COLLEGE EMPLOYEES; TO AMEND SECTION 8-11-230, RELATING TO THE CREATION AND DUTIES OF THE STATE BUDGET AND CONTROL BOARD, SO AS TO REQUIRE THE STATE BUDGET AND CONTROL BOARD TO COORDINATE WITH THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION IN ESTABLISHING A CLASSIFICATION AND COMPENSATION PLAN FOR TECHNICAL COLLEGE CLASSIFIED EMPLOYEES, AND TO PROVIDE WHAT THE PLAN MUST INCLUDE; TO AMEND SECTION 11-35-1210, AS AMENDED, RELATING TO CERTIFICATION OF PROCUREMENTS, SO AS TO ALLOW FOR STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION APPROVAL FOR UP TO FIFTY THOUSAND DOLLARS IN ADDITIONAL PROCUREMENT AUTHORITY UPON CERTAIN CONDITIONS, AND TO PROVIDE REPORTING REQUIREMENTS; TO AMEND SECTION 11-35-1550, AS AMENDED, RELATING TO BID PROCEDURES ON PROCUREMENTS UP TO FIFTY THOUSAND DOLLARS, SO AS TO REVISE AMOUNTS TO WHICH CERTAIN PROVISIONS OF THE SECTION APPLY FOR TECHNICAL COLLEGES; TO AMEND SECTION 11-35-3230, AS AMENDED, RELATING TO AN EXCEPTION FOR SMALL ARCHITECT-ENGINEER AND LAND SURVEYING SERVICES CONTRACT, SO AS TO REVISE DOLLAR AMOUNTS FOR SUCH CONTRACTS BY TECHNICAL COLLEGES; TO AMEND SECTION 11-35-3310, AS AMENDED, RELATING TO INDEFINITE DELIVERY CONTRACTS FOR CONSTRUCTION ITEMS, SO AS TO REVISE DOLLAR LIMITS FOR CERTAIN CONTRACTS FOR TECHNICAL COLLEGES; AND TO AMEND SECTION 11-35-3810, AS AMENDED, RELATING TO REGULATIONS FOR THE SALE, LEASE, TRANSFER, AND DISPOSAL OF SURPLUS PROPERTY, SO AS TO REQUIRE THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION TO ESTABLISH POLICIES AND PROCEDURES FOR GOVERNING THE DISPOSAL OF SURPLUS PROPERTY, AND TO PROVIDE FOR ANNUAL REVIEW AND MONITORING OF SUCH DISPOSAL.

H. 3653 -- Rep. McLeod: A JOINT RESOLUTION TO DELAY IMPLEMENTATION OF THE PROVISIONS OF ACT 270 OF 2008, RELATING TO THE REQUIREMENT THAT MUNICIPAL COURT JURY LISTS INCLUDE OTHERWISE QUALIFIED RESIDENTS OF THE MUNICIPALITY WHO HOLD A VALID SOUTH CAROLINA DRIVER'S LICENSE OR IDENTIFICATION CARD, SO AS TO POSTPONE THIS EXPANSION OF THE MUNICIPAL COURT JURY LIST UNTIL DECEMBER 31, 2009.

**ORDERED ENROLLED FOR RATIFICATION**

The following Joint Resolution was read the third time, passed and, having received three readings in both Houses, it was ordered that the title be changed to that of an Act, and that it be enrolled for ratification:

S. 698 -- Agriculture and Natural Resources Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE CLEMSON UNIVERSITY, STATE CROP PEST COMMISSION, RELATING TO LIGHT BROWN APPLE MOTH QUARANTINE, DESIGNATED AS REGULATION DOCUMENT NUMBER 4052, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**H. 3561--DEBATE ADJOURNED**

Rep. WHITE moved to adjourn debate upon the following Joint Resolution until Thursday, April 30, which was adopted:

H. 3561 -- Ways and Means Committee: A JOINT RESOLUTION TO APPROPRIATE REVENUES FOR THE OPERATIONS OF STATE GOVERNMENT FOR FISCAL YEAR 2009-2010 TO SUPPLEMENT APPROPRIATIONS MADE FOR THOSE PURPOSES BY THE GENERAL APPROPRIATIONS ACT FOR FISCAL YEAR 2009-2010.

**H. 3415--DEBATE ADJOURNED**

Rep. WHITE moved to adjourn debate upon the following Joint Resolution until Thursday, April 30, which was adopted:

H. 3415 -- Reps. Harrell, Cato, Cooper, Duncan, Harrison, Owens, Sandifer, White, Bingham, Scott, Erickson, Herbkersman, T. R. Young, G. R. Smith, Huggins, Bedingfield, A. D. Young, Pinson, Lucas, E. H. Pitts, Crawford, Allison, Barfield, Brady, Chalk, Daning, Delleney, Edge, Frye, Hamilton, Hearn, Horne, Long, Merrill, Parker, Rice, Sellers, Skelton, G. M. Smith, J. R. Smith, Spires, Stringer, Thompson, Toole, Viers, Willis, Wylie, Neilson, Bales, Clemmons and Millwood: A JOINT RESOLUTION TO ESTABLISH THE SOUTH CAROLINA TAXATION REALIGNMENT COMMISSION; TO PROVIDE FOR THE COMMISSION'S MEMBERSHIP, POWERS, DUTIES, AND RESPONSIBILITIES; TO PROVIDE THAT THE COMMISSION MUST CONDUCT A COMPREHENSIVE STUDY OF THE STATE'S TAX SYSTEM INCLUDING ITS SALES TAX AND EXEMPTIONS STRUCTURE AND SUBMIT A REPORT OF ITS RECOMMENDED CHANGES TO FURTHER THE GOAL OF MAINTAINING AND ENHANCING THE STATE AS AN OPTIMUM COMPETITOR IN THE EFFORT TO ATTRACT BUSINESSES AND INDIVIDUALS TO LOCATE, LIVE, WORK, AND INVEST IN THE STATE; AND TO PROVIDE FOR PROCEDURES GOVERNING THE CONSIDERATION OF LEGISLATION RESULTING FROM THE COMMISSION'S RECOMMENDATIONS.

**H. 3854--DEBATE ADJOURNED**

Rep. WHITE moved to adjourn debate upon the following Bill until Thursday, April 30, which was adopted:

H. 3854 -- Rep. Cooper: A BILL TO AMEND TITLE 12, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TAXATION, SO AS TO REVISE CERTAIN CHAPTERS AND SECTIONS PERTAINING TO VARIOUS TAX MATTERS.

**ORDERED TO THIRD READING**

The following Joint Resolution was taken up, read the second time, and ordered to a third reading:

H. 3917 -- Reps. Harrell, Edge and Hutto: A JOINT RESOLUTION TO PROVIDE THAT THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES SHALL MAINTAIN ITS MEDICALLY FRAGILE CHILDREN'S PROGRAM AND SHALL PURSUE OPTIONS TO OBTAIN AUTHORITY TO MAINTAIN THE EXISTING PROGRAM WITH ITS CURRENT ELIGIBILITY CRITERIA.

Rep. EDGE explained the Joint Resolution.

**S. 184--REQUESTS FOR DEBATE**

The following Bill was taken up:

S. 184 -- Senators McConnell and Ford: A BILL TO AMEND SECTION 40-27-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO A PERSON WHO BUYS JUNK, SO AS TO REQUIRE A PERSON WHO BUYS JUNK THAT CONSISTS OF TWENTY-FIVE POUNDS OF SCRAP METAL OR VEHICLE PARTS TO KEEP WITH THE RECORD OF PURCHASE A PHOTOCOPY OF THE SELLER'S DRIVER'S LICENSE OR OTHER GOVERNMENT ISSUED PICTURE IDENTIFICATION CARD THAT SHOWS THE SELLER'S NAME AND ADDRESS; TO AMEND SECTION 40-27-40, RELATING TO PENALTIES FOR VIOLATING PROVISIONS OF THE JUNK DEALER ARTICLE, SO AS TO INCREASE THE FINE FROM A MAXIMUM OF ONE HUNDRED DOLLARS TO FIVE HUNDRED DOLLARS AND TO ESTABLISH THAT EACH VIOLATION CONSTITUTES A SEPARATE OFFENSE; TO AMEND SECTION 56-5-5670, RELATING TO A DEMOLISHER PURCHASING OR ACQUIRING A VEHICLE TO DEMOLISH, SO AS TO REQUIRE A DEMOLISHER THAT ACQUIRES A VEHICLE OR VEHICLE PARTS WITH A TOTAL WEIGHT OF TWENTY-FIVE POUNDS OR MORE TO KEEP A PHOTOCOPY OF THE SELLER'S DRIVER'S LICENSE OR OTHER GOVERNMENT ISSUED PICTURE IDENTIFICATION CARD THAT SHOWS THE SELLER'S NAME AND ADDRESS AND TO ESTABLISH THAT A VIOLATION OF THOSE PROVISIONS IS A MISDEMEANOR WITH A FINE NO MORE THAN FIVE HUNDRED DOLLARS FOR EACH OFFENSE OR NOT EXCEEDING FIVE THOUSAND DOLLARS FOR THE SAME SET OF TRANSACTIONS OR IMPRISONED FOR NO MORE THAN SIXTY DAYS, WITH EACH VIOLATION CONSTITUTING A SEPARATE OFFENSE; AND TO AMEND SECTION 56-5-5945, RELATING TO A DEMOLISHER OBTAINING A VEHICLE TITLE, SO AS TO REQUIRE A DEMOLISHER WHO PURCHASES OR ACQUIRES A VEHICLE OR VEHICLE PART WITH A TOTAL WEIGHT OF TWENTY-FIVE OR MORE POUNDS TO KEEP A PHOTOCOPY OF THE SELLER'S DRIVER'S LICENSE OR OTHER GOVERNMENT PICTURE IDENTIFICATION CARD THAT SHOWS THE PERSON'S NAME AND ADDRESS AND THE YEAR, MAKE, MODEL, AND IDENTIFICATION NUMBER OF THE VEHICLE, IF AVAILABLE, ALONG WITH ANY OTHER IDENTIFYING FEATURES, AND TO PROVIDE A VIOLATION CONSTITUTES A MISDEMEANOR WITH A FINE NO MORE THAN FIVE HUNDRED DOLLARS FOR EACH OFFENSE OR NO MORE THAN FIVE THOUSAND DOLLARS FOR THE SAME SET OF TRANSACTIONS OR IMPRISONED FOR NO MORE THAN SIXTY DAYS, OR BOTH, AND TO ESTABLISH THAT EACH VIOLATION CONSTITUTES A SEPARATE OFFENSE.

Rep. SANDIFER proposed the following Amendment No. 2 (COUNCIL\SWB\5892CM09):

Amend the bill, as and if amended, Section 56‑5‑5670~~(B)~~(C), as contained in SECTION 6, by deleting Section 56‑5‑5670~~(B)~~(C) and inserting:

/ ~~(B)~~(C) A demolisher must keep an accurate and complete record of all abandoned vehicles and vehicle parts with a total weight of twenty‑five pounds or more purchased or received by him in the course of his business. These records must contain the name and address of the person from whom ~~each~~ the vehicle or vehicle parts ~~was~~ were purchased or received, a photo or copy of the person’s driver’s license or other government issued picture identification card that legibly shows the person’s name and address, the date when the purchases or receipts occurred, and the year, make, model, and identification number of the vehicle or vehicle parts, if ascertainable, along with any other identifying features. The records are open for inspection by any police officer at any time during normal business hours. Any record required by this section must be kept by the demolisher for at least one year after the transaction to which it applies. /

Amend the bill further, Section 56‑5‑5945~~(b)~~(c), as contained in SECTION 8, by deleting Section 56‑5‑5945~~(b)~~(c) and inserting:

/ ~~(b)~~(c) A demolisher shall keep an accurate and complete record of all vehicles and vehicle parts with a total weight of twenty‑five pounds or more purchased or received by him in the course of his business. These records shall contain the name and address of the person from whom ~~each~~ the vehicle or vehicle parts ~~was~~ were purchased or received, a photo or copy of the person’s driver’s license or other government issued picture identification card that legibly shows the person’s name and address, ~~and~~ the date when such purchases or receipts occurred, and the year, make, model, and identification number of the vehicle or vehicle parts, if ascertainable, along with any other identifying features. The records shall be open for inspection by any law enforcement officer at any time during normal business hours. Any record required by this section shall be kept by the demolisher for at least one year after the transaction to which it applies. /

Renumber sections to conform.

Amend title to conform.

Rep. SANDIFER explained the amendment.

Reps. KENNEDY, RUTHERFORD, HART, HARVIN, COBB-HUNTER, HOSEY, CRAWFORD, LOWE, DANING, LONG, J. H. NEAL, HARDWICK, EDGE, JEFFERSON, R. L. BROWN, BRANTLEY and KING requested debate on the Bill.

**H. 3790--DEBATE ADJOURNED**

The following Bill was taken up:

H. 3790 -- Rep. Sandifer: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "SOUTH CAROLINA MORTGAGE LENDING ACT", BY ADDING CHAPTER 22 TO TITLE 37 SO AS TO REQUIRE THE LICENSING OF A MORTGAGE LENDER, LOAN ORIGINATOR, OR SOMEONE ACTING AS A MORTGAGE LENDER; PROVIDE DEFINITIONS; ESTABLISH QUALIFICATIONS FOR LICENSURE AND GROUNDS FOR REVOCATION, SUSPENSION, RENEWAL, AND TERMINATION; DESCRIBE PROHIBITED ACTIVITIES; PROVIDE FOR RECORD-KEEPING, TRUST AND ESCROW ACCOUNTS, AND ANNUAL REPORTS; PROVIDE FOR ENFORCEMENT THROUGH ADMINISTRATIVE ACTION BY THE COMMISSIONER OF THE CONSUMER FINANCE DIVISION OF THE BOARD OF FINANCIAL INSTITUTIONS AND THROUGH CRIMINAL PENALTIES, AND TO PROVIDE FOR PARTICIPATION IN A NATIONAL MORTGAGE REGISTRY; TO AMEND SECTIONS 37-1-301, 37-3-105, 37-3-501, AND 37-23-20, ALL RELATING TO DEFINITIONS IN CONNECTION WITH MORTGAGE LENDING AND BROKERING AND HIGH-COST AND CONSUMER HOME LOANS, SO AS TO CONFORM DEFINITIONS, AND TO ADD A DEFINITION FOR "ADJUSTABLE RATE MORTGAGE"; TO AMEND SECTIONS 37-23-40, 37-23-45, AND 37-23-75, ALL RELATING TO PROTECTIONS FOR THE BORROWER IN A HIGH-COST OR CONSUMER HOME LOAN TRANSACTION, SO AS TO REQUIRE CERTAIN DISCLOSURES IN CONNECTION WITH AN ADJUSTABLE RATE MORTGAGE; TO AMEND SECTION 29-4-20, RELATING TO THE DEFINITION OF "REVERSE MORTGAGE", SO AS TO CONFORM THE DEFINITION; AND TO AMEND CHAPTER 58, TITLE 40, RELATING TO THE REGISTRATION OF MORTGAGE LOAN BROKERS, SO AS TO CHANGE THE REGISTRATION REQUIREMENTS TO LICENSING REQUIREMENTS, TO CONFORM DEFINITIONS TO THOSE SET FORTH IN THE SOUTH CAROLINA MORTGAGE LENDING ACT, REQUIRE CERTAIN PROFESSIONAL COURSES, AN ADDITIONAL YEAR OF EXPERIENCE, AND A FINGERPRINT CHECK FOR MORTGAGE BROKERS AND LOAN ORIGINATORS, REQUIRE CERTAIN RECORDS BE KEPT AND MADE ACCESSIBLE, ADD CERTAIN PROHIBITIONS IN CONNECTION WITH A REAL ESTATE APPRAISAL, REQUIRE AND PRESCRIBE MORTGAGE BROKER AGREEMENTS, AUTHORIZE ENFORCEMENT BY THE DEPARTMENT OF CONSUMER AFFAIRS AND PRESCRIBE ADMINISTRATIVE PENALTIES INCLUDING FINES AND INJUNCTIONS AND A CRIMINAL PENALTY, REQUIRE CERTAIN REPORTS AND FILINGS, AND PROVIDE FOR PARTICIPATION IN A NATIONWIDE MORTGAGE REGISTRY.

The Labor, Commerce and Industry Committee proposed the following Amendment No. 1 (COUNCIL\AGM\19403MM09):

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. This act may be cited as the “South Carolina Mortgage Lending Act”.

SECTION 2. Title 37 of the 1976 Code is amended by adding:

“CHAPTER 22

Mortgage Lending

Section 37‑22‑110. The following definitions apply in this chapter:

(1) ‘Act as a mortgage broker’ means to act, for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, by: (i) soliciting, processing, placing, or negotiating a mortgage loan for a borrower from a mortgage lender or depository institution or offering to process, place, or negotiate a mortgage loan for a borrower from a mortgage lender or depository institution, (ii) engaging in tablefunding of mortgage a loan, or (iii) acting as a loan correspondent, as that term is defined in 24 C.F.R. Part 202 et seq., whether those acts are done by telephone, by electronic means, by mail, or in person with the borrowers or potential borrowers. ‘Act as a mortgage broker’ also includes bringing a borrower and lender together to obtain a mortgage loan or rendering a settlement service as described in 12 U.S.C. 2602(3) and 24 C.F.R. Part 3500.2(b).

(2) ‘Act as a mortgage lender’ means to engage in the business of making or servicing a mortgage loan for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, including soliciting, processing, placing, or negotiating a mortgage loan.

(3) ‘Administrator’ means the administrator of the Department of Consumer Affairs (department) or the administrator’s designees.

(4) ‘Advertising’ means a commercial message in a medium that promotes, either directly or indirectly, a mortgage loan transaction.

(5) ‘Affiliate’ means a company that controls, is controlled by, or is under common control with another company, as set forth in the Bank Holding Company Act of 1956 (12 U.S.C. Section 1841, et seq.). For purposes of this item, the term ‘control’ means ownership of all of the voting stock or comparable voting interest of the controlled person.

(6) ‘Board’ means the State Board of Financial Institutions as that term is used in Chapter 1, Title 34.

(7) ‘Borrower’ means a natural person in whose dwelling a security interest is or is intended to be retained or acquired if that person’s ownership interest in the dwelling is or is to be subject to the security interest.

(8) ‘Branch manager’ means the natural person who is in charge of and who is responsible for the business operations of a branch office of a licensee.

(9) ‘Branch office’ means an office of the licensee that is separate and distinct from the licensee’s principal office.

(10) ‘Commissioner’ means the designee of the State Board of Financial Institutions for purposes of licensing and regulation of mortgage lenders and mortgage loan originators pursuant to this chapter.

(11) ‘Control’, except as provided in item (5), means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. A person is presumed to have ‘control’ of a company if that person, (i) is a director, general partner or executive officer, (ii) directly or indirectly has the right to vote ten percent or more of a class of a voting security or has the power to sell or direct the sale of ten percent or more of a class of voting securities, (iii) in the case of an LLC, is the managing member, or (iv) in the case of a partnership, has the right to receive upon dissolution, or has contributed, ten percent or more of the capital.

(12) ‘Depository institution’ has the same meaning as in Section 3 of the Federal Deposit Insurance Act (12 U.S.C. Section 1811, et seq.), and includes a credit union.

(13) ‘Dwelling’ means the same as the term ‘dwelling’ means in Section 226.2(a)19 of Title 12 of the Code of Federal Regulations and the Federal Reserve Board’s Official Staff Commentary to that section.

(14) ‘Employee’ means a natural person who has an employment relationship, acknowledged by both the natural person and the mortgage lender, and is treated like an employee for purposes of compliance with the federal income tax laws.

(15) ‘Escrow account’ means an account that a mortgage lender establishes or controls on behalf of a borrower to pay taxes, insurance premiums including flood insurance, or other charges with respect to a mortgage loan, including charges that the borrower and mortgage lender have voluntarily agreed that the mortgage lender collects and pays. The definition encompasses an account established for this purpose. For purposes of this item, the term ‘escrow account’ excludes an account that is under the borrower’s total control.

(16) ‘Escrow funds’ means money entrusted to a mortgage lender by a borrower for the purpose of payment of taxes and insurance or other payments to be made in connection with the servicing of a mortgage loan.

(17) ‘Exempt person’ means:

(a) an employee of a licensee whose responsibilities are limited to clerical and administrative tasks for the employer and who does not solicit borrowers, accept applications, or negotiate the terms of loans on behalf of the employer;

(b) a depository institution or a subsidiary that is wholly owned and controlled by the depository institution and regulated by a federal banking agency or an institution regulated by the Farm Credit Administration. This chapter does not apply to the exempt persons described in this subitem;

(c) an officer, registered loan originator or employee of an exempt person described in subitem (b) of this section when acting in the scope of employment for the exempt person;

(d) a person who offers or negotiates terms of a mortgage loan with or on behalf of an immediate family member of the individual;

(e) an individual who offers or negotiates terms of a mortgage loan secured by a dwelling that served as the person’s residence;

(f) a natural person who sells residential real estate and who lends or services, in one calendar year, no more than five purchase money notes secured by mortgages, deeds of trust, or other security instruments on the real estate sold as security for the purchase money obligation, unless the United States Department of Housing and Urban Development or a court of competent jurisdiction determines that this exemption is not in compliance with the SAFE Act pursuant to Section 1508 of Title V of The Housing and Economic Recovery Act of 2008, Public Law 110‑289;

(g) an employee whose employment as a processor or underwriter is undertaken pursuant to the direction and supervision of a licensee or exempt person except when the processor or underwriter is working as an independent contractor;

(h) an attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney’s representation of the client, unless the attorney is compensated by a mortgage lender, a mortgage broker, or other mortgage loan originator or by an agent of the mortgage lender, mortgage broker, or other mortgage loan originator;

(i) an attorney who works for a mortgage lender, pursuant to a contract, for loss mitigation efforts or third party independent contractor who is HUD‑certified, Neighborworks‑certified, or similarly certified, who works for a mortgage lender, pursuant to a contract, for loss mitigation efforts; or

(j) a manufactured home retailer and its employees if performing only administrative or clerical tasks in connection with the sale or lease of a manufactured home and the manufactured home retailer and its employees receive no compensation or other gain from a mortgage lender or a mortgage broker for the performance of the administrative or clerical tasks.

(18) ‘Federal banking agencies’ means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(19) ‘Financial Services or financial services related’ means pertaining to securities, commodities, banking, insurance, consumer lending, or real estate including, but not limited to, acting as or being associated with a bank or savings association, credit union, mortgage lender, mortgage servicer, mortgage broker, real estate broker, real estate salesperson or agent, closing agent, title company, or escrow agent.

(20) ‘Immediate family member’ means a spouse, child, sibling, parent, grandparent, or grandchild including stepparents, stepchildren, stepsiblings, and adoptive relationships.

(21) ‘Individual servicing a mortgage loan’ means an employee of a mortgage lender licensed in this State, that:

(a) collects or receives payments including payments of principal, interest, escrow amounts, and other amounts due on existing obligations due and owing to the licensed mortgage lender for a mortgage loan when:

(i) the borrower is in default; or

(ii) the borrower is in reasonably foreseeable likelihood of default;

(b) works with the borrower and the licensed mortgage lender, collects data, and makes decisions necessary to modify, either temporarily or permanently, certain terms of those obligations; or

(c) otherwise finalizes collection through the foreclosure process.

(22) ‘Licensee’ means a person who is licensed pursuant to this chapter.

(23) ‘Loan commitment’ or ‘commitment’ means a statement, written or electronic, by the mortgage lender setting forth the terms and conditions upon which the mortgage lender is willing to make a particular mortgage loan to a particular borrower.

(24) ‘Loan originator’ means a natural person who, in exchange for compensation or gain or in the expectation of compensation or gain as an employee of a licensed mortgage lender, solicits, negotiates, accepts, or offers to accept applications for mortgage loans, including electronic applications, or includes direct contact with, or informing mortgage loan applicants of, the rates, terms, disclosures, and other aspects of the mortgage loan. The definition of ‘loan originator’ does not include an exempt person described in item (17) of this section or a person solely involved in extensions of credit relating to timeshare plans, as that term is defined in section 101(53D) of Title 11, United States Code. The definition of loan originator does not apply to an individual servicing a mortgage loan as that term is defined in this chapter until July 31, 2011, unless the United States Department of Housing and Urban Development or a court of competent jurisdiction determines before that time that those individuals servicing mortgage loans are ‘loan originators’ as that term is defined in the SAFE Act pursuant to Section 1508 of Title V of The Housing and Economic Recovery Act of 2008, Public law 110‑289.

(25) ‘Make a mortgage loan’ means to close a mortgage loan, advance funds, offer to advance funds, or make a commitment to advance funds to a borrower under a mortgage loan.

(26) ‘Managing principal’ means a natural person who meets the requirements of Section 37‑22‑140(C) and who agrees to be primarily responsible for the operations of a licensed mortgage lender.

(27) ‘Mortgage broker’ means a person who acts as a mortgage broker, as that term is defined in subitem (1) of this section.

(28) ‘Mortgage lender’ means a person who acts as a mortgage lender as that term is defined in subitem (2) of this section or engages in the business of servicing mortgage loans for others or collecting or otherwise receiving mortgage loan payments directly from borrowers for distribution to another person. This definition does not include engaging in a tablefunded transaction.

(29) ‘Mortgage loan’ means a loan made to a natural person primarily for personal, family, or household use, primarily secured by a mortgage, deed of trust, or other security interest on residential real property or security interest arising under an installment sales contract or equivalent security interest against the borrower’s dwelling and: (i) located in South Carolina, (ii) negotiated, offered or otherwise transacted within this State, in whole or in part, or (iii) made or extended within this State.

(30) ‘Nationwide Mortgage Licensing System and Registry’ means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators of licensees licensed pursuant to this chapter.

(31) ‘Nontraditional mortgage product’ means a mortgage product other than a thirty‑year fixed rate mortgage loan.

(32) ‘Person’ means a natural person, partnership, limited liability company, limited partnership, corporation, association, or other group engaged in joint business activities, however organized.

(33) ‘Processor or underwriter’ means an employee of a mortgage broker, mortgage lender, or exempt person who performs clerical or support duties at the direction of and subject to the supervision and instruction of a licensee or exempt person and may include direct contact with applicants but does not include soliciting, negotiating, accepting, or offering to accept applications that include personal identifying information as defined in Section 16‑13‑510(D) for mortgage loans including electronic applications or informing applicants of the rates, terms, disclosures, and other aspects of the mortgage loan.

(a) Clerical or support duties may include after the receipt of an application: (i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a mortgage loan, and (ii) communication with a consumer to obtain the information necessary for the processing or underwriting of a mortgage loan, to the extent that the communication does not include offering or negotiating loan rates or terms or counseling consumers about mortgage loans.

(b) A person engaging solely in loan processor or underwriter activities may not represent to the public, through advertising or other means of communicating or providing information including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items that the person may or will perform any of the activities of a loan originator.

(c) A processor or underwriter who is an independent contractor may not engage in the activities of a processor or underwriter unless the independent contractor processor or underwriter obtains and maintains a license as provided by rule or regulation pursuant to Section 37‑22‑270.

(34) ‘Registered loan originator’ means a natural person who meets the definition of loan originator and is an employee of a depository institution or a subsidiary that is wholly owned and controlled by the depository institution and regulated by a federal banking agency or an institution regulated by the Farm Credit Administration and is registered with and maintains a unique identifier through the Nationwide Mortgage Licensing System and Registry.

(35) ‘Residential real property’ means real property located in the State of South Carolina upon which there is located or is to be located one or more single‑family dwellings or dwelling units that are to be occupied as the owner’s dwelling, and includes real estate and residential manufactured home (land/home) transactions.

(36) ‘RESPA’ means the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. Section 2601 et seq. and regulations adopted pursuant to it by the Department of Housing and Urban Development.

(37) ‘Soliciting, processing, placing, or negotiating a mortgage loan’ means, for compensation or gain or in the expectation of compensation or gain, either directly or indirectly, accepting or offering to accept an application for a mortgage loan, assisting or offering to assist in the processing of an application for a mortgage loan, soliciting or offering to solicit a mortgage loan, or negotiating or offering to negotiate the terms or conditions of a mortgage loan.

(38) ‘Tablefunding’ means a settlement at which a loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds.

(39) ‘TILA’ means the Truth in Lending Act, 15 U.S.C. Section 1601 et seq. and regulations adopted pursuant to it by the Board of Governors of the Federal Reserve System.

(40) ‘Unique identifier’ means a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.

Section 37‑22‑120. (A) Without first obtaining a license pursuant to this chapter it is unlawful for a person, other than an exempt person, doing business in this State to:

(1) act as a mortgage lender or, directly or indirectly, engage in the business of a mortgage lender under any name or title; or

(2) circulate or use advertising, including electronic means, make a representation or give information to a person which indicates or reasonably implies activity within the scope of this chapter.

(B) It is unlawful for a person to employ, compensate, or appoint as its agent a loan originator unless the loan originator is licensed as a loan originator pursuant to this chapter. An exempt person is not subject to this subsection.

(C) The license of a loan originator is not effective during a period that the person is not employed by a mortgage lender licensed pursuant to this chapter.

(D) If a loan originator ceases to be employed by a mortgage lender licensed pursuant to this chapter, the loan originator and the mortgage lender by whom that person is employed promptly shall notify the commissioner in writing. The mortgage lender’s notice must include a statement of the specific reason or reasons for the termination of the loan originator’s employment. The reason for termination is confidential information and must not be released to the public.

(E) A loan originator must not be employed simultaneously by more than one mortgage lender licensed pursuant to this chapter.

(F) Independent contractors, except for exempt persons, must be separately licensed. Processors and underwriters who are independent contractors must be licensed as provided in Section 37‑22‑110(33)(c).

Section 37‑22‑130. (A) A person aggrieved by an administrative order issued by the commissioner may request a contested case hearing before the Administrative Law Court in accordance with the court’s rules of procedure. If the person fails to request a contested case hearing within the time provided in the court’s rules of procedure, the administrative order becomes final and the commissioner may bring an action to enforce its order pursuant to Chapter 23, Title 1. This section does not limit utilization of, or the scope of judicial review available under, other means of review, redress, relief, or trial de novo provided by law. A preliminary, procedural, or intermediate action or ruling of the Administrative Law Court is reviewable immediately if review of the final decision of the Administrative Law Court would not provide an adequate remedy.

(B) Contested case proceedings are instituted by filing a request for a contested case hearing with the Administrative Law Court according to the rules of procedure of the Administrative Law Court. Copies of the request for a contested case hearing must be served upon the commissioner and all parties of record. The final decision of the administrative law judge may be appealed as provided in Section 1‑23‑380 and 1 23‑610 or Chapter 23, Title 1.

Section 37‑22‑140. (A) A person desiring to obtain a license pursuant to this chapter shall make application for licensure to the commissioner on forms prescribed by the commissioner. The application must contain the information the commissioner considers necessary including, but not limited to, the applicant’s:

(1) name, address, and social security number or if applicable Employer Identification Number (EIN);

(2) form and place of organization, if applicable;

(3) proposed method of and locations for doing business, if applicable;

(4) qualifications and business history and, if applicable, the business history of any partner, officer, or director, a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the applicant, including: (i) a description of any injunction or administrative order by a state or federal authority to which the person is or has been subject, including denial, suspension or revocation of a financial services or financial services related license or registration; (ii) a conviction, or plea of guilty or nolo contendere to a misdemeanor within the last ten years involving financial services or a financial services related business or any fraud, false statements or omissions, theft or wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, money laundering, breach of trust or a conspiracy to commit any of these offenses; and (iii) a conviction of, or plea of guilty or nolo contendere to, a felony;

(5) financial condition, credit history, and business history, with respect to an application for licensing as a mortgage lender; and credit history and business history, with respect to the application for licensing as a loan originator; and

(6) consent to a national and state fingerprint‑based criminal history record check pursuant to Section 37‑22‑240 and submission of a set of the applicant’s fingerprints in a form acceptable to the commissioner. In the case of an applicant that is a corporation, partnership, limited liability company, association, or trust, each natural person who has control of the applicant or who is the managing principal or a branch manager shall consent to a national and state fingerprint‑based criminal history record check pursuant to Section 37‑22‑240 and submit a set of that natural person’s fingerprints pursuant to this item. Refusal to consent to a criminal history record check constitutes grounds for the commissioner to deny licensure to the applicant as well as to any entity (i) by whom or by which the applicant is employed, (ii) over which the applicant has control, or (iii) as to which the applicant is the current or proposed managing principal or a current or proposed branch manager.

(B) In addition to the requirements imposed by the commissioner in subsection (A), each applicant for licensure as a loan originator shall:

(1) have attained the age of at least eighteen years of age;

(2) work for a licensed mortgage lender;

(3) have satisfactorily completed pre‑licensing education of at least twenty hours and a written examination approved pursuant to 12 U.S.C. 5101 et seq. To satisfy the twenty hours of prelicensing education, an applicant may show proof of the equivalent of twenty or more semester hours of satisfactorily completed course work in real estate finance or real estate law or course work that is equivalent to the education requirements in the SAFE Act pursuant to Section 1508 of Title V of The Housing and Economic Recovery Act of 2008, Public Law 110‑289 if the course work counts toward the successful completion of a degree that is baccalaureate level or more advanced with a major or minor in finance, accounting, business administration, real estate finance economics, or similar baccalaureate or more advanced degree, approved by the commissioner, from an accredited college or university. The coursework must be approved pursuant to 12 U.S.C. 5101 et seq.;

(4) have never had a loan originator license revoked in any governmental jurisdiction; and

(5) have not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court (i) during the ten‑year period preceding the date of the application for licensing or (ii) at any time, if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering.

(C) In addition to the requirements of subsection (A) of this section, each applicant for licensure as a mortgage lender at the time of application and at all times after that shall comply with the following requirements:

(1) If the applicant is a sole proprietor, the applicant shall have at least three years of experience in financial services or financial services related business or other experience or competency requirements as the commissioner may impose.

(2) If the applicant is a general or limited partnership, at least one of its general partners shall have the experience described in item (1).

(3) If the applicant is a corporation, at least one of its principal officers shall have the experience described in item (1).

(4) If the applicant is a limited liability company, at least one of its members or managers shall have the experience described in item (1).

(5) Instead of a showing of three years’ experience, an applicant may show proof of three years’ employment with a federally insured depository institution or a VA, FHA, or HUD‑approved mortgagee.

(D) Each applicant shall identify one person meeting the requirements of subsections (B) and (C) to serve as the applicant’s managing principal.

(E) Every applicant for initial licensure shall pay a filing fee of one thousand dollars for licensure as a mortgage lender or fifty dollars for licensure as a loan originator, in addition to the actual cost of obtaining credit reports and national and state fingerprint‑based criminal history record checks. If a licensed loan originator changes employment, a new license must be issued and a fee of twenty‑five dollars must be paid.

(F) A mortgage lender shall post and maintain a surety bond in an amount determined by the commissioner, based on the total dollar amount of mortgage loans originated in a calendar year in this State pursuant to the following: (i) dollar volume of mortgage loans from $0 to $49,999,999, surety bond of $150,000; (ii) dollar volume of mortgage loans from $50,000,000 to $249,999,999, surety bond of $250,000; (iii) dollar volume of mortgage loans greater than $250,000,000 surety bond of $500,000. In no case is the surety bond less than one hundred fifty thousand dollars. The surety bond must be executed by a surety company authorized by the laws of this State to transact business within this State. The surety bond must be in a form satisfactory to the commissioner, must be executed to the commissioner, and must be for the use of the State for the recovery of expenses, fines, and fees, or any of them, levied pursuant to this chapter and for consumers who have losses or damages as a result of noncompliance with this chapter by the mortgage lender. The full amount of the surety bond must be in effect at all times. The license of a licensee expires upon the termination of the bond by the surety company, unless a new bond is filed with the commissioner before the termination of the previous bond. If the license expires based on bond termination, all licensed activity must cease and the person must apply for a license pursuant to subsection (A).

(G) Any sole proprietor, general partner, member or manager of a limited liability company, or officer of a corporation who meets individually the requirements of subsection (B), upon payment of the applicable fee, meets the qualifications for licensure as a loan originator subject to the provisions of subsection (I).

(H) Each principal office and each branch office of a licensed mortgage lender at which business is conducted must be licensed pursuant to this chapter and must be issued a separate license. A licensed mortgage lender shall file with the commissioner an application on a form prescribed by the commissioner which identifies the address of the principal office and each branch office and branch manager. A licensing fee of one hundred fifty dollars must be assessed by the commissioner for each branch office issued a license.

(I) If the commissioner determines that an applicant meets the qualifications for licensure and finds that the financial responsibility, character, and general fitness of the applicant are such as to command the confidence of the community and to warrant belief that the business is to be operated honestly, fairly, and efficiently according to the purposes of this chapter and in accordance with all applicable state and federal laws, the commissioner shall issue a license to the applicant. If the commissioner does not make that determination, the commissioner shall refuse to license the applicant and shall notify him of the denial.

(J) Issuance of a license does not indicate approval or acceptance of any contract, agreement or other document submitted in support of the application. A licensee may not represent that its services or contracts are approved by the State or state agency.

(K) A person who obtains a license as a mortgage lender, upon notice to the commissioner on a form prescribed by the commissioner, may act as a mortgage broker as defined in Section 37‑22‑110(1). The commissioner shall provide to the administrator notification of which mortgage lenders are also acting as brokers. A mortgage lender who also acts as a mortgage broker is not required to obtain a license as a mortgage broker pursuant to Chapter 58, Title 40 and is not subject to regulation by the administrator, except that the mortgage lender acting as a mortgage broker must comply with Sections 40‑58‑70, 40‑58‑75, and 40‑58‑78.

(L)(1) A person with three years’ experience as a loan originator who applies for a license as a loan originator and who has completed and filed with the Nationwide Mortgage Licensing System and Registry all information, documents, and requirements for licensure pursuant to this chapter and who has been assigned a unique identifier by the Registry must be provided a provisional license as a loan originator before the commissioner takes action on his application if the applicant is employed by a mortgage lender licensed pursuant to this chapter and a senior officer or managing principal of that licensee attests to the commissioner that:

(a) the applicant, within the six‑month period before the date of application for licensure, has not been acting as a registered loan originator or a state‑licensed loan originator in another state under provisions of Section 1507 of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, and:

(i) the applicant has never had a loan originator license denied, revoked, or suspended in any governmental jurisdiction;

(ii) the applicant during the previous five years, ending on the date of the filing of the current application, has not had an application for a professional license denied, a professional license revoked, or any adverse action taken on a professional license;

(iii) the applicant has not been convicted of a felony that would otherwise authorize the commissioner to deny a license;

(iv) the application meets all of the applicable requirements of this chapter for licensure; and

(v) the licensee will be responsible for the acts of the applicant during the period that such application is pending; or

(b) the applicant is currently, or has within the six‑month period before the date of the application, been acting as a registered loan originator or a state‑licensed loan originator in another state under provisions of Section 1507 of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 and the applicant has never had a loan originator license denied, revoked, or suspended in any governmental jurisdiction and has not been convicted of a felony that would otherwise authorize the commissioner to deny a license.

(2) A provisional license issued pursuant to this section expires on the earlier of the following:

(a) the date upon which the commissioner issues or denies the permanent license applied for; or

(b) ninety days from the date the provisional license is issued.

(3) The commissioner may deny or suspend the rights of a licensee pursuant to this chapter to employ a loan originator acting under item (1) of this subsection if the commissioner finds that the licensee, the senior officer, or managing principal does not make the certification or undertaking set forth in item (1)(b) of the subsection in good faith.

(M) If the information contained in a document filed with the commissioner is or becomes inaccurate or incomplete, the licensee promptly shall file a correcting amendment to the information contained in the document.

(N) All advertisements of mortgage loans must comply with the Truth in Lending Act, 15 U.S.C. 1601 et seq. and the South Carolina Consumer Protection Code, Title 37.

Section 37‑22‑150. (A) All licenses issued by the commissioner pursuant to this chapter expire annually on the thirty‑first day of December or on another date that the commissioner may determine. The license is invalid after that date unless renewed. The renewal period for all licensees is from November first through December thirty‑first annually or on another date the commissioner may determine. A licensee desiring to renew its license must submit an application to the commissioner on forms and containing information the commissioner requires. Applications received after December thirty‑first or another date the commissioner determines, are late and the late fees in subsection (B) apply. A license may be renewed by compliance with this section and by paying to the commissioner, in addition to the actual cost of obtaining credit reports and national and state fingerprint‑based criminal history record checks as the commissioner may require, a renewal fee as prescribed by the board for each of the following:

(1) for a licensed mortgage lender, an annual renewal fee of no more than eight hundred dollars and no more than one hundred fifty dollars for each branch office; and

(2) for a licensed loan originator, an annual fee of no more than fifty dollars.

(B) If a license of a licensed mortgage lender is not renewed during the renewal period, a late fee of not more than five hundred dollars as prescribed by the board, in addition to the renewal fee in subsection (A)(1), must be assessed. If a license of a licensed loan originator is not renewed during the renewal period, a late fee of not more than one hundred dollars as prescribed by the board, in addition to the renewal fee in subsection (A)(2) of this section, must be assessed as a late fee to a renewal. If a licensee fails to renew its license within thirty days after the date the license expires or otherwise fails to maintain a valid license, the commissioner shall require the licensee to comply with the requirements for the initial issuance of a license pursuant to this chapter, in addition to paying any fee that has accrued.

(C) At any time required by the commissioner, each person described in Section 37‑22‑140 shall furnish to the commissioner consent to a national and state fingerprint‑based criminal history record check and a set of fingerprints in a form acceptable to the commissioner. Refusal to consent to a criminal history record check may constitute grounds for the commissioner to deny renewal of the license of the person as well as the license of another person by which he is employed, over which he has control, or as to which he is the current or proposed managing principal or a current or proposed branch manager.

(D) A license issued pursuant to this chapter is not assignable or transferable. Control of a licensee must not be acquired through a stock purchase or other device without the prior written consent of the commissioner. The commissioner may not give written consent if the commissioner finds that any of the grounds for denial, revocation, or suspension of a license pursuant to Section 37‑22‑200 are applicable to the acquiring person.

Section 37‑22‑160. (A) As a condition of license renewal, a licensee must complete at least eight hours of continuing professional education annually for the purpose of enhancing professional competence and responsibility. The continuing professional education completed must be reported to the commissioner annually. Documentation of courses completed must be maintained by all licensees. This documentation is subject to inspection by the commissioner for up to two years after the date of course completion.

(B) Continuing education credit may be granted only for the year in which the class is taken and may not be granted for the same course in successive years.

(C) If a licensee fails to complete the continuing professional education before the license expiration date, his license expires and he shall pay a penalty of not more than one hundred dollars, in addition to other fees or penalties that have accrued, to reinstate the license.

(D) All prelicensing education, continuing education, and written examinations must be approved through the Nationwide Mortgage Licensing System and Registry, pursuant to 12 U.S.C. 5101 et seq. before credit can be awarded. Applicants and licensees that successfully complete education or testing approved through the Nationwide Mortgage Licensing System and Registry fulfill the requirements of this State.

Section 37‑22‑170. A mortgage lender licensed pursuant to this chapter shall have a managing principal who operates the business under that manager’s full charge, control, and supervision. A mortgage lender may operate a branch office subject to the requirements of this chapter. Each principal and branch office of a mortgage lender licensed pursuant to this chapter shall have a branch manager who meets the requirements of Section 37‑22‑140(B) and (C)(1). Each mortgage lender licensed pursuant to this chapter shall file a form prescribed by the commissioner indicating the business’s designation of managing principal and branch manager for each branch and their acceptance of the responsibility. The managing principal for a licensee’s business also may serve as the branch manager of one of the licensee’s branch offices. A mortgage lender licensed pursuant to this chapter shall notify the commissioner of a change in its managing principal or any branch manager. The license of a licensee who does not comply with this provision must be suspended pursuant to Section 37‑22‑200 until the licensee complies with this section. A licensee who operates as a sole proprietorship is a managing principal for the purposes of this chapter.

Section 37‑22‑180. (A) A licensee shall report to the commissioner a change of address of the principal place of business or a branch office at least seven days before the change. Change of address notification of a licensed location must be accompanied by a fee of twenty‑five dollars.

(B) A mortgage lender licensed pursuant to this chapter shall display in plain view in its principal office and in each branch the license issued by the commissioner. A loan originator licensed pursuant to this chapter shall display in each branch office in which mortgage loans are originated a copy of the license issued by the commissioner.

Section 37‑22‑190. (A) In addition to the activities prohibited by other provisions of state or federal law, it is unlawful for a person licensed pursuant to this chapter, in the course of a mortgage loan origination, to:

(1) misrepresent or conceal the material facts or make false promises likely to influence, persuade, or induce an applicant for a mortgage loan or a mortgagor to take a mortgage loan, or to pursue a course of misrepresentation through agents or otherwise;

(2) refuse improperly or fail to issue a satisfaction of a mortgage pursuant to Section 29‑3‑310;

(3) fail to account for or deliver to a person entitled to receive them funds, documents, or other things of value obtained in connection with a mortgage loan including money provided by a borrower for a real estate appraisal or a credit report, which the mortgage lender or loan originator is not entitled to retain under the circumstances;

(4) pay, receive, or collect in whole or in part any commission, fee, or other compensation for a mortgage loan origination in violation of this chapter including any unlicensed person other than an exempt person;

(5) charge or collect a fee or rate of interest or to make or service a mortgage loan with terms or conditions or in a manner contrary to the provisions of this chapter;

(6) advertise mortgage loans including rates, margins, discounts, points, fees, commissions, or other material information including material limitations on the loans, unless the person is able to make the mortgage loans available as advertised to qualified applicants;

(7) fail to disburse funds in good faith and in accordance with a written commitment or agreement to make a mortgage loan that has been accepted by the borrower;

(8) engage in a transaction, practice, or course of business in connection with the making or servicing of, or purchase or sale of, a mortgage loan that is not in good faith or fair dealing, that is unconscionable, as set forth in Section 37‑5‑108, or that constitutes a fraud upon a person;

(9) fail to pay reasonable fees within a reasonable time to a licensed third party for services that are:

(a) requested from the third party in writing by the mortgage lender or an employee of the mortgage lender; and

(b) performed by the third party in connection with the origination or closing of a mortgage loan for a customer or mortgage lender;

(10) influence or attempt to influence through coercion, extortion, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan. This item does not prohibit a mortgage lender or servicer from asking the appraiser to do one or more of the following:

(a) consider additional appropriate property information;

(b) provide further detail, substantiation, or explanation for the appraiser’s value conclusion; or

(c) correct errors in the appraisal report;

(11) fail to comply with the mortgage loan servicing transfer, escrow account administration, or borrower inquiry response requirements imposed by Sections 6 and 10 of the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. Section 2605 and Section 2609, and regulations adopted pursuant to them by the Secretary of the Department of Housing and Urban Development and state law;

(12) fail to provide within a reasonable time, upon written request of a borrower, a payment history statement in a form easily understood by the borrower including payment dates and amounts and charges within the twelve months preceding the month in which the request is received and the total amount unpaid as of the end of the period covered by the statement. The statement must be provided without charge once during each year of the term of the obligation. If additional statements are requested, the borrower may be charged a reasonable fee, not to exceed five dollars for each additional statement;

(13) take a security interest in a borrower’s principal dwelling where the amount of the mortgage loan is less than five thousand dollars;

(14) fail to provide disclosures as required by state or federal law or collect any fee before providing required disclosures;

(15) fail to comply with this chapter or other state or federal law including rules and regulations applicable to business regulated by this chapter;

(16) falsely advertise or misuse names in violation of 18 U.S.C. Section 709 or state law; or

(17) use any trade name or insignia of membership in an organization of which the licensee is not a member or advertise falsely through any material including, but not limited to, business card, stationary, or signage concerning a designation or certification of special education, credentials, trade organization membership, or business.

(B) A violation of a state or federal law applicable to a business covered by this chapter is a violation of this chapter and may be enforced by the commissioner.

Section 37‑22‑200. (A) The commissioner, by order, may deny, suspend, revoke, or refuse to issue or renew a license of a licensee or applicant pursuant to this chapter or may restrict or limit the activities relating to mortgage loans of a licensee or a person who owns an interest in or participates in the business of a licensee, if the commissioner finds that both:

(1) the order is in the public interest; and

(2) the applicant, licensee, or any partner, member, manager, officer, director, loan originator, managing principal, or other person occupying a similar status or performing similar functions or a person directly or indirectly controlling the applicant or licensee:

(a) has filed an application for license that, as of its effective date or as of a date after filing, contained a statement that, in light of the circumstances under which it was made, is false or misleading with respect to a material fact;

(b) has violated or failed to comply with a provision of this chapter or order of the commissioner;

(c) within the past ten years has been convicted of, or pled guilty or nolo contendere to, a misdemeanor involving financial services or financial services related business or an offense involving breach of trust or fraudulent or dishonest dealing, or money laundering or has been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court;

(d) is permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing conduct or practice involving financial services or financial services related business;

(e) is the subject of an order of the commissioner denying, suspending, or revoking that person’s license;

(f) is the subject of an order entered by the authority of a governmental entity with jurisdiction over the financial services or financial services related industry denying or revoking that person’s license;

(g) does not meet the qualifications or the financial responsibility, character, or general fitness requirements, or a bond or capital requirements, pursuant to this chapter;

(h) has been the executive officer or controlling shareholder or owned a controlling interest in a financial services or financial services related business that has been subject to an order or injunction described in subitems (d), (e), or (f);

(i) has failed to pay the proper filing or renewal fee pursuant to this chapter or a fine, penalty, or fee imposed by any governmental entity. However, the commissioner may enter only a denial order pursuant to this subitem, and the commissioner shall vacate the order when the deficiency is corrected; or

(j) has falsely certified attendance or completion of hours at an approved education course.

(B) The commissioner, by order, summarily may postpone or suspend the license of a licensee pending final determination of a proceeding pursuant to this section. Upon entering the order, the commissioner shall notify promptly the applicant or licensee that the order has been entered, the reasons for the order, and the procedure for requesting a hearing before the Administrative Law Court. If a licensee does not request a hearing and the commissioner does not request a hearing, the order remains in effect until it is modified or vacated by the commissioner.

(C) The commissioner, by order, may impose an administrative penalty upon a licensee or any member, partner, officer, director, or other person occupying a similar status or performing similar functions on behalf of a licensee for a violation of this chapter. The administrative penalty may not exceed ten thousand dollars for each violation of this chapter by a licensee. The commissioner may impose an administrative penalty that may not exceed ten thousand dollars for each violation of this chapter by a person other than a licensee or exempt person.

(D) In addition to other powers pursuant to this chapter, upon finding that an action of a person is in violation of this chapter, the commissioner may order the person to cease from the prohibited action. If the person subject to the order fails to request a contested case hearing in accordance with Section 37‑22‑130, or if the person requests the hearing and it is denied or dismissed, and the person continues to engage in the prohibited action in violation of the commissioner’s order, the person is subject to an administrative penalty that may not exceed twenty‑five thousand dollars for each violation of the commissioner’s order. The penalty provision of this section is in addition to and not instead of another provision of law for failure to comply with an order of the commissioner.

(E) Unless otherwise provided, all actions and hearings pursuant to this chapter are governed by Chapter 23, Title 1.

(F) If a licensee is accused of any act, omission, or misconduct that subjects the licensee to disciplinary action, the licensee, with the consent and approval of the commissioner, may surrender the license and the rights and privileges pertaining to it and is not eligible to receive, or to submit an application for, licensure for a period of time established by the commissioner.

(G) If the commissioner has reasonable grounds to believe that a licensee or other person has violated this chapter or that facts exist that would be the basis for an order against a licensee or other person, the commissioner, either personally or by a person duly designated by the commissioner, at any time may investigate or examine the loans and business of the licensee and examine the books, accounts, records, and files of the licensee or other person relating to the complaint or matter under investigation. The reasonable cost of this investigation or examination must be charged against the licensee. The commissioner may require the licensee or other person to submit a consent to a national and state fingerprint‑based criminal history record check and a set of that person’s fingerprints in a form acceptable to the commissioner in connection with an examination or investigation. Refusal to submit the requested criminal history record check or a set of fingerprints is grounds for disciplinary action.

(H) The commissioner may subpoena documents and witnesses and compel their production and attendance, to examine under oath all persons whose testimony the commissioner considers relative to the person’s business and require the production of books, papers, or other materials.

(I) The commissioner, at the licensee’s expense, may conduct routine examinations of the books and records of a licensee to determine compliance with this chapter.

(J) The commissioner shall cooperate and share information with an agency of this State, other states, or the federal government concerning activity regulated by this chapter. The commissioner shall accept or participate in examinations conducted by one of these agencies.

(K) In addition to the authority described in this section, the commissioner may require a person to pay to a borrower or other natural person amounts received by the person or its employees in violation of this chapter.

(L) If the commissioner finds that the managing principal, branch manager, or loan originator of a licensee had knowledge of, or reasonably should have had knowledge of, or participated in an activity that results in the entry of an order suspending or withdrawing the license of a licensee, the commissioner may prohibit the branch manager, managing principal, or loan originator from serving as a branch manager, managing principal, or loan originator for the period of time the commissioner considers necessary.

(M) Orders issued by the commissioner or by the Administrative Law Court pursuant to this chapter must be reported by the commissioner to the Nationwide Mortgage Licensing System and Registry.

Section 37‑22‑210. (A) The commissioner shall keep a list of all applicants for licensure pursuant to this chapter which includes the date of application, name, and place of residence and whether the license was granted or refused.

(B) The commissioner shall keep a current roster containing the names and places of business of all licensees and containing their respective loan originators. The rosters must: (i) be kept on file in the office of the commissioner; (ii) contain information regarding all orders or other action taken against the licensees, loan originators, and other persons; and (iii) be open to public inspection.

(C)(1) A licensee shall make and keep the accounts, correspondence, memoranda, papers, books, and other records prescribed by the commissioner. Records must be preserved for three years unless the commissioner prescribes otherwise for particular types of records. A licensee should develop, maintain, and test disaster recovery plans for all records that are maintained. The recordkeeping requirements imposed by the commissioner or this subsection must not be greater than those imposed by applicable state or federal law. Licensee’s records may be maintained electronically, if approved by the commissioner, so long as they are readily accessible for examination by the commissioner.

(2) Beginning on January 1, 2010, in addition to the records required to be maintained by licensees pursuant to subitem (1), each licensee shall maintain a mortgage log that contains these specific data elements: (i) credit score of the borrower, (ii) adjustable or fixed type of the loan, (iii) term of the loan, (iv) annual percentage rate of the loan, and (v) appraised value of the collateral. Each licensee shall submit to the commissioner by March thirty‑first of each year its mortgage log data and the data identified in 12 C.F.R. Part 203 et seq., in a form determined by the commissioner. The licensee shall pay a fine of one hundred dollars a day for late or incomplete data submissions. Data collected by the commissioner pursuant to this section is confidential and may be released to the public only in composite form. The commissioner annually shall submit to the department, in a form prescribed by the department and no later than April thirtieth, the data that it collected. The department shall prepare and make available to the public a report based on the data. The report must be available by June thirtieth each year.

(D) If the information contained in a document filed with the commissioner is or becomes inaccurate or incomplete in a material respect, the licensee promptly shall file a correcting amendment to the information contained in the document.

(E) A licensee shall maintain in a segregated escrow fund or trust account funds that come into the licensee’s possession, but which are not the licensee’s property and which the licensee is not entitled to retain under the circumstances. The escrow fund or trust account must be held on deposit in a federally insured financial institution. Escrow funds must be accounted for in compliance with the rules under RESPA.

(F) A licensee clearly shall display the unique identifier assigned by the Nationwide Mortgage Licensing System and Registry on all mortgage loan forms, solicitations, or advertisements including business cards or websites and any other documents furnished in connection with a mortgage loan transaction.

(G) A licensee ceasing activities regulated by this chapter and desiring no longer to be licensed shall inform the commissioner at least seven days in advance. The licensee shall include with the notification a plan of withdrawal that includes a timetable for the disposition of the business, the location of the books, records, and accounts until the end of the retention period, and certification of the proper disposal of those records after that.

Section 37‑22‑220. (A) A licensee shall maintain records in conformity with generally accepted accounting principles and practices in a manner that will enable the commissioner to determine if the licensee is complying with the provisions of this chapter and other state and federal laws. The recordkeeping system of a licensee is sufficient if it makes the required information reasonably available. The records need not be kept in the place of business where loans are made if the commissioner is given free access to the records wherever located and the licensee pays the reasonable cost of their examination.

(B) On or before March thirty‑first each year, a licensee shall file with the commissioner an annual report in the form prescribed by the commissioner relating to all mortgage loans made, serviced, or brokered by it. The licensee shall pay a fine of one hundred dollars a day for each late or incomplete annual reports.

(C) The mortgage loan report shall include, but is not limited to, the total number and dollar amounts in connection with all mortgage loans, of:

(1) first and subordinate lien loans originated by licensee and closed in the name of another party;

(2) first and subordinate lien loans originated by another party and closed in the name of the licensee;

(3) first and subordinate lien loans originated by and closed in the name of the licensee;

(4) first and subordinate lien loans originated by and closed in the name of another party but funded by licensee;

(5) loans purchased by licensee;

(6) first and subordinate lien loans serviced by licensee;

(7) loans owned with and without servicing rights;

(8) loans sold with and without servicing rights;

(9) loans paid off before and at maturity;

(10) unpaid loans at the beginning and end of the reporting year;

(11) delinquent loans that are 30‑59, 60‑89, and ninety days or more delinquent, of all the loans the licensee owned as of December thirty‑first;

(12) loans in foreclosure as of December thirty‑first and foreclosed in the previous calendar year by licensee;

(13) mortgage loans charged against reserve for loan losses as a result of foreclosures during the reporting year; and

(14) loans repurchased during the previous calendar year.

(D) The annual report also must include the total gross revenue earned in this State under this license, the total dollar amount of points paid to the licensee by borrowers on first and subordinate lien mortgage loans, the total dollar amount of points paid to brokers by the licensee on first and subordinate lien mortgage loans, including yield spread premiums, and the lending institution, maximum amount available, outstanding balance, and expiration date of licensee’s four largest warehouse lines of credit during the previous calendar year.

(E) Information contained in annual reports is confidential and may be published only in composite form.

(F) The commissioner annually shall submit to the department, in a form prescribed by the Department of Consumer Affairs and no later than April thirtieth, the data that it collected. The department shall prepare and make available to the public a report based on the data. The report must be available by June thirtieth each year.

Section 37‑22‑230. A person who wilfully violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than six months, or both, for each violation. Each transaction involving the unlawful making or servicing of a mortgage loan is a separate offense.

Section 37‑22‑240. (A) The South Carolina Law Enforcement Division (SLED) shall provide a criminal history record check to the commissioner for a person who has applied for or holds a mortgage lender or loan originator license through the commissioner pursuant to this chapter.

(B) In addition, if a person described in subsection (A) is a corporation, partnership, limited liability company, association, or trust, SLED shall provide a criminal history record check to the commissioner for a person who has control of that person, or who is the managing principal or a branch manager of that person.

(C) The commissioner shall provide to SLED, along with the request, the fingerprints of the person, additional information required by SLED, records check fees required by SLED and the Federal Bureau of Investigation (FBI), and a form signed by the person consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the state or national repositories. Using the information supplied by the commissioner to SLED, the applicant must undergo a state criminal records check, supported by fingerprints, by SLED, and a national criminal records check, supported by fingerprints, by the FBI. The results of these criminal records checks must be reported to the commissioner. SLED is authorized to retain the fingerprints for certification purposes and for notification of the commissioner regarding subsequent criminal charges which may be reported to SLED or the FBI or both. The commissioner shall keep all information pursuant to this section privileged, in accordance with applicable state and federal guidelines.

Section 37‑22‑250. All funds specified in this chapter must be paid to the commissioner, must be used to implement the provisions of this chapter, and are nonrefundable.

Section 37‑22‑260. (A) The commissioner may promulgate regulations necessary to effectuate the purposes of this chapter.

(B) For the purpose of participating in the Nationwide Mortgage Licensing System and Registry, the commissioner may waive or modify, in whole or in part, by rule, regulation, or order, any or all of the requirements of this chapter and establish new requirements as reasonably necessary to participate in the Nationwide Mortgage Licensing System and Registry.

(C) For the purposes of implementing an orderly and efficient licensing process, the commissioner may establish licensing rules or regulations and interim procedures for licensing and acceptance of applications. For previously registered or licensed individuals, the commissioner may establish expedited reviews, expedited licensing procedures, and grandfather provisions.

Section 37‑22‑270. (A) The commissioner may participate in a Nationwide Mortgage Licensing System and Registry and may:

(1) facilitate and participate in the establishment and implementation of the Nationwide Mortgage Licensing System and Registry;

(2) enter into agreements and contracts including cooperative, coordinating, and information sharing agreements;

(3) contract with third parties to process, maintain and store information collected by the Nationwide Mortgage Licensing System and Registry;

(4) authorize the Nationwide Mortgage Licensing System and Registry to collect fingerprints on the commissioner’s behalf in order to receive national and state criminal history background records checks from the FBI and SLED and furnish the fingerprints to SLED to retain for certification purposes and for notification of the commissioner regarding subsequent criminal charges which may be reported to SLED, or the FBI or both in accordance with Sections 37‑22‑140 and 37‑22‑240;

(5) authorize the Nationwide Mortgage Licensing System and Registry to collect credit reports on the commissioner’s behalf for all licensees in accordance with Section 37‑22‑140;

(6) require persons that must be licensed by this chapter to utilize the Nationwide Mortgage Licensing System and Registry;

(7) require all applicants and licensees to pay all applicable funds provided for in this chapter through the Nationwide Mortgage Licensing System and Registry;

(8) provide information to and receive information from the Nationwide Mortgage Licensing System and Registry;

(9) authorize a third party to collect funds associated with licensure on behalf of the commissioner; and

(10) authorize the Nationwide Mortgage Licensing System and Registry to collect and disburse consumer complaints.

(B) Persons required to be licensed pursuant to this chapter must be required to pay all applicable fees to utilize the Nationwide Mortgage Licensing System and Registry and consent to utilizing the Nationwide Mortgage Licensing System and Registry to obtain fingerprint‑based criminal history background records checks and credit reports.

(C) The commissioner shall provide licensees with written notice sent to the address of record on file with the commissioner through the United States Postal Service the date the Nationwide Mortgage Licensing System and Registry will be available for their use. Licensees shall have one hundred and twenty days from the date the system is available for use to enter all their licensing information into the Nationwide Mortgage Licensing System and Registry. All filings required by the commissioner pursuant to this chapter after the date the system is available for use must be made through the Nationwide Mortgage Licensing System and Registry, except for exempt persons.

(D) All licensees licensed through the Nationwide Mortgage Licensing System and Registry must use the unique identifier assigned in all advertising and on all mortgage loan documents.

(E) Notwithstanding another provision of law to the contrary, the Nationwide Mortgage Licensing System and Registry is not intended to and does not replace or affect the commissioner’s authority to grant, suspend, revoke, or deny a license required pursuant to this chapter.

(F) The Commissioner shall develop a plan that ensures an orderly transition to the Nationwide Mortgage Licensing System and Registry. This transition plan must address issues of prelicensing education, written examinations, credit reports, and national and state fingerprint‑based criminal histories and record checks.”

SECTION 3.A. Section 34‑1‑20 of the 1976 Code, as last amended by Act 252 of 2006, is further amended to read:

“Section 34‑1‑20. The State Board of Financial Institutions is composed of ~~ten~~ eleven members, one of whom is the State Treasurer as an ex officio member and as the chairman. The remaining ~~nine~~ ten members must be appointed by the Governor with the advice and consent of the Senate. Four must be engaged in banking and recommended by the South Carolina Bankers Association, one must be recommended by the association of supervised lenders, one must be engaged in the mortgage lending business and recommended by the Mortgage Bankers Association of the Carolinas, one must be engaged in the licensed consumer finance business as a restricted lender or a supervised lender and recommended by the Independent Consumer Finance Association, two must be engaged in the cooperative credit union business and recommended by the State Cooperative Credit Union League, and one must be unaffiliated with a financial organization and serve as a representative of the consumer of the State. The terms of the present members are not affected. Each member shall represent the best interests of the public and shall not serve more than two consecutive four‑year terms. The association which is to provide a member to fill a vacancy on the board, except for a consumer representative, shall submit three names, from three different institutions, from which the Governor shall select one.”

B. Section 34‑1‑110(A) of the 1976 Code, as last amended by Act 42 of 1999, is further amended to read:

“(A) Notwithstanding any other provision of law and in addition to all of the powers granted under Chapters 1 through 31 ~~of~~ , Title 34 and Chapter 3 ~~of~~ , Title 37, the State Board of Financial Institutions, by regulation or by issuing operational instructions, may permit:

(1) state‑chartered banks to engage in any activity authorized for national banks by federal law or regulation of the Comptroller of the Currency or for state‑chartered savings and loan associations by this title or regulation or operational instruction of the State Board of Financial Institutions;

(2) state‑chartered savings and loan associations to engage in any activity authorized for federally~~‑~~chartered savings and loan associations by federal law or regulation of the Office of Thrift Supervision or for state‑chartered banks by this title or regulation or operational instruction of the State Board of Financial Institutions;

(3) cooperative credit unions to engage in any activity authorized for federally~~‑~~chartered credit unions by federal law or by regulation of the National Credit Union Administration; ~~and~~

(4) consumer finance companies operating pursuant to a license to make supervised loans as provided in Part 5, Chapter 3, Title 37, to engage in any lending activity authorized for supervised financial organizations by law or by regulation of an agency given supervisory authority over those institutions, except where otherwise restricted by statute~~.~~ ; and

(5) mortgage lenders and loan originators operating pursuant to a license to make mortgage loans as provided in Chapter 22, Title 37, to engage in a mortgage lending activity authorized for licensed mortgage lenders and loan originators by law or by regulation of an agency given supervisory authority over those institutions, except where otherwise restricted by statute.”

SECTION 4.A. Section 37‑1‑301(29) of the 1976 Code is amended to read:

“(29) ‘Licensee’ means ~~a supervised lender licensed under Section 37‑3‑503~~ a person licensed pursuant to this title.”

B. Section 37‑3‑105(3) of the 1976 Code is amended to read:

“(3) Loans excluded from the definition of a ‘consumer loan’ pursuant to subsection (1) also are subject to the provisions of Chapter 7, Chapter 10, Chapter 22, and Chapter 23 of this title.”

C. Section 37‑3‑501(1) of the 1976 Code is amended to read:

“(1) ‘Supervised loan’ means a consumer loan in which the rate of the loan finance charge exceeds twelve percent per year as determined according to the provisions on the loan finance charge for consumer loans (Section 37‑3‑201). A supervised loan does not include a mortgage loan as defined in Section 37‑22‑110(29).”

D. Section 37‑23‑20(9), (10) and (12) of the 1976 Code, as added by Act 42 of 2003, is amended to read:

“(9) ‘High‑cost home loan’ means:

(a) a loan, other than an open‑end credit plan or a reverse mortgage transaction, in which the:

~~(a)~~(i) principal amount of the loan does not exceed the conforming loan size limit for a single‑family dwelling as established from time to time by the Federal National Mortgage Association;

~~(b)~~(ii) borrower is a natural person;

~~(c)~~(iii) debt is incurred by the borrower primarily for personal, family, or household purposes;

~~(d)~~(iv) loan is secured by either a security interest in a residential manufactured home, as defined in Section 37‑1‑301(24) which is to be occupied by the borrower as the borrower’s principal dwelling, or a mortgage on real estate upon which there is located or there is to be located a structure designed principally for occupancy from one to four families and which is or is to be occupied by the borrower as the borrower’s principal dwelling; and

~~(e)~~(v) terms of the loan exceed one or more of the ~~threshold~~ thresholds as defined in item (15) of this section~~.~~; or

(b) an adjustable rate mortgage at the fully indexed rate assuming a fully amortizing repayment schedule that would exceed one or more of the thresholds as defined in item (15) of this section.

(10) ‘Lender’ includes, but is not limited to, a mortgage broker ~~or a mortgage banker~~ originating a loan in a tablefunded loan transaction in which the broker ~~or banker~~ is identified as the original payee of the note.

(12) ‘Originator’ or ‘loan originator’ means an employee of a mortgage ~~loan~~ broker or mortgage lender whose primary job responsibilities include direct contact with ~~and~~ or informing loan applicants of the rates, terms, disclosure, ~~and~~ or other aspects of the mortgage. It does not mean an employee whose primary job responsibilities are clerical in nature, such as processing the loan.”

E. Section 37‑23‑20 of the 1976 Code, as added by Act 42 of 2003, is amended by adding:

“(17) An adjustable rate mortgage (ARM) is a mortgage in which the interest rate and monthly payment may vary over time.”

F. Section 37‑23‑40(2) of the 1976 Code, as added by Act 42 of 2003, is amended to read:

“(2) make a high‑cost home loan unless the lender reasonably believes at the time the loan is consummated that one or more of the obligors, when considered individually or collectively, is able to make the scheduled payments to repay the obligation based upon a consideration of their current and expected income, current obligations, employment status, and other financial resources other than the borrower’s equity in the dwelling that secures repayment of the loan. If the loan is an adjustable rate mortgage (ARM), the analysis of the obligor must include an evaluation of the ability to repay by final maturity at the fully indexed rate assuming a fully amortizing repayment schedule. An obligor is presumed to be able to make the scheduled payments to repay the obligation if, at the time the loan is consummated, the obligor’s total monthly debts, including amounts owed pursuant to the loan including, but not limited to, principal, interest, current property taxes, and current insurance, do not exceed fifty percent of the obligor’s monthly gross income as verified by the credit application, ~~the obligor’s financial statement, a credit report, financial information provided to the lender by or on behalf of the obligor, or another authoritative means~~ a credit report, and information provided to a lender by a third party, including the Internal Revenue Service (IRS). A presumption of inability to make the scheduled payments to repay the obligation does not arise solely from the fact that, at the time the loan is consummated, the obligor’s total monthly debts, including amounts owed under the loan, exceed fifty percent of the obligor’s monthly gross income;”

G. Section 37‑23‑45 of the 1976 Code, as added by Act 42 of 2003, is amended by adding:

“(4) for a loan that is an ARM as defined in Section 37‑23‑20(17), a listing of the schedule when the loan may be reset, for each and every reset, and a listing of the monthly payment that is owed for each change that is allowed by the terms of the contract. If the consumer escrows the insurance and taxes with each monthly payment, it must be reflected in the payment listed.”

H. Section 37‑23‑75 of the 1976 Code, as added by Act 42 of 2003, is amended by adding:

“(4) for a loan that is an ARM as defined in Section 37‑23‑20(17), a listing of the schedule when the loan may be reset, for each and every reset, and a listing of the monthly payment that is owed for each change that is allowed by the terms of the contract. If the consumer escrows the insurance and taxes with each monthly payment, it must be reflected in the payment listed.”

I. Section 29‑4‑20(1) and (3) of the 1976 Code is amended to read:

“(1) provides cash advances to a borrower based on the equity or future appreciation in value in a borrower’s owner‑occupied principal residence;

(3) is made by a lender authorized to engage in business as a bank, savings institution, or credit union under the laws of the United States or of South Carolina, or ~~authorized seller‑servicers selling mortgage loans to the Federal National Mortgage Association or to the Federal Home Loan Mortgage Corporation, or supervised lenders regulated by the State Board of Financial Institutions.~~ a mortgage lender licensed pursuant to Chapter 22, Title 37.”

SECTION 5. Chapter 58, Title 40 of the 1976 Code is amended to read:

“CHAPTER 58

~~Registration~~ Licensing of Mortgage ~~Loan~~ Brokers

Section 40‑58‑10. (A) This chapter may be cited as the Licensing of Mortgage Brokers ~~Requirements~~ Act ~~of Certain Brokers of Mortgages on Residential Real Property~~.

(B) ~~No~~ A person~~, partnership, corporation, banking organization, or other organization~~ ~~shall~~ may not broker a ~~residential~~ mortgage loan as defined in this chapter unless the broker of the mortgage loan:

(1) is an exempt person ~~or organization~~ as defined by Section 40‑58‑20(15); or

(2) has complied with the provisions of this chapter.

Section 40‑58‑20. As used in this chapter:

~~(1)~~ ~~‘Mortgage’ means a loan to a natural person made primarily for personal, family, or household use primarily secured by a mortgage on residential real property.~~

~~(2)~~ ~~‘Residential real property’ means real property located in this State upon which there is located or there is to be located one or more single family, owner‑occupied dwellings or dwelling units.~~

~~(3)~~ ~~‘Mortgage broker’ means a person or organization in the business of soliciting, processing, placing, or negotiating mortgages for others or offering to process, place, or negotiate mortgages for others. Mortgage broker also includes a person or organization who brings borrowers or lenders together to obtain mortgages or renders a settlement service as described in 24 CFR Part 3500.2(a)(16)(ii).~~

~~(4)~~ ~~‘Soliciting, processing, placing, or negotiating a mortgage loan’ means for compensation or gain, either directly or indirectly, accepting or offering to accept an application for a mortgage, assisting or offering to assist in the processing of an application for a mortgage, soliciting or offering to solicit a mortgage on behalf of a third party, or negotiating or offering to negotiate the terms or conditions of a mortgage with a lender on behalf of a third party.~~

~~(5)~~ ~~‘Exempt person or organization’ means:~~

~~(a)~~ ~~a bank, bank holding company, credit union, savings and loan association, savings and loan association holding company, their affiliates and subsidiaries, a supervised licensed lender under Title 37 and a restricted lender under Title 34 and their affiliates and subsidiaries, a Department of Housing and Urban Development or Federal Housing Administration approved mortgagee authorized, chartered, licensed, or approved under the laws of this State or of the United States or an instrumentality of them; or persons or organizations which sell or place all of their conventional mortgages on real property with federally insured and/or regulated financial institutions including, but not limited to, banks, savings and loan associations, and credit unions.~~

~~(b)~~ ~~an attorney at law licensed to practice law in South Carolina who is not engaged principally in negotiating mortgages when the attorney renders services in the course of his practice as an attorney at law;~~

~~(c)~~ ~~a person employed by an organization defined in subitem (a) of this item;~~

~~(d)~~ ~~title company which is qualified to issue title insurance, directly or through its agents.~~

~~(6)~~ ~~‘Licensee’ means a person or organization who is licensed pursuant to Section 40‑58‑50 which engages in the business of soliciting, processing, placing, or negotiating mortgages for others or offering to process, place, or negotiate mortgages for others. Licensee includes mortgage brokers as defined in item (3) and originators as defined in item (14).~~

~~(7)~~ ~~‘Administrator’ means the administrator of the Department of Consumer Affairs of this State.~~

~~(8)~~ ~~‘RESPA’ means the Real Estate Settlement Procedures Act of 1974, 12 USC Section 2601 et seq., as amended.~~

~~(9)~~ ~~‘Recasting’ means a promise for an individual to recoup a home sold to a third party with the intent of the original seller to rent back the property for a specific time at which the original seller will have the option to purchase the property back at a specific price. The specific period of time would normally be one year.~~

~~(10)~~ ~~‘HUD’ means the Department of Housing and Urban Development.~~

~~(11)~~ ~~‘Department’ means the South Carolina Department of Consumer Affairs.~~

~~(12)~~ ~~‘Regular business hours’ means open for business not less than thirty hours a week, Monday through Friday.~~

~~(13)~~ ~~‘Satellite office’ means a location at which a mortgage broker may conduct mortgage broker business other than at a location that is open for regular business hours and is not required to be staffed full time by one or more employees who have the authority to contract on behalf of the broker and to accept service on behalf of the broker.~~

~~(14)~~ ~~‘Originator’ means an employee of a mortgage broker whose primary job responsibilities include direct contact with and informing mortgage applicants of the rates, terms, disclosure, and other aspects of the mortgage, including accepting or offering to accept applications for mortgages. It does not mean an employee, including processors, whose job responsibilities are limited to clerical and administrative tasks and who does not solicit borrowers or negotiate the rates, terms, disclosure, or other aspects of a mortgage on behalf of the employer which do not require licensure.~~

~~(15)~~ ~~‘Processor’ means an employee of a mortgage broker whose primary job responsibilities are mortgage processing and may include direct contact with applicants but does not include informing applicants of rates, terms, disclosure, or solicitation of mortgages.~~

(1) ‘Act as a mortgage broker’ means to act, for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, by: (i) soliciting, processing, placing, or negotiating a mortgage loan for a borrower from a mortgage lender or depository institution or offering to process, place, or negotiate a mortgage loan for a borrower from a mortgage lender or depository institution, (ii) engaging in tablefunding of mortgage a loan, or (iii) acting as a loan correspondent, as that term is defined in 24 C.F.R. Part 202 et seq., whether those acts are done by telephone, by electronic means, by mail, or in person with the borrowers or potential borrowers. ‘Act as a mortgage broker’ also includes bringing a borrower and lender together to obtain mortgage loan or rendering a settlement service as described in 12 U.S.C. 2602(3) and 24 C.F.R. Part 3500.2(b).

(2) ‘Act as a mortgage lender’ means to engage in the business of making or servicing mortgage loan for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, including soliciting, processing, placing, or negotiating a mortgage loan.

(3) ‘Administrator’ means the administrator of the Department of Consumer Affairs (department) or the administrator’s designees.

(4) ‘Advertising’ means a commercial message in a medium that promotes, either directly or indirectly, a mortgage loan transaction.

(5) ‘Affiliate’ means a company that controls, is controlled by, or is under common control with another company, as set forth in the Bank Holding Company Act of 1956 (12 U.S.C. Section 1841 et seq.). For purposes of this item, the term ‘control’ means ownership of all of the voting stock or comparable voting interest of the controlled person.

(6) ‘Borrower’ means a natural person in whose dwelling a security interest is or is intended to be retained or acquired if that person’s ownership interest in the dwelling is or is to be subject to the security interest.

(7) ‘Branch manager’ means the natural person who is in charge of and who is responsible for the business operations of a branch office of a licensee.

(8) ‘Branch office’ means an office of the licensee that is separate and distinct from the licensee’s principal office.

(9) ‘Control’, except as provided in item (5), means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. A person is presumed to have ‘control’ of a company if that person, (i) is a director, general partner or executive officer, (ii) directly or indirectly has the right to vote ten percent or more of a class of a voting security or has the power to sell or direct the sale of ten percent or more of a class of voting securities, (iii) in the case of an LLC, is the managing member, or (iv) in the case of a partnership, has the right to receive upon dissolution, or has contributed, ten percent or more of the capital.

(10) ‘Depository institution’ has the same meaning as in Section 3 of the Federal Deposit Insurance Act (12 U.S.C. Section 1811, et. seq.), and includes a credit union.

(11) ‘Dwelling’ means the same as the term ‘dwelling’ means in Section 226.2(a)19 of Title 12 of the Code of Federal Regulations and the Federal Reserve Board’s Official Staff Commentary to that section.

(12) ‘Employee’ means a natural person who has an employment relationship, acknowledged by both the natural person and the mortgage broker, and is treated like an employee for purposes of compliance with the federal income tax laws.

(13) ‘Escrow account’ means an account that a mortgage lender establishes or controls on behalf of a borrower to pay taxes, insurance premiums including flood insurance, or other charges with respect to a mortgage loan, including charges that the borrower and mortgage lender have voluntarily agreed that the mortgage lender collects and pays. The definition encompasses an account established for this purpose. For purposes of this item, the term ‘escrow account’ excludes an account that is under the borrower’s total control.

(14) ‘Escrow funds’ means money entrusted to a mortgage lender by a borrower for the purpose of payment of taxes and insurance or other payments to be made in connection with the servicing of a mortgage loan.

(15) ‘Exempt person’ means:

(a) an employee of a licensee whose responsibilities are limited to clerical and administrative tasks for the employer and who does not solicit borrowers, accept applications, or negotiate the terms of loans on behalf of the employer;

(b) a depository institution or a subsidiary that is wholly owned and controlled by the depository institution and regulated by a federal banking agency or an institution regulated by the Farm Credit Administration. This chapter does not apply to the exempt persons described in this subitem;

(c) an officer, registered loan originator or employee of an exempt person described in subitem (b) of this section when acting in the scope of employment for the exempt person;

(d) a person who offers or negotiates terms of a mortgage loan with or on behalf of an immediate family member of the individual;

(e) an individual who offers or negotiates terms of a mortgage loan secured by a dwelling that served as the person’s residence;

(f) a natural person who sells residential real estate and who lends or services, in one calendar year, no more than five purchase money notes secured by mortgages, deeds of trust, or other security instruments on the real estate sold as security for the purchase money obligation, unless the United States Department of Housing and Urban Development or a court of competent jurisdiction determines that this exemption is not in compliance with the SAFE Act pursuant to Section 1508 of Title V of The Housing and Economic Recovery Act of 2008, Public Law 110‑289;

(g) an employee whose employment as a processor or underwriter is undertaken pursuant to the direction and supervision of a licensee or exempt person except when the processor or underwriter is working as an independent contractor;

(h) an attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney’s representation of the client, unless the attorney is compensated by a mortgage lender, a mortgage broker, or other mortgage loan originator or by an agent of the mortgage lender, mortgage broker, or other mortgage loan originator;

(i) an attorney who works for a mortgage lender, pursuant to a contract, for loss mitigation efforts or third party independent contractor who is HUD‑certified, Neighborworks‑certified, or similarly certified, who works for a mortgage lender, pursuant to a contract, for loss mitigation efforts; or

(j) a manufactured home retailer and its employees if performing only administrative or clerical tasks in connection with the sale or lease of a manufactured home and the manufactured home retailer and its employees receive no compensation or other gain from a mortgage lender or a mortgage broker for the performance of the administrative or clerical tasks.

(16) ‘Federal banking agencies’ means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(17) ‘Financial Services or financial services related’ means pertaining to securities, commodities, banking, insurance, consumer lending, or real estate including, but not limited to, acting as or being associated with a bank or savings association, credit union, mortgage lender, mortgage servicer, mortgage broker, real estate broker, real estate salesperson or agent, closing agent, title company, or escrow agent.

(18) ‘Immediate family member’ means a spouse, child, sibling, parent, grandparent, or grandchild including stepparents, stepchildren, stepsiblings, and adoptive relationships.

(19) ‘Individual servicing a mortgage loan’ means an employee of a mortgage lender licensed in this State, that:

(a) collects or receives payments including payments of principal, interest, escrow amounts, and other amounts due on existing obligations due and owing to the licensed mortgage lender for a mortgage loan when:

(i) the borrower is in default; or

(ii) the borrower is in reasonably foreseeable likelihood of default;

(b) works with the borrower and the licensed mortgage lender, collects data, and makes decisions necessary to modify, either temporarily or permanently, certain terms of those obligations; or

(c) otherwise finalizes collection through the foreclosure process.

(20) ‘Licensee’ means a person who is licensed pursuant to this chapter.

(21) ‘Loan commitment’ or ‘commitment’ means a statement, written or electronic, by the mortgage lender setting forth the terms and conditions upon which the mortgage lender is willing to make a particular mortgage loan to a particular borrower.

(22) ‘Loan originator’ means a natural person who, in exchange for compensation or gain or in the expectation of compensation or gain as an employee of a licensed mortgage broker, solicits, negotiates, accepts, or offers to accept applications for mortgage loans, including electronic applications, or includes direct contact with, or informing mortgage loan applicants of, the rates, terms, disclosures, and other aspects of the mortgage loan. The definition of ‘loan originator’ does not include an exempt person described in item (15) of this section or a person solely involved in extensions of credit relating to timeshare plans, as that term is defined in section 101(53D) of Title 11, United States Code. The definition of loan originator does not apply to an individual servicing a mortgage loan as that term is defined in this chapter until July 31, 2011, unless the United States Department of Housing and Urban Development or a court of competent jurisdiction determines before that time that those individuals servicing mortgage loans are ‘loan originators’ as that term is defined in the SAFE Act pursuant to Section 1508 of Title V of The Housing and Economic Recovery Act of 2008, Public Law 110‑289.

(23) ‘Make a mortgage loan’ means to close a mortgage loan, advance funds, offer to advance funds, or make a commitment to advance funds to a borrower under a mortgage loan.

(24) ‘Managing principal’ means a natural person who meets the requirements of Section 40‑58‑50(B) and who agrees to be primarily responsible for the operations of a licensed mortgage broker.

(25) ‘Mortgage broker’ means a person who acts as a mortgage broker, as that term is defined in subitem (1) of this section.

(26) ‘Mortgage lender’ means a person who acts as a mortgage lender as that term is defined in subitem (2) of this section or engages in the business of servicing mortgage loans for others or collecting or otherwise receiving mortgage loan payments directly from borrowers for distribution to another person. This definition does not include engaging in a tablefunded transaction.

(27) ‘Mortgage loan’ means a loan made to a natural person primarily for personal, family, or household use, primarily secured by a mortgage, deed of trust, or other security interest on residential real property or security interest arising under an installment sales contract or equivalent security interest against the borrower’s dwelling and: (i) located in South Carolina, (ii) negotiated, offered or otherwise transacted within this State, in whole or in part, or (iii) made or extended within this State.

(28) ‘Nationwide Mortgage Licensing System and Registry’ means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators of licensees licensed pursuant to this chapter.

(29) ‘Nontraditional mortgage product’ means a mortgage product other than a thirty‑year fixed rate mortgage loan.

(30) ‘Person’ means a natural person, partnership, limited liability company, limited partnership, corporation, association, or other group engaged in joint business activities, however organized.

(31) ‘Processor or underwriter’ means an employee of a mortgage broker, mortgage lender, or exempt person who performs clerical or support duties at the direction of and subject to the supervision and instruction of a licensee or exempt person and may include direct contact with applicants but does not include soliciting, negotiating, accepting, or offering to accept applications that include personal identifying information as defined in Section 16‑13‑510(D) for mortgage loans including electronic applications or informing applicants of the rates, terms, disclosures, and other aspects of the mortgage loan.

(a) Clerical or support duties may include after the receipt of an application: (i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a mortgage loan, and (ii) communication with a consumer to obtain the information necessary for the processing or underwriting of a mortgage loan, to the extent that the communication does not include offering or negotiating loan rates or terms or counseling consumers about mortgage loans.

(b) A person engaging solely in loan processor or underwriter activities may not represent to the public, through advertising or other means of communicating or providing information including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items that the person may or will perform any of the activities of a loan originator.

(c) A processor or underwriter who is an independent contractor may not engage in the activities of a processor or underwriter unless the independent contractor processor or underwriter obtains and maintains a license as provided by rule or regulation pursuant to Section 40‑58‑100.

(32) ‘Registered loan originator’ means a natural person who meets the definition of loan originator and is an employee of a depository institution or a subsidiary that is wholly owned and controlled by the depository institution and regulated by a federal banking agency or an institution regulated by the Farm Credit Administration and is registered with and maintains a unique identifier through the Nationwide Mortgage Licensing System and Registry.

(33) ‘Residential real property’ means real property located in the State of South Carolina upon which there is located or is to be located one or more single‑family dwellings or dwelling units that are to be occupied as the owner’s dwelling, and includes real estate and residential manufactured home (land/home) transactions.

(34) ‘RESPA’ means the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. Section 2601 et seq. and regulations adopted pursuant to it by the Department of Housing and Urban Development.

(35) ‘Soliciting, processing, placing, or negotiating a mortgage loan’ means, for compensation or gain or in the expectation of compensation or gain, either directly or indirectly, accepting or offering to accept an application for a mortgage loan, assisting or offering to assist in the processing of an application for a mortgage loan, soliciting or offering to solicit a mortgage loan, or negotiating or offering to negotiate the terms or conditions of a mortgage loan.

(36) ‘Tablefunding’ means a settlement at which a loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds.

(37) ‘TILA’ means the Truth in Lending Act, 15 U.S.C. Section 1601 et seq. and regulations adopted pursuant to it by the Board of Governors of the Federal Reserve System.

(38) ‘Unique identifier’ means a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.

Section 40‑58‑30. (A) A ~~mortgage broker, as defined in Section 40‑58‑20(3), or an originator, as defined in Section 40‑58‑20(14)(13),~~ person may not ~~engage in the business of processing, placing, or negotiating a mortgage or offering to process, place, or negotiate a mortgage~~ act as a mortgage broker in this State without first being licensed with the administrator. A person, required to be licensed pursuant to this chapter, may not do business without a license under any name or title, or circulate or use advertising, including electronic means, or make a representation or give information to any person, which indicates or reasonably implies activity within the scope of this chapter unless that person has a license.

(B) It is unlawful for a person to employ, to compensate, or to appoint as its agent ~~an~~ a loan originator unless the loan originator is licensed pursuant to this chapter. The license of ~~an~~ a loan originator is not effective during any period when that person is not employed by a mortgage broker licensed pursuant to this chapter. When ~~an~~ a loan originator ceases to be employed by a licensed mortgage broker, the loan originator and the mortgage broker by whom that person was employed shall promptly notify the ~~department~~ administrator in writing. The mortgage broker’s notice must include a statement of the specific reason or reasons for the termination of the loan originator’s employment. The reason for termination is confidential information and must not be released to the public. ~~An~~ A loan originator must not be employed simultaneously by more than one mortgage broker. If a licensed loan originator changes employment, a new license must be issued and a fee of twenty‑five dollars must be paid for issuance of the new license.

(C) Notwithstanding subsection (A) of this section, the provisions of this chapter do not apply to an exempt person ~~or organization as defined in Section 40‑58‑20(5)~~ .

(D) Independent contractors, including processors and underwriters. must be separately licensed.

Section 40‑58‑40. ~~A person or organization may not offer or agree to offer mortgage brokerage services in this State without first depositing and continuously maintaining the amount of ten thousand dollars in cash or securities approved by the administrator or a bond in the amount of ten thousand dollars executed by a surety company authorized by the laws of this State to transact business within this State. Continuously maintaining a bond may be considered evidence of financial responsibility for a person or organization that offers or agrees to offer mortgage brokerage services. The bond must be executed to the State of South Carolina and must be for the use of the State and for any consumers who may have a cause of action against the mortgage broker.~~ A mortgage broker shall post and maintain a surety bond in an amount determined by the administrator that is based on the total dollar amount of mortgage loans originated in a calendar year pursuant to the following: (1) dollar volume of mortgage loans from $0 to $49,999,999 surety bond of $25,000, (2) dollar volume of mortgage loans from $50,000,000 to $99,999,999 surety bond of $40,000, (3) dollar volume of mortgage loans greater than $100,000,000 surety bond of $55,000. In no case will the surety bond be less than the amount of twenty five thousand dollars. The surety bond must be executed by a surety company authorized by the laws of this State to transact business within this State. The surety bond must be in a form satisfactory to the administrator, must be executed to the administrator, and must be for the use of the State for the recovery of expenses, fines, and/or fees levied pursuant to this chapter and for consumers who have losses or damages as a result of noncompliance with this chapter by the mortgage broker. The full amount of the surety bond must be in effect at all times. The license of a licensee expires upon the termination of the bond by the surety company, unless, a new bond has been filed with the administrator before the termination of the previous bond. In the event that the license expires based on bond termination, all licensed activity must cease and the person must apply for a license pursuant to Section 40‑58‑50.

Section 40‑58‑50. (A) An application to become licensed as a mortgage broker or ~~an~~ loan originator must be in writing, under oath, and in a form prescribed by the ~~department~~ administrator. The application must contain any information the administrator deems necessary including the name and complete business and residential address or addresses, and social security number or if applicable Employer Identification Number (EIN) of the applicant. If the applicant for a mortgage broker license is a partnership, association, limited liability company, corporation, or other form of business organization, the names and complete business and residential addresses of each member, director, and principal officer and a list of all employees who engage in direct brokerage activity including, but not limited to, loan originators.

(B)(1) The application for a mortgage broker license must include an affirmation of financial solvency noting bonding requirements required by the ~~department~~ administrator and the descriptions of the business activities, credit history, financial responsibility, educational background, and general character and fitness of the applicant and any partner, officer, or director, a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the applicant as required by this chapter, including consent to a national and state criminal history records check and a set of the applicant’s fingerprints in a form acceptable to the administrator. The application must be accompanied by a nonrefundable fee, payable to the department, of five hundred fifty dollars, in addition to the actual cost of obtaining credit reports and national and state criminal history record checks by the Federal Bureau of Investigation (FBI) and the South Carolina Law Enforcement Division (SLED). Using the information supplied by the administrator to SLED, the applicant must undergo a state criminal records check, supported by fingerprints, by SLED, and a national criminal records check, supported by fingerprints, by the FBI. The results of these criminal records checks must be reported to the administrator. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the administrator regarding criminal charges. The administrator shall keep all information pursuant to this section privileged, in accordance with applicable state and federal guidelines.

(2) An applicant for a mortgage broker’s license must have at least ~~two~~ three years’ experience ~~working as an originator under the supervision of a mortgage broker~~ in financial services or financial services related business or other experience or competency requirements the administrator may impose before an initial license is issued.

(a) ~~In lieu~~ Instead of a showing of ~~two~~ three years’ experience, an applicant may show proof of ~~two~~ three years’ employment with a federally insured depository institution, or a VA, FHA, or HUD approved mortgagee ~~during which the applicant was actively engaged in originating residential mortgages.~~

(b) ~~In lieu~~ Instead of one of the required year’s experience, an applicant may show proof of the equivalent of six or more semester hours of satisfactorily completed course work in real estate finance, real estate law, or similar course work counting toward the successful completion of a degree that is baccalaureate level or more advanced with a major or minor in finance, accounting, business administration, real estate finance, economics, or similar baccalaureate or more advanced degree, approved by the administrator or the administrator’s designee, from an accredited college or university.

(c) ~~However, all mortgage loan brokers properly licensed as a mortgage loan broker before October 1, 1998, may act as mortgage brokers after that date without regard to the experience or education requirement of this subsection if they maintain compliance with the continuing professional education requirements of Section 40‑58‑67 and otherwise comply with this chapter~~

(3) If the applicant is a partnership, limited liability company (LLC), or corporation, at least one partner, member‑manager, or principal officer shall have the experience required for the applicant. Each applicant shall identify the person meeting the experience requirement to serve as the applicant’s managing principal. The managing principal shall operate the business under his full charge, control, and supervision. The managing principal also may serve as the branch manager of a licensee branch office. Each main and branch office of a mortgage broker licensed pursuant to this chapter must have a branch manager who meets the experience requirements of subsection (B)(2). The mortgage broker licensee must designate a managing principal in writing and notify the administrator of any changes in managing principal. The managing principal and each branch manager must meet the requirements in subsection (C) of this section.

(C) The application for ~~an~~ a loan originator license must designate the employing mortgage broker and must include descriptions of the business activities, credit history, financial responsibility, educational background, and general character and fitness of the applicant as required by this chapter, including consent to a national and state criminal history records check and a set of the applicant’s fingerprints in a form acceptable to the administrator. The application must be accompanied by a nonrefundable fee, payable to the department, of fifty dollars, in addition to the actual cost of obtaining credit reports and national and state criminal history record checks by the ~~South Carolina Law Enforcement Division~~ FBI and SLED. Using the information supplied by the administrator to SLED, the applicant must undergo a state criminal records check, supported by fingerprints, by SLED, and a national criminal records check, supported by fingerprints, by the FBI. The results of these criminal records checks must be reported to the administrator. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the administrator regarding criminal charges. The administrator shall keep all information pursuant to this section privileged, in accordance with applicable state and federal guidelines. Additionally, the applicant must:

(1) complete satisfactorily a pre‑licensing educational course of at least twenty hours and a written examination approved pursuant to 12 U.S.C. 5101 et seq.;

(2) have never had a loan originator license revoked in any governmental jurisdiction;

(3) have not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court (i) during the ten‑year period preceding the date of application for licensing, or (ii) at any time if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering; and

(4) be at least eighteen years of age and otherwise comply with this chapter.

(D) ~~An applicant for an originator’s license must be at least eighteen years of age and must have at least six months of experience in residential mortgage lending or complete eight hours of continuing education within ninety days of employment. Additionally, all originators properly licensed before April 1, 2005, may act as originators after that date without regard to the experience or education requirement of this subsection if they maintain compliance with the continuing professional education requirements of Section 40‑58‑67 and otherwise comply with this chapter.~~ Any sole proprietor, general partner, member or manager of a limited liability company, or officer of a corporation who meets individually the requirements of subsection (C) of this section, upon payment of the applicable fee, meets the qualifications for licensure as a loan originator subject to the provisions of Section 40‑58‑60 of this chapter.

Section 40‑58‑55. ~~(A)~~ ~~Upon request for a contested case hearing by a person whose application for a license or renewal of a license has been denied, the Administrative Law Court may review the determination by the department that the applicant or his agent has:~~

~~(1)~~ ~~violated a provision of this chapter or an order of the department;~~

~~(2)~~ ~~withheld material information in connection with an application for a license or its renewal, or made a material misstatement in connection with the application;~~

~~(3)~~ ~~been convicted of a felony or of an offense involving breach of trust, moral turpitude, fraud, or dishonest dealing within the past ten years.~~

~~(B)~~ ~~A person who was in business as a mortgage broker or is an agent of a broker before October 1, 1998, and who has been convicted of a felony or an offense involving breach of trust, moral turpitude, fraud, or dishonest dealing within the past ten years may continue in business as a mortgage broker or agent, but if a mortgage broker or an agent of a broker is convicted of an offense enumerated in item (3) of subsection (A) on or after October 1, 1998, that person is subject to the provisions of this chapter.~~ (Reserved)

Section 40‑58‑60. (A) Upon the filing of an application for a license, if the ~~department~~ administrator finds that the financial responsibility, experience, character, and general fitness of the applicant, and of the members if the applicant is a ~~copartnership~~ partnership, association, or limited liability company, and of the officers and directors if the applicant is a corporation, are such as to command the confidence of the community and to warrant belief that the business may be operated honestly, fairly, and efficiently according to the purposes of this chapter and in accordance with all applicable state and federal laws, it shall license the applicant and issue a license. If the ~~department~~ administrator does not so find, it shall refuse to license the applicant and shall notify him of the denial.

(B) Upon the receipt of the license, the licensee is authorized to engage in the business for which the license was issued.

(C) Each license issued to a licensee must state the address ~~or addresses~~ at which the business is to be conducted and must state fully the name of the licensee and the date of the license. A ~~copy of the~~ license must be posted prominently in each place of business of the licensee. The license is not transferable or assignable.

(D) Issuance of a license does not indicate approval or acceptance of any contract, agreement, or other document submitted in support of the application. A licensee may not represent that its services or contracts are approved by the State or a state agency.

(E) If the information contained in any document filed with the administrator is or becomes inaccurate or incomplete in a material respect, the licensee promptly shall file a correcting amendment to the information contained in the document.

(F) All advertisements of mortgage loans must comply with the Truth in Lending Act, 15 U.S.C. 1601 et seq. and the South Carolina Consumer Protection Code, Title 37.

Section 40‑58‑65. (A) A mortgage broker licensed pursuant to this chapter must maintain at his usual place of business books, records, and documents pertaining to the business conducted, to enable the ~~department~~ administrator to determine compliance with this chapter, and shall include a mortgage loan log that contains these specific data elements: (i) credit score of the borrower, (ii) adjustable or fixed type of loan, (iii) term of the loan, (iv) annual percentage rate of the loan, and (v) appraised value of the collateral. Each licensee shall submit its mortgage loan log data and the data identified in 12 C.F.R. Part 203 et seq., in a form determined by the administrator by March thirty‑first of each year. The licensee shall pay a fine of one hundred dollars a day for late or incomplete data submissions. Data collected by the administrator pursuant to this section is confidential and may be released only in composite form. The administrator shall prepare and make available to the public a report based on the above data. The report must be available by June thirtieth of each year. The mortgage loan log must be completed with information known at the time of review by the administrator and must include loans in process, closed loans, turndowns, denials, and withdrawals. A mortgage broker with two or more licensed offices may consolidate the records at any one of the licensed offices so long as the administrator is notified of the location of the records. The records must be available for examination to the administrator or his designee upon request. Books and records must be maintained for at least three years. A licensee’s records may be maintained electronically, if approved by the administrator, so long as they are readily accessible for examination by the administrator.

(B) A mortgage broker doing business in this State shall maintain a sufficient physical presence in this State and his records must be maintained at the licensed location in this State. At a minimum, the broker shall maintain an official place of business open during regular business hours, staffed by one or more licensees who have the authority to contract on behalf of the broker and to accept service on behalf of the broker. If the official place of business is not open for business within the hours of 8:30 AM until 5:00 PM, Monday through Friday, the broker shall notify the ~~department~~ administrator in writing ~~of the business hours maintained by the broker’s official place of business~~.

(C) A licensed mortgage broker with an official place of business within South Carolina also may maintain one or more branch ~~or satellite~~ offices if the:

(1) mortgage broker notifies the ~~department~~ administrator in writing ~~ten~~ seven days before the opening of a branch ~~satellite~~ office of the location of the branch ~~or satellite~~ office, the branch manager for each branch location, and ~~notifies the department~~ that all records from the branch ~~or satellite~~ office are stored in a main or branch location in this State which is staffed by one or more ~~employees~~ licensees during regular business hours;

(2) records of any pending mortgage loan application or records in which a loan closing is still in process are made available at the mortgage broker’s main or branch location as provided in item (1) to the administrator ~~or his designee~~ within ~~two~~ seven business days of a written request delivered by facsimile transmission, mail, or hand‑delivery by the administrator ~~or his designee~~;

(3) broker notifies the ~~department~~ administrator in writing within ~~two~~ seven business days of closing a branch ~~or satellite~~ office~~.~~;

(4) mortgage broker licensee is responsible and accountable for the activities of all licensed locations, branch managers, and loan originators. Compliance reviews must include examination of all facts and circumstances of branch operations to ensure this responsibility and accountability.

(D) The ~~department~~ administrator may examine the books and records of a mortgage broker and other ~~specified~~ documents and records to determine whether there has been substantial compliance with this chapter. Unless there is reason to believe a violation of this chapter has occurred, examinations must be limited to one each year. Records and information obtained by the ~~department~~ administrator during an examination are confidential and the ~~department~~ administrator must certify that it is in compliance with the Right to Financial Privacy Act (RFPA).

(E) The administrator may cooperate and share information with an agency of this State, other states, or the federal government. The administrator may accept or participate in examinations conducted by one of these agencies.

~~(E)~~(F) If the mortgage broker fails to notify the ~~department~~ administrator of the existence or closing of a branch ~~or satellite~~ office, the actual operating hours of the main or branch offices where records are kept, or the whereabouts of its records, the broker is subject to ~~a penalty of not less than fifty dollars and not more than two hundred fifty dollars. If after the assessment of a fine within a one‑year period, the administrator finds that additional violations of this section are both intentional and repeated, the mortgage broker is subject to all of the remedies for violations of this chapter~~ penalties as set forth in Section 40‑58‑80.

(G) A mortgage broker licensee who ceases doing business in this State must notify the administrator at least seven days in advance. The notification must include a withdrawal plan that includes a timetable for disposition of the business, the location of the books, records, and accounts until the end of the retention period, and certification of the proper disposal of those records.

(H) A mortgage broker licensee may develop, maintain, and test disaster recovery plans for all records that are maintained.

Section 40‑58‑67. (A)(1) ~~Effective for license years beginning after September 30, 1998, for licensed mortgage brokers and after March 31, 2005, for licensed originators,~~ Licensees must complete at least eight hours of continuing professional education annually. Continuing education credit may be granted only for the year in which the class is taken and may not be granted for the same course in successive years. ~~If the licensed mortgage broker is a sole proprietorship or partnership, any owners and partners must complete the required eight hours of continuing professional education annually. If the licensed mortgage broker is a limited liability company or corporation, any member or president, chief executive officer, or other officer who has ownership interest of twenty‑five percent or greater and who actively participates in the broker entity must complete the required eight hours of continuing professional education annually.~~ ~~Up to eight hours of continuing professional education may be carried forward from one year to the next year. for the license year beginning October 1, 1998, up to eight hours of continuing professional education taken in the preceding twelve months may be carried forward~~. The continuing professional education completed must be reported to the ~~department~~ administrator annually ~~on a form approved by it showing the date and title of the courses taken, the teacher or sponsor of the course taken, and the hours of continuing professional education claimed for the course~~. ~~If the course is taught in a classroom setting, fifty minutes of classroom contact equal one hour of continuing professional education.~~ Course ~~sponsors~~ providers must maintain records of attendees for two years after the course. ~~As used in this chapter, ‘actively participates’ means engaging in direct brokering activity as defined in Section 40‑58‑20(3) and (4).~~

(2) Documentation of ~~attendance at the courses or correspondence~~ courses completed must be maintained by the mortgage broker for all licensees and shall consist of a certificate of completion issued by the ~~teacher or sponsor~~ provider of the course showing the recommended number of hours of continuing professional education. This documentation is subject to inspection by the ~~department~~ administrator for up to two years after the date of the course. ~~Courses offered by the National Association of Mortgage Brokers, the South Carolina Mortgage Brokers Association, or the department or courses related to real estate law or related law topics, appraisals, mortgage lending, financial management, financial planning, or mortgage processing qualify for continuing professional education. The department shall offer continuing professional education courses to assist mortgage brokers in obtaining the continuing professional education required by this chapter.~~

~~(B)~~ ~~The department shall appoint two mortgage brokers and one representative of the department to a panel for two‑year terms to approve any courses questioned as to their qualifications as continuing professional education. The panel may conduct its meetings via conference call. The department shall develop a questionnaire to ascertain the interest and background of potential members of this panel.~~

~~(C)~~(B) If a licensee fails to complete his continuing professional education ~~in a timely manner~~ prior to renewal, his license shall expire and the licensee shall pay a penalty ~~not in excess~~ of one hundred dollars in order to renew the license.

~~(D)~~ ~~However, the licensee may request an administrative hearing to appeal the expiration of his license for failure to complete continuing professional education requirements. A license may be renewed without penalty within thirty days after the expiration if the licensee completes his professional education requirements.~~

(C) All prelicensing education, continuing education and written examinations must be approved through the Nationwide Mortgage Licensing System and Registry pursuant to 12 U.S.C. 5101, et seq. before credit may be awarded. Applicants and licensees that successfully complete education or testing approved through the Nationwide Mortgage Licensing System and Registry shall fulfill the requirements of this State.

Section 40‑58‑70. ~~A licensee may not~~ In addition to the activities prohibited by other provisions of state or federal law, it is unlawful for a person in the course of a mortgage loan transaction to:

(1) misrepresent the material facts or make false promises likely to influence, persuade, or induce an applicant for a mortgage loan or a mortgagor to take a mortgage loan. This includes presenting the broker in the guise of a lender or pursuing a course of misrepresentation through agents or otherwise;

(2) intentionally misrepresent or conceal a material factor, term, or condition of a transaction to which he is a party, pertinent to an applicant for a mortgage loan or a mortgagor;

(3) engage in a transaction, practice, or course of business which is unconscionable ~~in light of the regular practices of a mortgage broker~~, as provided in Section 37‑5‑108, or which operates a fraud upon a person~~,~~ in connection with the making of or purchase or sale of a mortgage loan;

(4) fail to use due diligence and make reasonable efforts ~~to procure~~ in procuring a mortgage loan on behalf of a borrower;

(5) collect any allowable third party fees excluding appraisals or credit reports before a conditional mortgage loan commitment is obtained by the mortgage broker ~~with the exception of normal processing expenses associated with the making of mortgages as authorized or allowed by FNMA, FHLMC, FHA, VA, or any additional fees authorized or allowed by the department~~;

(6) ~~engage in recasting unless the applicant obtains the advice and counsel of a licensed attorney who is independent to the transaction. A party to a transaction, other than the consumer, may not recommend, retain, or influence the selection of independent counsel. An applicant for recasting shall provide to the broker a document identifying the applicant, provide a brief summary of the proposed transaction, and a written statement from an attorney certifying that the applicant has been advised of the potential consequences of recasting.~~ influence or attempt to influence through coercion, extortion, or bribery the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan. This item does not prohibit a mortgage broker or mortgage lender from asking the appraiser to do one or more of the following:

(a) consider additional appropriate property information;

(b) provide further detail, substantiation, or explanation for the appraiser’s value conclusion; or

(c) correct errors in the appraisal report;

(7) fail to pay reasonable fees within a reasonable time to a licensed third party for services that are:

(a) requested from the third party in writing by the mortgage broker or an employee of the mortgage broker; and

(b) performed by the third party in connection with the origination or closing of a mortgage loan for a customer or mortgage lender;

(8) advertise mortgage loans, including rates, margins, discounts, points, fees, commissions, or other material information, including material limitations on the loans, unless the person is able to make the mortgage loans as advertised available to qualified applicants;

(9) fail to provide disclosures as required by state or federal law or collect any fee prior to providing required disclosures;

(10) fail to comply with this chapter or any other state or federal law including rules and regulations applicable to a business regulated by this chapter;

(11) falsely advertise or misuse names in violation of 18 U.S.C. Section 709 or state law; or

(12) use any trade name or insignia of membership in any organization of which the licensee is not a member or advertise falsely through any material including, but not limited to, any business card, stationary, or signage concerning a designation or certification of special education, credentials, trade organization membership, or business.

Section 40‑58‑75. (A) Within three business days of the receipt of an application for a mortgage loan, the broker must provide a mortgage broker fee agreement that discloses ~~in a statement~~ the total estimated charges to the borrower for the mortgage loan and an itemization of the charges provided if required under ~~RESPA~~, federal or state law. The disclosure is considered delivered when deposited with United States Postal Service for first class delivery.

(B) A person may not earn, charge or collect a mortgage ~~broker’s~~ broker or processing fee unless the person meets the requirements of this chapter, is authorized to conduct mortgage brokerage services by this chapter, or is exempt from the requirements of this chapter.

(C) All fees earned for services rendered as a mortgage broker must be disclosed to the applicant by the mortgage broker as required by ~~RESPA~~, federal or state law .

(D) A mortgage broker fee agreement must be in writing and include the current name, address, and telephone number of the mortgage broker’s branch office, the account number, if any, the date of the agreement, the name of the borrower or proposed borrower, signature of the borrower and mortgage broker, the amount of any fees, and the nature of services provided to the borrower. A copy of the completed agreement must be provided to the borrower by the mortgage broker. The mortgage broker agreement may provide for a signed acknowledgement by the borrower of receipt of a copy of the agreement. If a mortgage broker co‑brokers mortgage loans, the mortgage broker agreement must contain a statement advising the applicant that the loan may be co‑brokered. Within three days of making a final decision to co‑broker a loan, the broker must provide the applicant with written notice of co‑brokering, including the name and street and mailing address of the co‑broker as well as which broker is to be contacted regarding progress of the mortgage brokers’ services provided to the applicant. Each broker in a co‑brokering arrangement must be licensed with the administrator.

(E) Additional disclosure requirements exist and must be complied with pursuant to Chapter 10 and Chapter 23, Title 37.

Section 40‑58‑78. (A) A ~~loan~~ mortgage broker fee agreement with a mortgage broker or loan originator must contain an explicit statement that:

(1) the mortgage broker or loan originator is acting as the agent of the borrower in providing brokerage services to the borrower;

(2) when acting as agent for the borrower, it owes to that borrower a duty of utmost care, honesty, and loyalty in the transaction, including the duty of full disclosure of all material facts. If the mortgage broker or loan originator is authorized to act as an agent for any other person, the ~~brokerage~~ mortgage broker fee agreement must contain a statement of that fact and identification of that person;

(3) a detailed description of the services the mortgage broker or loan originator agrees to perform for the borrower, and a good faith estimate of any fees the mortgage broker or loan originator will receive for those services, whether paid by the borrower, the institutional lender, or both; and

(4) a clear and conspicuous statement of the conditions under which the borrower is obligated to pay for the services rendered under the agreement.

(B) If a mortgage broker or loan originator violates the provisions of subsection (A), the borrower may recover from the mortgage broker or loan originator charged with the violation:

(1) a penalty in an amount determined by the court of not less than one thousand five hundred dollars and not more than seven thousand five hundred dollars for each loan transaction;

(2) fees paid by the borrower to the mortgage broker or loan originator for services rendered by the agreement; and

(3) actual costs, including attorney’s fees, for enforcing the borrower’s rights under the agreement.

(C) ~~No~~ A mortgage broker or loan originator charged with the violation ~~may~~ must not be held liable in an action brought under this section for a violation if the mortgage broker or loan originator charged with the violation shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error.

Section 40‑58‑80. ~~Cease and desist orders; penalties; revocation of license.~~

~~(A)~~ ~~Upon a finding that an action of a licensee may be in violation of this chapter, or of a law or regulation of this State or of the federal government or an agency of either, the department may file a request for a contested case hearing with the Administrative Law Court seeking an order to require the licensee to cease and desist from the action.~~

~~(B)~~ ~~If an administrative law judge issues an order requiring the licensee to cease and desist from the action and the licensee fails to appeal the cease and desist order and continues to engage in the action in violation of the order, the licensee is subject to a penalty of not less than one thousand or more than two thousand five hundred dollars for each action the licensee takes in violation of the order. The penalty provision of this section is in addition to and not instead of other provisions of law applicable to a licensee.~~

~~(C)~~ ~~The administrative law judge, upon a finding that a licensee has engaged intentionally or repeatedly in a course of conduct in violation of this chapter, may revoke the license temporarily or permanently in its discretion after reasonable notice and an opportunity to be heard and may increase the mortgage broker’s required bond up to a maximum of twenty‑five thousand dollars to ensure that the public is protected adequately. The administrative law judge also may impose upon persons violating the provisions of this chapter administrative fines of not more than five hundred dollars for each offense or not more than five thousand dollars for the same set of transactions or occurrences. Each violation constitutes a separate offense. If it is determined that the required bond must be increased, the administrative law judge shall state in writing the reasons for the increase and immediately serve it upon the mortgage broker and the department. The mortgage broker shall provide the new bond within thirty days or the department shall revoke the license of the mortgage broker.~~

~~(D)~~ ~~A person who violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than six months, or both.~~

~~(E)~~ ~~Nothing in this chapter limits a statutory or common law right of a person to bring an action in a court for an act or the right of the State to punish a person for a violation of a law.~~

~~(F)~~ ~~The administrator of the department may suspend the right of an individual to engage in mortgage broker activity after finding that an originator or other employee of a licensed mortgage broker has failed to comply with a provision of this chapter. After an action by the administrator pursuant to this section, the originator or other employee of a licensed mortgage broker may request a contested case hearing before the Administrative Law Court.~~

(A) The administrator, by order, may deny, suspend, revoke, or refuse to issue or renew a license of a licensee or applicant pursuant to this chapter or may restrict or limit the activities relating to mortgage loans of a licensee or a person who owns an interest in or participates in the business of a licensee, if the administrator finds that both:

(1) the order is in the public interest; and

(2) any of the following circumstances apply to the applicant, licensee, or any partner, member, manager, officer, director, loan originator, managing principal, or other person occupying a similar status or performing similar functions or a person directly or indirectly controlling the applicant or licensee. The person:

(a) has filed an application for license that, as of its effective date or as of a date after filing, contained a statement that, in light of the circumstances under which it was made, is false or misleading with respect to a material fact;

(b) has violated or failed to comply with any provision of this chapter or order of the administrator;

(c) has been convicted of, or pled guilty or nolo contendere to, a felony, or, within the past ten years, a misdemeanor involving financial services or financial services related business, or an offense involving breach of trust or fraudulent or dishonest dealing, or money laundering in a domestic, foreign, or military court;

(d) is enjoined permanently or temporarily by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving financial services or financial services related business;

(e) is the subject of an order of the administrator denying, suspending, or revoking that person’s license;

(f) is the subject of an order entered by the authority of a governmental entity with jurisdiction over the financial services or financial services related industry denying or revoking that person’s license;

(g) does not meet the qualifications or the financial responsibility, character, or general fitness requirements, or bond or capital requirements, pursuant to this chapter;

(h) has been the executive officer or controlling shareholder or owned a controlling interest in a financial services or financial services related business that has been subject to an order or injunction described in subitem (d),(e), or (f) of this item;

(i) has failed to pay the proper filing or renewal fee pursuant to this chapter or any fine or fee imposed by any governmental entity. However, the administrator may enter only a denial order pursuant to this subitem, and the administrator shall vacate the order when the deficiency is corrected; or

(j) has falsely certified attendance or completion of hours at an approved education course.

(B) The administrator, by order, summarily may postpone or suspend the license of a licensee pending final determination of a proceeding pursuant to this section. Upon entering the order, the administrator shall notify promptly the applicant or licensee that the order has been entered, the reasons for the order, and the procedure for requesting a hearing before the Administrative Law Court. If a licensee does not request a hearing and the administrator does not request a hearing, the order remains in effect until it is modified or vacated by the administrator.

(C) The administrator, by order, may impose an administrative penalty upon a licensee or any partner, member, officer, director, or other person occupying a similar status or performing similar functions on behalf of a licensee for a violation of this chapter. The administrative penalty may not exceed ten thousand dollars for each violation. The administrator may impose an administrative penalty that may not exceed ten thousand dollars for each violation of this chapter by a person other than a licensee or exempt person.

(D) In addition to other powers pursuant to this chapter, upon finding that an action of a person is in violation of this chapter, the administrator may order the person to cease and desist from the prohibited action. If the person subject to the order fails to request a contested case hearing in accordance with Section 40‑58‑90, or if the person requests the hearing and it is denied or dismissed, and the person continues to engage in the prohibited action in violation of the administrator’s order, the person is subject to an administrative penalty that may not exceed twenty‑five thousand dollars for each violation of the administrator’s order. The penalty provision of this section is in addition to and not instead of another provision of law for failure to comply with an order of the administrator.

(E) Unless otherwise provided, all actions and hearings pursuant to this chapter are governed by Chapter 23, Title 1.

(F) When a licensee is accused of any act, omission, or misconduct that subjects the licensee to disciplinary action, the licensee, with the consent and approval of the administrator, may surrender the license and the rights and privileges pertaining to it and is not eligible to receive, or to submit an application for, licensure for a period of time established by the administrator.

(G) If the administrator has reasonable grounds to believe that a licensee or other person has violated this chapter or that facts exist that would be the basis for an order against a licensee or other person, the administrator, either personally or by a person duly designated by the administrator, at any time may investigate or examine the loans and business of the licensee and examine the books, accounts, records, and files of the licensee or other person relating to the complaint or matter under investigation. The reasonable cost of this investigation or examination must be charged against the licensee. The administrator may require the licensee or other person to submit a consent to a national and state fingerprint‑based criminal history record check and a set of that person’s fingerprints in a form acceptable to the administrator in connection with an examination or investigation. Refusal to submit the requested criminal history record check or a set of fingerprints is grounds for disciplinary action.

(H) The administrator may subpoena documents and witnesses, and compel their production and attendance, to examine under oath all persons whose testimony the administrator considers relative to the person’s business, and require the production of books, papers, or other materials.

(I) The administrator may conduct routine examinations of the books and records of a licensee to determine compliance with this chapter.

(J) The administrator may cooperate and share information with an agency of this State, other states, or the federal government. The administrator may accept or participate in examinations conducted by one of these agencies.

(K) In addition to the authority described in this section, the administrator may require a person to pay to a borrower or other natural person amounts received by the person or its employees in violation of this chapter.

(L) If the administrator finds that the managing principal, branch manager, or loan originator of a licensee had knowledge of, or reasonably should have had knowledge of, or participated in any activity that results in the entry of an order suspending or withdrawing the license of a licensee, the administrator may prohibit the branch manager, managing principal, or loan originator from serving as a branch manager, managing principal, or loan originator for the period of time the administrator considers necessary.

(M) A person who wilfully violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than six months, or both, for each offense. Each violation is considered a separate offense.

(N) Orders issued by the administrator or by the Administrative Law Court pursuant to this chapter must be reported by the administrator to the Nationwide Mortgage Licensing System and Registry.

Section 40‑58‑90. (A) ~~All appeals are to be made pursuant to the Administrative Procedures Act and the rules governing practice before the Administrative Law Court.~~ A person aggrieved by an administrative order issued by the administrator may request a contested case hearing before the Administrative Law Court in accordance with the court’s rules of procedure. If the person fails to request a contested case hearing within the time provided in the court’s rules of procedure, the administrative order becomes final and the administrator may bring an action to enforce its order pursuant to Chapter 23, Title 1. This section does not limit utilization of or the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by law. A preliminary, procedural, or intermediate action or ruling of the Administrative Law Court is reviewable immediately if review of the final decision of the Administrative Law Court would not provide an adequate remedy.

(B) Contested case proceedings are instituted by filing a request for a contested case hearing with the Administrative Law Court according to the rules of procedure of the Administrative Law Court. Copies of the request for a contested case hearing must be served upon the administrator and all parties of record. The final decision of the administrative law judge may be appealed as provided in Chapter 23, Title 1.

Section 40‑58‑100. The ~~department~~ administrator may promulgate regulations necessary to effectuate the purposes of this chapter.

Section 40‑58‑110. (A)(1) In addition to the initial nonrefundable license application fee of five hundred fifty dollars required by Section 40‑58‑50, first time mortgage broker licensees also shall pay a one‑time, nonrefundable processing fee of two hundred dollars. Thereafter, a mortgage broker licensee shall pay an annual nonrefundable renewal fee of five hundred fifty dollars. A mortgage broker licensee shall pay an initial nonrefundable fee of one hundred fifty dollars and, thereafter, a nonrefundable renewal fee of one hundred fifty dollars for each branch ~~or satellite~~ location.

(2) The initial nonrefundable license fee is fifty dollars for ~~an~~ a loan originator license, and fifty dollars, nonrefundable, for a renewal license. In addition, all licensees must pay the cost of obtaining credit reports and national and state criminal history record checks as the ~~department~~ administrator may require. The broker shall notify the ~~department~~ administrator in writing ten days before opening a new~~, official branch or satellite~~ location or changing the address of a licensed location. ~~No initial~~ A fee of twenty‑five dollars is required when the licensee notifies the ~~department~~ administrator of a change in address for ~~an official branch or satellite~~ a licensed location.

(B)(1) The term of each license is one year. Licenses issued ~~under~~ pursuant to this chapter expire on ~~September thirtieth each year for mortgage brokers and March thirty‑first for originators~~ December thirty‑first annually or another date that the administrator may determine and must be renewed in accordance with the provisions of this section.

(2) The renewal period for all licensees is from November first through December thirty‑first annually or on any other dates that the administrator may determine.

(3) Applications received after December thirty‑first, or any other date the administrator may determine, are late and late fees apply.

(C) ~~Failure to renew a license within thirty days of its expiration results in the license being canceled by the department requiring the licensee to complete the initial licensing process, including a criminal records check. A license renewed within thirty days of expiration must be accompanied by a late penalty of two hundred fifty dollars for mortgage brokers and twenty‑five dollars for originators in addition to the nonrefundable renewal fee.~~ If a license of a licensed mortgage broker is not renewed before the dates in subsection (B), five hundred dollars in addition to the renewal fee pursuant to subsection (A) must be assessed as a late fee to any renewal. If a license of a licensed loan originator is not renewed before the dates in subsection (B), one hundred dollars in addition to the renewal fee pursuant to subsection (A) of this section must be assessed as a late fee to any renewal. If a licensee fails to renew his license within thirty days after the date the license expires or otherwise maintain a valid license, the administrator shall require the licensee to comply with the requirements for the initial issuance of a license pursuant to this chapter, in addition to paying any fee that has accrued. All ~~renewable~~ renewal applications must contain information required by the ~~department~~ administrator. All ~~fees~~ funds collected by the department pursuant to this chapter must be used to implement the provisions of this chapter and are nonrefundable.

Section 40‑58‑120. (A) A licensee shall maintain records in conformity with generally accepted accounting principles and practices in a manner that will enable the administrator to determine whether the licensee is complying with this chapter. The recordkeeping system of a licensee is sufficient if he makes the required information reasonably available.

(B) On or before March thirty‑first each year a licensee shall file with the administrator a composite annual report in the form prescribed by the administrator relating to all mortgage loans made or brokered by him. The licensee shall pay a fine of one hundred dollars each day for late or incomplete annual reports.

(C) The report must include, but is not limited to, the volume and amounts of first and second lien mortgage loans originated by licensee and closed in the name of another party and the volume and amounts of first and second lien mortgage loans originated and closed in the name of the licensee.

(D) The annual report also must include the total gross revenue earned in this State under this license.

(E) Information contained in annual reports is confidential and may be published only in composite form.

Section 40‑58‑130. (A) The administrator may participate in a Nationwide Mortgage Licensing System and Registry, may take all actions necessary and appropriate to that end including, but not limited to, the following:

(1) facilitating and participating in the establishment and implementation of the Nationwide Mortgage Licensing System and Registry;

(2) entering into agreements and contracts including cooperative, coordinating and information sharing agreements;

(3) contracting with third parties to process, maintain and store information collected by the Nationwide Mortgage Licensing System and Registry;

(4) authorizing the Nationwide Mortgage Licensing System and Registry to collect fingerprints on the administrator’s behalf in order to receive national and state criminal history background records check from the FBI and SLED and furnishing the fingerprints to SLED to retain for certification purposes and for notification of the administrator regarding subsequent criminal charges which may be reported to SLED, or the FBI or both in accordance with Section 40‑58‑50;

(5) authorizing the Nationwide Mortgage Licensing System and Registry to collect credit reports on the administrator’s behalf for all licensees;

(6) requiring persons that must be licensed by this chapter to utilize the Nationwide Mortgage Licensing System and Registry;

(7) requiring all applicants and licensees to pay all applicable funds provided for in this Chapter through the Nationwide Mortgage Licensing System and Registry;

(8) providing information to and receiving information from the Nationwide Mortgage Licensing System and Registry;

(9) authorizing a third party to collect funds associated with licensure on behalf of the administrator; and

(10) authorizing the Nationwide Mortgage Licensing System and Registry to collect and disburse consumer complaints.

(B) Persons required to be licensed pursuant to this chapter shall pay all applicable fees to utilize the Nationwide Mortgage Licensing System and consent to utilizing the Nationwide Mortgage Licensing System and Registry to obtain fingerprint‑based criminal history background records checks and credit reports.

(C) The administrator shall provide licensees with written notice sent to the address of record on file with the administrator through the United States Postal Service the date the Nationwide Mortgage Licensing System will be available for their use. Licensees have one hundred and twenty days from the date the system is available for use to enter all their licensing information into the Nationwide Mortgage Licensing System. All filings required by the administrator pursuant to this chapter after the date the system is available for use must be made through the Nationwide Mortgage Licensing System.

(D) All licensees licensed through the Nationwide Mortgage Licensing System and Registry must use the unique identifier assigned in all advertising and on all mortgage loan documents.

(E) Notwithstanding another provision of law, the Nationwide Mortgage Licensing System is not intended to and does not replace or affect the administrator’s authority to grant, suspend, revoke, or deny a license required pursuant to this chapter.”

SECTION 6. 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. Any provision of this act deemed by HUD to conflict with its interpretation of the SAFE Act, provided for in Section 1508 of Title V of The Housing and Economic Recovery Act of 2008, Public Law 110‑289, must be interpreted, applied, or amended in such a way so as to comply with HUD’s interpretation of the SAFE Act. The regulating authority shall adopt emergency regulations or take other actions necessary to ensure compliance with the SAFE Act and the regulating authority’s continued jurisdiction over and supervision of the mortgage business in this State.

SECTION 7. Except as otherwise provided herein, this act is effective January 1, 2010, except that the definition of ‘mortgage loan originator’ does not include an individual servicing a mortgage loan as that term is defined in Section 37‑22‑110(21) and Section 40‑58‑20(19) until July 31, 2011. /

Renumber sections to conform.

Amend title to conform.

Rep. SANDIFER explained the amendment.

Rep. SANDIFER moved to adjourn debate on the Bill, which was agreed to.

**S. 232--DEBATE ADJOURNED**

Rep. HIOTT moved to adjourn debate upon the following Bill, which was adopted:

S. 232 -- Senators Ryberg, Hutto, Massey, Coleman, O'Dell, Anderson, L. Martin and Nicholson: A BILL TO AMEND SECTION 48-52-210 OF THE 1976 CODE, RELATING TO THE PLAN FOR THE STATE ENERGY POLICY, TO ENCOURAGE THE USE OF CLEAN ENERGY SOURCES; AND TO AMEND ARTICLE 2, CHAPTER 52, TITLE 48 BY ADDING SECTION 48-52-220 TO PROVIDE A DEFINITION FOR "RENEWABLE ENERGY RESOURCES".

**H. 3118--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

H. 3118 -- Reps. Kirsh, J. E. Smith, Funderburk, Weeks and Hutto: A BILL TO AMEND SECTION 63-11-530, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE POWERS AND DUTIES OF GUARDIANS AD LITEM IN CHILD ABUSE AND NEGLECT CASES, SO AS TO PROVIDE THAT THE SOUTH CAROLINA GUARDIAN AD LITEM PROGRAM HAS THE RIGHT TO INTERVENE IN A PROCEEDING TO PETITION TO HAVE THE GUARDIAN AD LITEM REMOVED IF THE GUARDIAN AD LITEM IS NOT IN COMPLIANCE WITH STATE LAW OR IS NOT ACTING IN THE BEST INTEREST OF THE CHILD; AND TO AMEND SECTION 63-11-550, RELATING TO CONFIDENTIALITY OF REPORTS AND INFORMATION MAINTAINED BY THE GUARDIAN AD LITEM PROGRAM, SO AS TO ALSO PROVIDE THAT REPORTS AND INFORMATION MAINTAINED BY A GUARDIAN AD LITEM IS CONFIDENTIAL.

The Judiciary Committee proposed the following Amendment No. 1 (COUNCIL\NBD\11447AC09), which was adopted:

Amend the bill, as and if amended, by deleting SECTION 1 of the bill and inserting:

/SECTION 1. Section 63‑11‑530(A) of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“(A)(1) The guardian ad litem is charged in general with the duty of representation of the child’s best interests. After appointment by the family court to a case involving an abused or neglected child, the guardian ad litem shall receive appropriate notice of all court hearings and proceedings regarding the child. The obligation of the guardian ad litem to the court is a continuing one and continues until formally relieved by the court.

(2) The South Carolina Guardian ad Litem Program, or a county guardian ad litem program operating pursuant to Section 63‑11‑500, whichever is appropriate, may intervene in an abuse or neglect proceeding in order to petition the court to relieve the volunteer, lay guardian ad litem from appointment for the following reasons:

(a) incapacity;

(b) conflict of interest;

(c) misconduct;

(d) persistent neglect of duties;

(e) incompetence; or

(f) a knowing and wilful violation of program policies and procedures that affect the health, safety, and welfare of the child.

(3) The court shall determine what is in the best interest of the child when ruling on the petition.”/

Renumber sections to conform.

Amend title to conform.

Rep. BANNISTER explained the amendment.

The amendment was then adopted.

The Bill, as amended, was read the second time and ordered to third reading.

**H. 3720--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

H. 3720 -- Rep. Clemmons: A BILL TO AMEND SECTION 15-9-720, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SERVICE ON UNKNOWN PARTIES BY PUBLICATION IN CERTAIN ACTIONS CONCERNING REAL PROPERTY, SO AS TO PROVIDE FOR SERVICE OF ALL COURT REQUIRED DOCUMENTS BY PUBLICATION AND, FURTHER, IN AN ACTION INVOLVING MULTIPLE UNITS IN A SINGLE HORIZONTAL PROPERTY REGIME, FOR SERVICE BY PUBLICATION BY CONSOLIDATING THE SERVICES INTO A SINGLE SERVICE THAT IDENTIFIES EACH APARTMENT INCLUDED IN THE ACTION BASED ON THE APARTMENT’S DESCRIPTION IN THE MASTER DEED.

The Judiciary Committee proposed the following Amendment No. 1 (COUNCIL\AGM\19414MM09), which was adopted:

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. Section 15‑9‑720 of the 1976 Code is amended to read:

“Section 15‑9‑720. ~~In actions (1) affecting the title to real property, (2) for the partition of real estate or (3) for the foreclosure of a mortgage on real estate, if (a) any party having any interest in or lien upon such real estate is unknown to the plaintiff, (b) the residence of such party cannot, with reasonable diligence, be ascertained by him and (c) such facts shall be made to appear by affidavit to the court, judge, clerk of court, master or judge of probate of the county in which the cause is pending, such court, judge, clerk, master or judge of probate shall grant an order that the summons be served on such unknown party by publishing it once a week for three weeks in a newspaper printed in the county where the premises are situated. Such publication shall be equivalent to a personal service on such unknown party.~~ (A) For the purposes of this section, ‘court’ means a court, judge, clerk of court, master in equity, special referee, or judge of probate of competent jurisdiction in the county where the action is pending.

(B)(1) A court shall grant an order allowing a party with an interest in or lien on a parcel of real property subject to a partition action, mortgage foreclosure action, or other action affecting the property’s title to serve by publication legal notice, summons, pleadings, or other court‑required process or documents on a party unknown to the plaintiff and who has an interest in or lien on the real property, if the:

(a) residence of this unknown party cannot, with a reasonably diligent effort, be ascertained by the plaintiff; and

(b) plaintiff presents an affidavit to the court stating he has been unable to ascertain the residence of the unknown party after making a reasonably diligent effort.

(2) A court order allowing a party to serve an unknown party by publication must require the party serving by publication to publish the service once a week for three weeks in a newspaper of general circulation in the county where the property is situated. Service by publication under this section is equal to personal service on the unknown party.

(C) A party may accomplish service by publication pursuant to this section for multiple units in a single horizontal property regime by consolidating the services into a single service that identifies each apartment included in the action based on the apartment’s description in the master deed. This consolidated service must comply with the other requirements of this section and other applicable statutes, including the requirement that publication must take place once a week for three weeks in a newspaper of general circulation in the county where the property is situated.”

SECTION 2. This act takes effect upon approval by the Governor. /

Amend the bill further, by deleting all before the enacting words and inserting:

/ A BILL TO AMEND SECTION 15‑9‑720, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SERVICE ON UNKNOWN PARTIES BY PUBLICATION IN CERTAIN ACTIONS CONCERNING REAL PROPERTY, SO AS TO PROVIDE FOR SERVICE OF ALL COURT‑REQUIRED DOCUMENTS BY PUBLICATION AND, FURTHER, IN AN ACTION INVOLVING MULTIPLE UNITS IN A SINGLE HORIZONTAL PROPERTY REGIME, FOR SERVICE BY PUBLICATION BY CONSOLIDATING THE SERVICES INTO A SINGLE SERVICE THAT IDENTIFIES EACH APARTMENT INCLUDED IN THE ACTION BASED ON THE APARTMENT’S DESCRIPTION IN THE MASTER DEED. /

Renumber sections to conform.

Amend title to conform.

Rep. CLEMMONS explained the amendment.

The amendment was then adopted.

The Bill, as amended, was read the second time and ordered to third reading.

**H. 3231--ORDERED TO THIRD READING**

The following Joint Resolution was taken up:

H. 3231 -- Reps. E. H. Pitts, T. R. Young, Ballentine, Haley, Harrison, J. E. Smith, Sellers, Govan, Bannister, G. M. Smith, Funderburk, Bedingfield and Hart: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 8, ARTICLE IV OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE ELECTION, QUALIFICATIONS, AND TERM OF THE LIEUTENANT GOVERNOR, SO AS TO PROVIDE FOR THE JOINT ELECTION OF GOVERNOR AND LIEUTENANT GOVERNOR BEGINNING WITH THE GENERAL ELECTION OF 2014.

Rep. HARRISON explained the Joint Resolution.

Pursuant to the provisions of the Constitution the yeas and nays were taken on the passage of the Joint Resolution, resulting as follows:

Yeas 101; Nays 7

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Agnew | Allen | Allison |
| Anderson | Anthony | Bales |
| Ballentine | Bannister | Barfield |
| Battle | Bedingfield | Bingham |
| Bowen | Brady | Branham |
| Brantley | H. B. Brown | R. L. Brown |
| Cato | Chalk | Clemmons |
| Clyburn | Cobb-Hunter | Cole |
| Crawford | Daning | Delleney |
| Dillard | Duncan | Erickson |
| Forrester | Funderburk | Gambrell |
| Gilliard | Govan | Gunn |
| Haley | Hamilton | Hardwick |
| Harrell | Harrison | Hart |
| Hayes | Hearn | Herbkersman |
| Hodges | Horne | Hosey |
| Huggins | Hutto | Jennings |
| Kelly | Kirsh | Limehouse |
| Littlejohn | Loftis | Long |
| Lowe | Lucas | Mack |
| McEachern | McLeod | Merrill |
| Miller | Millwood | Moss |
| Nanney | J. H. Neal | J. M. Neal |
| Neilson | Ott | Owens |
| Parker | Parks | Pinson |
| E. H. Pitts | M. A. Pitts | Rice |
| Sandifer | Scott | Sellers |
| Simrill | Skelton | D. C. Smith |
| G. R. Smith | J. R. Smith | Sottile |
| Spires | Stavrinakis | Stewart |
| Stringer | Thompson | Umphlett |
| Vick | White | Whitmire |
| Williams | Willis | Wylie |
| A. D. Young | T. R. Young |  |

**Total--101**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Gullick | Harvin | Jefferson |
| King | Knight | Rutherford |
| Toole |  |  |

**Total--7**

So, the Joint Resolution, having received the necessary two-thirds vote, was passed and ordered to third reading.

RECORD FOR VOTING

I was temporarily out of the Chamber on constituent business during the vote on H. 3231. If I had been present, I would have voted ‘yea’ on the Bill.

Rep. David Hiott

Further proceedings were interrupted by expiration of time on the uncontested Calendar.

**RECURRENCE TO THE MORNING HOUR**

Rep. LOFTIS moved that the House recur to the Morning Hour, which was agreed to.

**HOUSE RESOLUTION**

The following was introduced:

H. 3989 -- Rep. Hamilton: A HOUSE RESOLUTION TO CONGRATULATE ED COLES UPON THE OCCASION OF HIS INDUCTION INTO THE NATIONAL WRESTLING HALL OF FAME ON MAY 3, 2009.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 3990 -- Reps. Parks, Pinson, M. A. Pitts, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, E. H. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A HOUSE RESOLUTION TO RECOGNIZE AND COMMEND MARY FRANCES FRAZIER MCCAULEY OF

GREENWOOD FOR HER MANY YEARS OF COMMUNITY SERVICE.

The Resolution was adopted.

**CONCURRENT RESOLUTION**

On motion of Rep. STAVRINAKIS, with unanimous consent, the following was taken up for immediate consideration:

H. 3991 -- Reps. Stavrinakis, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO DECLARE THE WEEK OF MAY 4-8, 2009, AS TEACHER APPRECIATION WEEK IN SOUTH CAROLINA AND TO EXPRESS THE SINCERE GRATITUDE OF THE CITIZENS OF SOUTH CAROLINA TO THE TEACHERS OF THIS GREAT STATE.

Whereas, throughout the State of South Carolina and across the nation, teachers open children’s minds to the magic of ideas, knowledge, and dreams; and

Whereas, teachers help in keeping American democracy alive by fostering good citizenship in our children, and their labors contribute immeasurably to creating the leaders of tomorrow; and

Whereas, in filling their many roles, including that of listener, explorer, role model, motivator, and mentor, teachers continue to influence students long after their school days are only memories; and

Whereas, the South Carolina General Assembly recognizes that, as a strong adjunct to parents’ efforts in the home, teachers’ work in the classroom forms the underpinnings of excellence in education for our children; and

Whereas, the General Assembly further recognizes that by working together and investing in helpful, fresh ideas, legislators and teachers can promote excellence in every classroom; and

Whereas, the National Parent Teacher Association has declared May 4-8, 2009, as Teacher Appreciation Week; and

Whereas, for all their hard work and dedication, the teachers of South Carolina are worthy of praise and commendation. Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

That the members of the South Carolina General Assembly, by this resolution, declare the week of May 4‑8, 2009, as Teacher Appreciation Week in South Carolina and express the sincere gratitude of the citizens of South Carolina to the teachers of this great State.

Be it further resolved that all businesses and governmental and community agencies participate in the celebration of the significant role teachers play in shaping the lives of our students.

The Concurrent Resolution was agreed to and ordered sent to the Senate.

**INTRODUCTION OF BILLS**

The following Bills were introduced, read the first time, and referred to appropriate committees:

H. 3992 -- Rep. Rice: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 34 IN TITLE 12 SO AS TO ENACT THE "SOUTH CAROLINA FAIR TAX ACT", EFFECTIVE JANUARY 1, 2011, AND TO REPEAL, EFFECTIVE AT THE SAME TIME, CHAPTERS 6, 8, 11, 13, 16, AND 36, ALL OF TITLE 12, RELATING RESPECTIVELY TO THE SOUTH CAROLINA INCOME TAX ACT, INCOME TAX WITHHOLDING, THE INCOME TAX ON BANKS AND SAVINGS AND LOAN ASSOCIATIONS, THE SOUTH CAROLINA ESTATE TAX ACT, AND THE SOUTH CAROLINA SALES TAX ACT.

Referred to Committee on Ways and Means

H. 3993 -- Reps. Loftis, Parker, Hardwick, Merrill, Allison, Miller and Umphlett: A BILL TO AMEND SECTION 12-37-220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO CLARIFY THAT A WATERCRAFT AND ITS MOTOR IS NOT ELIGIBLE FOR THE COUNTY OPTION PARTIAL PROPERTY TAX EXEMPTION IF THE BOAT OR WATERCRAFT IS CLASSIFIED AS A PRIMARY OR SECONDARY RESIDENCE FOR PROPERTY TAX PURPOSES; AND TO AMEND SECTION 12-37-714, AS AMENDED, RELATING TO BOATS WITH A SITUS IN THIS STATE FOR PURPOSES OF IMPOSING THE PROPERTY TAX, SO AS TO PROVIDE THAT THE GOVERNING BODY OF A COUNTY BY ORDINANCE MAY PROVIDE THAT A BOAT, INCLUDING ITS MOTOR IF THE MOTOR IS SEPARATELY TAXED, IS SUBJECT TO PROPERTY TAX IF IT IS WITHIN THIS STATE FOR ONE HUNDRED EIGHTY DAYS IN THE AGGREGATE, REGARDLESS OF THE NUMBER OF CONSECUTIVE DAYS.

Referred to Committee on Ways and Means

H. 3994 -- Reps. G. R. Smith, Parker, Loftis, Pinson, Allison, Crawford, Delleney, Gilliard, Hamilton, Jefferson, Littlejohn, Lowe, McEachern, Millwood, Simrill, J. R. Smith and T. R. Young: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 2 TO CHAPTER 31, TITLE 23 SO AS TO PROVIDE THAT A PERSON MAY NOT ESTABLISH A POLICY OR RULE THAT PROHIBITS CERTAIN PERSONS FROM TRANSPORTING AND STORING FIREARMS IN A LOCKED VEHICLE ON PROPERTY SET ASIDE FOR A VEHICLE.

Referred to Committee on Judiciary

**H. 3790--REQUESTS FOR DEBATE**

The following Bill was taken up:

H. 3790 -- Rep. Sandifer: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "SOUTH CAROLINA MORTGAGE LENDING ACT", BY ADDING CHAPTER 22 TO TITLE 37 SO AS TO REQUIRE THE LICENSING OF A MORTGAGE LENDER, LOAN ORIGINATOR, OR SOMEONE ACTING AS A MORTGAGE LENDER; PROVIDE DEFINITIONS; ESTABLISH QUALIFICATIONS FOR LICENSURE AND GROUNDS FOR REVOCATION, SUSPENSION, RENEWAL, AND TERMINATION; DESCRIBE PROHIBITED ACTIVITIES; PROVIDE FOR RECORD-KEEPING, TRUST AND ESCROW ACCOUNTS, AND ANNUAL REPORTS; PROVIDE FOR ENFORCEMENT THROUGH ADMINISTRATIVE ACTION BY THE COMMISSIONER OF THE CONSUMER FINANCE DIVISION OF THE BOARD OF FINANCIAL INSTITUTIONS AND THROUGH CRIMINAL PENALTIES, AND TO PROVIDE FOR PARTICIPATION IN A NATIONAL MORTGAGE REGISTRY; TO AMEND SECTIONS 37-1-301, 37-3-105, 37-3-501, AND 37-23-20, ALL RELATING TO DEFINITIONS IN CONNECTION WITH MORTGAGE LENDING AND BROKERING AND HIGH-COST AND CONSUMER HOME LOANS, SO AS TO CONFORM DEFINITIONS, AND TO ADD A DEFINITION FOR "ADJUSTABLE RATE MORTGAGE"; TO AMEND SECTIONS 37-23-40, 37-23-45, AND 37-23-75, ALL RELATING TO PROTECTIONS FOR THE BORROWER IN A HIGH-COST OR CONSUMER HOME LOAN TRANSACTION, SO AS TO REQUIRE CERTAIN DISCLOSURES IN CONNECTION WITH AN ADJUSTABLE RATE MORTGAGE; TO AMEND SECTION 29-4-20, RELATING TO THE DEFINITION OF "REVERSE MORTGAGE", SO AS TO CONFORM THE DEFINITION; AND TO AMEND CHAPTER 58, TITLE 40, RELATING TO THE REGISTRATION OF MORTGAGE LOAN BROKERS, SO AS TO CHANGE THE REGISTRATION REQUIREMENTS TO LICENSING REQUIREMENTS, TO CONFORM DEFINITIONS TO THOSE SET FORTH IN THE SOUTH CAROLINA MORTGAGE LENDING ACT, REQUIRE CERTAIN PROFESSIONAL COURSES, AN ADDITIONAL YEAR OF EXPERIENCE, AND A FINGERPRINT CHECK FOR MORTGAGE BROKERS AND LOAN ORIGINATORS, REQUIRE CERTAIN RECORDS BE KEPT AND MADE ACCESSIBLE, ADD CERTAIN PROHIBITIONS IN CONNECTION WITH A REAL ESTATE APPRAISAL, REQUIRE AND PRESCRIBE MORTGAGE BROKER AGREEMENTS, AUTHORIZE ENFORCEMENT BY THE DEPARTMENT OF CONSUMER AFFAIRS AND PRESCRIBE ADMINISTRATIVE PENALTIES INCLUDING FINES AND INJUNCTIONS AND A CRIMINAL PENALTY, REQUIRE CERTAIN REPORTS AND FILINGS, AND PROVIDE FOR PARTICIPATION IN A NATIONWIDE MORTGAGE REGISTRY.

The Labor, Commerce and Industry Committee proposed the following Amendment No. 1 (COUNCIL\AGM\19403MM09):

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. This act may be cited as the “South Carolina Mortgage Lending Act”.

SECTION 2. Title 37 of the 1976 Code is amended by adding:

“CHAPTER 22

Mortgage Lending

Section 37‑22‑110. The following definitions apply in this chapter:

(1) ‘Act as a mortgage broker’ means to act, for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, by: (i) soliciting, processing, placing, or negotiating a mortgage loan for a borrower from a mortgage lender or depository institution or offering to process, place, or negotiate a mortgage loan for a borrower from a mortgage lender or depository institution, (ii) engaging in tablefunding of mortgage a loan, or (iii) acting as a loan correspondent, as that term is defined in 24 C.F.R. Part 202 et seq., whether those acts are done by telephone, by electronic means, by mail, or in person with the borrowers or potential borrowers. ‘Act as a mortgage broker’ also includes bringing a borrower and lender together to obtain a mortgage loan or rendering a settlement service as described in 12 U.S.C. 2602(3) and 24 C.F.R. Part 3500.2(b).

(2) ‘Act as a mortgage lender’ means to engage in the business of making or servicing a mortgage loan for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, including soliciting, processing, placing, or negotiating a mortgage loan.

(3) ‘Administrator’ means the administrator of the Department of Consumer Affairs (department) or the administrator’s designees.

(4) ‘Advertising’ means a commercial message in a medium that promotes, either directly or indirectly, a mortgage loan transaction.

(5) ‘Affiliate’ means a company that controls, is controlled by, or is under common control with another company, as set forth in the Bank Holding Company Act of 1956 (12 U.S.C. Section 1841, et seq.). For purposes of this item, the term ‘control’ means ownership of all of the voting stock or comparable voting interest of the controlled person.

(6) ‘Board’ means the State Board of Financial Institutions as that term is used in Chapter 1, Title 34.

(7) ‘Borrower’ means a natural person in whose dwelling a security interest is or is intended to be retained or acquired if that person’s ownership interest in the dwelling is or is to be subject to the security interest.

(8) ‘Branch manager’ means the natural person who is in charge of and who is responsible for the business operations of a branch office of a licensee.

(9) ‘Branch office’ means an office of the licensee that is separate and distinct from the licensee’s principal office.

(10) ‘Commissioner’ means the designee of the State Board of Financial Institutions for purposes of licensing and regulation of mortgage lenders and mortgage loan originators pursuant to this chapter.

(11) ‘Control’, except as provided in item (5), means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. A person is presumed to have ‘control’ of a company if that person, (i) is a director, general partner or executive officer, (ii) directly or indirectly has the right to vote ten percent or more of a class of a voting security or has the power to sell or direct the sale of ten percent or more of a class of voting securities, (iii) in the case of an LLC, is the managing member, or (iv) in the case of a partnership, has the right to receive upon dissolution, or has contributed, ten percent or more of the capital.

(12) ‘Depository institution’ has the same meaning as in Section 3 of the Federal Deposit Insurance Act (12 U.S.C. Section 1811, et seq.), and includes a credit union.

(13) ‘Dwelling’ means the same as the term ‘dwelling’ means in Section 226.2(a)19 of Title 12 of the Code of Federal Regulations and the Federal Reserve Board’s Official Staff Commentary to that section.

(14) ‘Employee’ means a natural person who has an employment relationship, acknowledged by both the natural person and the mortgage lender, and is treated like an employee for purposes of compliance with the federal income tax laws.

(15) ‘Escrow account’ means an account that a mortgage lender establishes or controls on behalf of a borrower to pay taxes, insurance premiums including flood insurance, or other charges with respect to a mortgage loan, including charges that the borrower and mortgage lender have voluntarily agreed that the mortgage lender collects and pays. The definition encompasses an account established for this purpose. For purposes of this item, the term ‘escrow account’ excludes an account that is under the borrower’s total control.

(16) ‘Escrow funds’ means money entrusted to a mortgage lender by a borrower for the purpose of payment of taxes and insurance or other payments to be made in connection with the servicing of a mortgage loan.

(17) ‘Exempt person’ means:

(a) an employee of a licensee whose responsibilities are limited to clerical and administrative tasks for the employer and who does not solicit borrowers, accept applications, or negotiate the terms of loans on behalf of the employer;

(b) a depository institution or a subsidiary that is wholly owned and controlled by the depository institution and regulated by a federal banking agency or an institution regulated by the Farm Credit Administration. This chapter does not apply to the exempt persons described in this subitem;

(c) an officer, registered loan originator or employee of an exempt person described in subitem (b) of this section when acting in the scope of employment for the exempt person;

(d) a person who offers or negotiates terms of a mortgage loan with or on behalf of an immediate family member of the individual;

(e) an individual who offers or negotiates terms of a mortgage loan secured by a dwelling that served as the person’s residence;

(f) a natural person who sells residential real estate and who lends or services, in one calendar year, no more than five purchase money notes secured by mortgages, deeds of trust, or other security instruments on the real estate sold as security for the purchase money obligation, unless the United States Department of Housing and Urban Development or a court of competent jurisdiction determines that this exemption is not in compliance with the SAFE Act pursuant to Section 1508 of Title V of The Housing and Economic Recovery Act of 2008, Public Law 110‑289;

(g) an employee whose employment as a processor or underwriter is undertaken pursuant to the direction and supervision of a licensee or exempt person except when the processor or underwriter is working as an independent contractor;

(h) an attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney’s representation of the client, unless the attorney is compensated by a mortgage lender, a mortgage broker, or other mortgage loan originator or by an agent of the mortgage lender, mortgage broker, or other mortgage loan originator;

(i) an attorney who works for a mortgage lender, pursuant to a contract, for loss mitigation efforts or third party independent contractor who is HUD‑certified, Neighborworks‑certified, or similarly certified, who works for a mortgage lender, pursuant to a contract, for loss mitigation efforts; or

(j) a manufactured home retailer and its employees if performing only administrative or clerical tasks in connection with the sale or lease of a manufactured home and the manufactured home retailer and its employees receive no compensation or other gain from a mortgage lender or a mortgage broker for the performance of the administrative or clerical tasks.

(18) ‘Federal banking agencies’ means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(19) ‘Financial Services or financial services related’ means pertaining to securities, commodities, banking, insurance, consumer lending, or real estate including, but not limited to, acting as or being associated with a bank or savings association, credit union, mortgage lender, mortgage servicer, mortgage broker, real estate broker, real estate salesperson or agent, closing agent, title company, or escrow agent.

(20) ‘Immediate family member’ means a spouse, child, sibling, parent, grandparent, or grandchild including stepparents, stepchildren, stepsiblings, and adoptive relationships.

(21) ‘Individual servicing a mortgage loan’ means an employee of a mortgage lender licensed in this State, that:

(a) collects or receives payments including payments of principal, interest, escrow amounts, and other amounts due on existing obligations due and owing to the licensed mortgage lender for a mortgage loan when:

(i) the borrower is in default; or

(ii) the borrower is in reasonably foreseeable likelihood of default;

(b) works with the borrower and the licensed mortgage lender, collects data, and makes decisions necessary to modify, either temporarily or permanently, certain terms of those obligations; or

(c) otherwise finalizes collection through the foreclosure process.

(22) ‘Licensee’ means a person who is licensed pursuant to this chapter.

(23) ‘Loan commitment’ or ‘commitment’ means a statement, written or electronic, by the mortgage lender setting forth the terms and conditions upon which the mortgage lender is willing to make a particular mortgage loan to a particular borrower.

(24) ‘Loan originator’ means a natural person who, in exchange for compensation or gain or in the expectation of compensation or gain as an employee of a licensed mortgage lender, solicits, negotiates, accepts, or offers to accept applications for mortgage loans, including electronic applications, or includes direct contact with, or informing mortgage loan applicants of, the rates, terms, disclosures, and other aspects of the mortgage loan. The definition of ‘loan originator’ does not include an exempt person described in item (17) of this section or a person solely involved in extensions of credit relating to timeshare plans, as that term is defined in section 101(53D) of Title 11, United States Code. The definition of loan originator does not apply to an individual servicing a mortgage loan as that term is defined in this chapter until July 31, 2011, unless the United States Department of Housing and Urban Development or a court of competent jurisdiction determines before that time that those individuals servicing mortgage loans are ‘loan originators’ as that term is defined in the SAFE Act pursuant to Section 1508 of Title V of The Housing and Economic Recovery Act of 2008, Public Law 110‑289.

(25) ‘Make a mortgage loan’ means to close a mortgage loan, advance funds, offer to advance funds, or make a commitment to advance funds to a borrower under a mortgage loan.

(26) ‘Managing principal’ means a natural person who meets the requirements of Section 37‑22‑140(C) and who agrees to be primarily responsible for the operations of a licensed mortgage lender.

(27) ‘Mortgage broker’ means a person who acts as a mortgage broker, as that term is defined in subitem (1) of this section.

(28) ‘Mortgage lender’ means a person who acts as a mortgage lender as that term is defined in subitem (2) of this section or engages in the business of servicing mortgage loans for others or collecting or otherwise receiving mortgage loan payments directly from borrowers for distribution to another person. This definition does not include engaging in a tablefunded transaction.

(29) ‘Mortgage loan’ means a loan made to a natural person primarily for personal, family, or household use, primarily secured by a mortgage, deed of trust, or other security interest on residential real property or security interest arising under an installment sales contract or equivalent security interest against the borrower’s dwelling and: (i) located in South Carolina, (ii) negotiated, offered or otherwise transacted within this State, in whole or in part, or (iii) made or extended within this State.

(30) ‘Nationwide Mortgage Licensing System and Registry’ means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators of licensees licensed pursuant to this chapter.

(31) ‘Nontraditional mortgage product’ means a mortgage product other than a thirty‑year fixed rate mortgage loan.

(32) ‘Person’ means a natural person, partnership, limited liability company, limited partnership, corporation, association, or other group engaged in joint business activities, however organized.

(33) ‘Processor or underwriter’ means an employee of a mortgage broker, mortgage lender, or exempt person who performs clerical or support duties at the direction of and subject to the supervision and instruction of a licensee or exempt person and may include direct contact with applicants but does not include soliciting, negotiating, accepting, or offering to accept applications that include personal identifying information as defined in Section 16‑13‑510(D) for mortgage loans including electronic applications or informing applicants of the rates, terms, disclosures, and other aspects of the mortgage loan.

(a) Clerical or support duties may include after the receipt of an application: (i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a mortgage loan, and (ii) communication with a consumer to obtain the information necessary for the processing or underwriting of a mortgage loan, to the extent that the communication does not include offering or negotiating loan rates or terms or counseling consumers about mortgage loans.

(b) A person engaging solely in loan processor or underwriter activities may not represent to the public, through advertising or other means of communicating or providing information including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items that the person may or will perform any of the activities of a loan originator.

(c) A processor or underwriter who is an independent contractor may not engage in the activities of a processor or underwriter unless the independent contractor processor or underwriter obtains and maintains a license as provided by rule or regulation pursuant to Section 37‑22‑270.

(34) ‘Registered loan originator’ means a natural person who meets the definition of loan originator and is an employee of a depository institution or a subsidiary that is wholly owned and controlled by the depository institution and regulated by a federal banking agency or an institution regulated by the Farm Credit Administration and is registered with and maintains a unique identifier through the Nationwide Mortgage Licensing System and Registry.

(35) ‘Residential real property’ means real property located in the State of South Carolina upon which there is located or is to be located one or more single‑family dwellings or dwelling units that are to be occupied as the owner’s dwelling, and includes real estate and residential manufactured home (land/home) transactions.

(36) ‘RESPA’ means the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. Section 2601 et seq. and regulations adopted pursuant to it by the Department of Housing and Urban Development.

(37) ‘Soliciting, processing, placing, or negotiating a mortgage loan’ means, for compensation or gain or in the expectation of compensation or gain, either directly or indirectly, accepting or offering to accept an application for a mortgage loan, assisting or offering to assist in the processing of an application for a mortgage loan, soliciting or offering to solicit a mortgage loan, or negotiating or offering to negotiate the terms or conditions of a mortgage loan.

(38) ‘Tablefunding’ means a settlement at which a loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds.

(39) ‘TILA’ means the Truth in Lending Act, 15 U.S.C. Section 1601 et seq. and regulations adopted pursuant to it by the Board of Governors of the Federal Reserve System.

(40) ‘Unique identifier’ means a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.

Section 37‑22‑120. (A) Without first obtaining a license pursuant to this chapter it is unlawful for a person, other than an exempt person, doing business in this State to:

(1) act as a mortgage lender or, directly or indirectly, engage in the business of a mortgage lender under any name or title; or

(2) circulate or use advertising, including electronic means, make a representation or give information to a person which indicates or reasonably implies activity within the scope of this chapter.

(B) It is unlawful for a person to employ, compensate, or appoint as its agent a loan originator unless the loan originator is licensed as a loan originator pursuant to this chapter. An exempt person is not subject to this subsection.

(C) The license of a loan originator is not effective during a period that the person is not employed by a mortgage lender licensed pursuant to this chapter.

(D) If a loan originator ceases to be employed by a mortgage lender licensed pursuant to this chapter, the loan originator and the mortgage lender by whom that person is employed promptly shall notify the commissioner in writing. The mortgage lender’s notice must include a statement of the specific reason or reasons for the termination of the loan originator’s employment. The reason for termination is confidential information and must not be released to the public.

(E) A loan originator must not be employed simultaneously by more than one mortgage lender licensed pursuant to this chapter.

(F) Independent contractors, except for exempt persons, must be separately licensed. Processors and underwriters who are independent contractors must be licensed as provided in Section 37‑22‑110(33)(c).

Section 37‑22‑130. (A) A person aggrieved by an administrative order issued by the commissioner may request a contested case hearing before the Administrative Law Court in accordance with the court’s rules of procedure. If the person fails to request a contested case hearing within the time provided in the court’s rules of procedure, the administrative order becomes final and the commissioner may bring an action to enforce its order pursuant to Chapter 23, Title 1. This section does not limit utilization of, or the scope of judicial review available under, other means of review, redress, relief, or trial de novo provided by law. A preliminary, procedural, or intermediate action or ruling of the Administrative Law Court is reviewable immediately if review of the final decision of the Administrative Law Court would not provide an adequate remedy.

(B) Contested case proceedings are instituted by filing a request for a contested case hearing with the Administrative Law Court according to the rules of procedure of the Administrative Law Court. Copies of the request for a contested case hearing must be served upon the commissioner and all parties of record. The final decision of the administrative law judge may be appealed as provided in Sections 1‑23‑380 and 1 23‑610 or Chapter 23, Title 1.

Section 37‑22‑140. (A) A person desiring to obtain a license pursuant to this chapter shall make application for licensure to the commissioner on forms prescribed by the commissioner. The application must contain the information the commissioner considers necessary including, but not limited to, the applicant’s:

(1) name, address, and social security number or if applicable Employer Identification Number (EIN);

(2) form and place of organization, if applicable;

(3) proposed method of and locations for doing business, if applicable;

(4) qualifications and business history and, if applicable, the business history of any partner, officer, or director, a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the applicant, including: (i) a description of any injunction or administrative order by a state or federal authority to which the person is or has been subject, including denial, suspension or revocation of a financial services or financial services related license or registration; (ii) a conviction, or plea of guilty or nolo contendere to a misdemeanor within the last ten years involving financial services or a financial services related business or any fraud, false statements or omissions, theft or wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, money laundering, breach of trust or a conspiracy to commit any of these offenses; and (iii) a conviction of, or plea of guilty or nolo contendere to, a felony;

(5) financial condition, credit history, and business history, with respect to an application for licensing as a mortgage lender; and credit history and business history, with respect to the application for licensing as a loan originator; and

(6) consent to a national and state fingerprint‑based criminal history record check pursuant to Section 37‑22‑240 and submission of a set of the applicant’s fingerprints in a form acceptable to the commissioner. In the case of an applicant that is a corporation, partnership, limited liability company, association, or trust, each natural person who has control of the applicant or who is the managing principal or a branch manager shall consent to a national and state fingerprint‑based criminal history record check pursuant to Section 37‑22‑240 and submit a set of that natural person’s fingerprints pursuant to this item. Refusal to consent to a criminal history record check constitutes grounds for the commissioner to deny licensure to the applicant as well as to any entity (i) by whom or by which the applicant is employed, (ii) over which the applicant has control, or (iii) as to which the applicant is the current or proposed managing principal or a current or proposed branch manager.

(B) In addition to the requirements imposed by the commissioner in subsection (A), each applicant for licensure as a loan originator shall:

(1) have attained the age of at least eighteen years of age;

(2) work for a licensed mortgage lender;

(3) have satisfactorily completed pre‑licensing education of at least twenty hours and a written examination approved pursuant to 12 U.S.C. 5101 et seq. To satisfy the twenty hours of prelicensing education, an applicant may show proof of the equivalent of twenty or more semester hours of satisfactorily completed course work in real estate finance or real estate law or course work that is equivalent to the education requirements in the SAFE Act pursuant to Section 1508 of Title V of The Housing and Economic Recovery Act of 2008, Public Law 110‑289 if the course work counts toward the successful completion of a degree that is baccalaureate level or more advanced with a major or minor in finance, accounting, business administration, real estate finance economics, or similar baccalaureate or more advanced degree, approved by the commissioner, from an accredited college or university. The coursework must be approved pursuant to 12 U.S.C. 5101 et seq.;

(4) have never had a loan originator license revoked in any governmental jurisdiction; and

(5) have not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court (i) during the ten‑year period preceding the date of the application for licensing or (ii) at any time, if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering.

(C) In addition to the requirements of subsection (A) of this section, each applicant for licensure as a mortgage lender at the time of application and at all times after that shall comply with the following requirements:

(1) If the applicant is a sole proprietor, the applicant shall have at least three years of experience in financial services or financial services related business or other experience or competency requirements as the commissioner may impose.

(2) If the applicant is a general or limited partnership, at least one of its general partners shall have the experience described in item (1).

(3) If the applicant is a corporation, at least one of its principal officers shall have the experience described in item (1).

(4) If the applicant is a limited liability company, at least one of its members or managers shall have the experience described in item (1).

(5) Instead of a showing of three years’ experience, an applicant may show proof of three years’ employment with a federally insured depository institution or a VA, FHA, or HUD‑approved mortgagee.

(D) Each applicant shall identify one person meeting the requirements of subsections (B) and (C) to serve as the applicant’s managing principal.

(E) Every applicant for initial licensure shall pay a filing fee of one thousand dollars for licensure as a mortgage lender or fifty dollars for licensure as a loan originator, in addition to the actual cost of obtaining credit reports and national and state fingerprint‑based criminal history record checks. If a licensed loan originator changes employment, a new license must be issued and a fee of twenty‑five dollars must be paid.

(F) A mortgage lender shall post and maintain a surety bond in an amount determined by the commissioner, based on the total dollar amount of mortgage loans originated in a calendar year in this State pursuant to the following: (i) dollar volume of mortgage loans from $0 to $49,999,999, surety bond of $150,000; (ii) dollar volume of mortgage loans from $50,000,000 to $249,999,999, surety bond of $250,000; (iii) dollar volume of mortgage loans greater than $250,000,000 surety bond of $500,000. In no case is the surety bond less than one hundred fifty thousand dollars. The surety bond must be executed by a surety company authorized by the laws of this State to transact business within this State. The surety bond must be in a form satisfactory to the commissioner, must be executed to the commissioner, and must be for the use of the State for the recovery of expenses, fines, and fees, or any of them, levied pursuant to this chapter and for consumers who have losses or damages as a result of noncompliance with this chapter by the mortgage lender. The full amount of the surety bond must be in effect at all times. The license of a licensee expires upon the termination of the bond by the surety company, unless a new bond is filed with the commissioner before the termination of the previous bond. If the license expires based on bond termination, all licensed activity must cease and the person must apply for a license pursuant to subsection (A).

(G) Any sole proprietor, general partner, member or manager of a limited liability company, or officer of a corporation who meets individually the requirements of subsection (B), upon payment of the applicable fee, meets the qualifications for licensure as a loan originator subject to the provisions of subsection (I).

(H) Each principal office and each branch office of a licensed mortgage lender at which business is conducted must be licensed pursuant to this chapter and must be issued a separate license. A licensed mortgage lender shall file with the commissioner an application on a form prescribed by the commissioner which identifies the address of the principal office and each branch office and branch manager. A licensing fee of one hundred fifty dollars must be assessed by the commissioner for each branch office issued a license.

(I) If the commissioner determines that an applicant meets the qualifications for licensure and finds that the financial responsibility, character, and general fitness of the applicant are such as to command the confidence of the community and to warrant belief that the business is to be operated honestly, fairly, and efficiently according to the purposes of this chapter and in accordance with all applicable state and federal laws, the commissioner shall issue a license to the applicant. If the commissioner does not make that determination, the commissioner shall refuse to license the applicant and shall notify him of the denial.

(J) Issuance of a license does not indicate approval or acceptance of any contract, agreement or other document submitted in support of the application. A licensee may not represent that its services or contracts are approved by the State or state agency.

(K) A person who obtains a license as a mortgage lender, upon notice to the commissioner on a form prescribed by the commissioner, may act as a mortgage broker as defined in Section 37‑22‑110(1). The commissioner shall provide to the administrator notification of which mortgage lenders are also acting as brokers. A mortgage lender who also acts as a mortgage broker is not required to obtain a license as a mortgage broker pursuant to Chapter 58, Title 40 and is not subject to regulation by the administrator, except that the mortgage lender acting as a mortgage broker must comply with Sections 40‑58‑70, 40‑58‑75, and 40‑58‑78.

(L)(1) A person with three years’ experience as a loan originator who applies for a license as a loan originator and who has completed and filed with the Nationwide Mortgage Licensing System and Registry all information, documents, and requirements for licensure pursuant to this chapter and who has been assigned a unique identifier by the Registry must be provided a provisional license as a loan originator before the commissioner takes action on his application if the applicant is employed by a mortgage lender licensed pursuant to this chapter and a senior officer or managing principal of that licensee attests to the commissioner that:

(a) the applicant, within the six‑month period before the date of application for licensure, has not been acting as a registered loan originator or a state‑licensed loan originator in another state under provisions of Section 1507 of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, and:

(i) the applicant has never had a loan originator license denied, revoked, or suspended in any governmental jurisdiction;

(ii) the applicant during the previous five years, ending on the date of the filing of the current application, has not had an application for a professional license denied, a professional license revoked, or any adverse action taken on a professional license;

(iii) the applicant has not been convicted of a felony that would otherwise authorize the commissioner to deny a license;

(iv) the application meets all of the applicable requirements of this chapter for licensure; and

(v) the licensee will be responsible for the acts of the applicant during the period that such application is pending; or

(b) the applicant is currently, or has within the six‑month period before the date of the application, been acting as a registered loan originator or a state‑licensed loan originator in another state under provisions of Section 1507 of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 and the applicant has never had a loan originator license denied, revoked, or suspended in any governmental jurisdiction and has not been convicted of a felony that would otherwise authorize the commissioner to deny a license.

(2) A provisional license issued pursuant to this section expires on the earlier of the following:

(a) the date upon which the commissioner issues or denies the permanent license applied for; or

(b) ninety days from the date the provisional license is issued.

(3) The commissioner may deny or suspend the rights of a licensee pursuant to this chapter to employ a loan originator acting under item (1) of this subsection if the commissioner finds that the licensee, the senior officer, or managing principal does not make the certification or undertaking set forth in item (1)(b) of the subsection in good faith.

(M) If the information contained in a document filed with the commissioner is or becomes inaccurate or incomplete, the licensee promptly shall file a correcting amendment to the information contained in the document.

(N) All advertisements of mortgage loans must comply with the Truth in Lending Act, 15 U.S.C. 1601, et seq. and the South Carolina Consumer Protection Code, Title 37.

Section 37‑22‑150. (A) All licenses issued by the commissioner pursuant to this chapter expire annually on the thirty‑first day of December or on another date that the commissioner may determine. The license is invalid after that date unless renewed. The renewal period for all licensees is from November first through December thirty‑first annually or on another date the commissioner may determine. A licensee desiring to renew its license must submit an application to the commissioner on forms and containing information the commissioner requires. Applications received after December thirty‑first or another date the commissioner determines, are late and the late fees in subsection (B) apply. A license may be renewed by compliance with this section and by paying to the commissioner, in addition to the actual cost of obtaining credit reports and national and state fingerprint‑based criminal history record checks as the commissioner may require, a renewal fee as prescribed by the board for each of the following:

(1) for a licensed mortgage lender, an annual renewal fee of no more than eight hundred dollars and no more than one hundred fifty dollars for each branch office; and

(2) for a licensed loan originator, an annual fee of no more than fifty dollars.

(B) If a license of a licensed mortgage lender is not renewed during the renewal period, a late fee of not more than five hundred dollars as prescribed by the board, in addition to the renewal fee in subsection (A)(1), must be assessed. If a license of a licensed loan originator is not renewed during the renewal period, a late fee of not more than one hundred dollars as prescribed by the board, in addition to the renewal fee in subsection (A)(2) of this section, must be assessed as a late fee to a renewal. If a licensee fails to renew its license within thirty days after the date the license expires or otherwise fails to maintain a valid license, the commissioner shall require the licensee to comply with the requirements for the initial issuance of a license pursuant to this chapter, in addition to paying any fee that has accrued.

(C) At any time required by the commissioner, each person described in Section 37‑22‑140 shall furnish to the commissioner consent to a national and state fingerprint‑based criminal history record check and a set of fingerprints in a form acceptable to the commissioner. Refusal to consent to a criminal history record check may constitute grounds for the commissioner to deny renewal of the license of the person as well as the license of another person by which he is employed, over which he has control, or as to which he is the current or proposed managing principal or a current or proposed branch manager.

(D) A license issued pursuant to this chapter is not assignable or transferable. Control of a licensee must not be acquired through a stock purchase or other device without the prior written consent of the commissioner. The commissioner may not give written consent if the commissioner finds that any of the grounds for denial, revocation, or suspension of a license pursuant to Section 37‑22‑200 are applicable to the acquiring person.

Section 37‑22‑160. (A) As a condition of license renewal, a licensee must complete at least eight hours of continuing professional education annually for the purpose of enhancing professional competence and responsibility. The continuing professional education completed must be reported to the commissioner annually. Documentation of courses completed must be maintained by all licensees. This documentation is subject to inspection by the commissioner for up to two years after the date of course completion.

(B) Continuing education credit may be granted only for the year in which the class is taken and may not be granted for the same course in successive years.

(C) If a licensee fails to complete the continuing professional education before the license expiration date, his license expires and he shall pay a penalty of not more than one hundred dollars, in addition to other fees or penalties that have accrued, to reinstate the license.

(D) All prelicensing education, continuing education, and written examinations must be approved through the Nationwide Mortgage Licensing System and Registry, pursuant to 12 U.S.C. 5101 et seq. before credit can be awarded. Applicants and licensees that successfully complete education or testing approved through the Nationwide Mortgage Licensing System and Registry fulfill the requirements of this State.

Section 37‑22‑170. A mortgage lender licensed pursuant to this chapter shall have a managing principal who operates the business under that manager’s full charge, control, and supervision. A mortgage lender may operate a branch office subject to the requirements of this chapter. Each principal and branch office of a mortgage lender licensed pursuant to this chapter shall have a branch manager who meets the requirements of Section 37‑22‑140(B) and (C)(1). Each mortgage lender licensed pursuant to this chapter shall file a form prescribed by the commissioner indicating the business’s designation of managing principal and branch manager for each branch and their acceptance of the responsibility. The managing principal for a licensee’s business also may serve as the branch manager of one of the licensee’s branch offices. A mortgage lender licensed pursuant to this chapter shall notify the commissioner of a change in its managing principal or any branch manager. The license of a licensee who does not comply with this provision must be suspended pursuant to Section 37‑22‑200 until the licensee complies with this section. A licensee who operates as a sole proprietorship is a managing principal for the purposes of this chapter.

Section 37‑22‑180. (A) A licensee shall report to the commissioner a change of address of the principal place of business or a branch office at least seven days before the change. Change of address notification of a licensed location must be accompanied by a fee of twenty‑five dollars.

(B) A mortgage lender licensed pursuant to this chapter shall display in plain view in its principal office and in each branch the license issued by the commissioner. A loan originator licensed pursuant to this chapter shall display in each branch office in which mortgage loans are originated a copy of the license issued by the commissioner.

Section 37‑22‑190. (A) In addition to the activities prohibited by other provisions of state or federal law, it is unlawful for a person licensed pursuant to this chapter, in the course of a mortgage loan origination, to:

(1) misrepresent or conceal the material facts or make false promises likely to influence, persuade, or induce an applicant for a mortgage loan or a mortgagor to take a mortgage loan, or to pursue a course of misrepresentation through agents or otherwise;

(2) refuse improperly or fail to issue a satisfaction of a mortgage pursuant to Section 29‑3‑310;

(3) fail to account for or deliver to a person entitled to receive them funds, documents, or other things of value obtained in connection with a mortgage loan including money provided by a borrower for a real estate appraisal or a credit report, which the mortgage lender or loan originator is not entitled to retain under the circumstances;

(4) pay, receive, or collect in whole or in part any commission, fee, or other compensation for a mortgage loan origination in violation of this chapter including any unlicensed person other than an exempt person;

(5) charge or collect a fee or rate of interest or to make or service a mortgage loan with terms or conditions or in a manner contrary to the provisions of this chapter;

(6) advertise mortgage loans including rates, margins, discounts, points, fees, commissions, or other material information including material limitations on the loans, unless the person is able to make the mortgage loans available as advertised to qualified applicants;

(7) fail to disburse funds in good faith and in accordance with a written commitment or agreement to make a mortgage loan that has been accepted by the borrower;

(8) engage in a transaction, practice, or course of business in connection with the making or servicing of, or purchase or sale of, a mortgage loan that is not in good faith or fair dealing, that is unconscionable, as set forth in Section 37‑5‑108, or that constitutes a fraud upon a person;

(9) fail to pay reasonable fees within a reasonable time to a licensed third party for services that are:

(a) requested from the third party in writing by the mortgage lender or an employee of the mortgage lender; and

(b) performed by the third party in connection with the origination or closing of a mortgage loan for a customer or mortgage lender;

(10) influence or attempt to influence through coercion, extortion, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan. This item does not prohibit a mortgage lender or servicer from asking the appraiser to do one or more of the following:

(a) consider additional appropriate property information;

(b) provide further detail, substantiation, or explanation for the appraiser’s value conclusion; or

(c) correct errors in the appraisal report;

(11) fail to comply with the mortgage loan servicing transfer, escrow account administration, or borrower inquiry response requirements imposed by Sections 6 and 10 of the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. Section 2605 and Section 2609, and regulations adopted pursuant to them by the Secretary of the Department of Housing and Urban Development and state law;

(12) fail to provide within a reasonable time, upon written request of a borrower, a payment history statement in a form easily understood by the borrower including payment dates and amounts and charges within the twelve months preceding the month in which the request is received and the total amount unpaid as of the end of the period covered by the statement. The statement must be provided without charge once during each year of the term of the obligation. If additional statements are requested, the borrower may be charged a reasonable fee, not to exceed five dollars for each additional statement;

(13) take a security interest in a borrower’s principal dwelling where the amount of the mortgage loan is less than five thousand dollars;

(14) fail to provide disclosures as required by state or federal law or collect any fee before providing required disclosures;

(15) fail to comply with this chapter or other state or federal law including rules and regulations applicable to business regulated by this chapter;

(16) falsely advertise or misuse names in violation of 18 U.S.C. Section 709 or state law; or

(17) use any trade name or insignia of membership in an organization of which the licensee is not a member or advertise falsely through any material including, but not limited to, business card, stationary, or signage concerning a designation or certification of special education, credentials, trade organization membership, or business.

(B) A violation of a state or federal law applicable to a business covered by this chapter is a violation of this chapter and may be enforced by the commissioner.

Section 37‑22‑200. (A) The commissioner, by order, may deny, suspend, revoke, or refuse to issue or renew a license of a licensee or applicant pursuant to this chapter or may restrict or limit the activities relating to mortgage loans of a licensee or a person who owns an interest in or participates in the business of a licensee, if the commissioner finds that both:

(1) the order is in the public interest; and

(2) the applicant, licensee, or any partner, member, manager, officer, director, loan originator, managing principal, or other person occupying a similar status or performing similar functions or a person directly or indirectly controlling the applicant or licensee:

(a) has filed an application for license that, as of its effective date or as of a date after filing, contained a statement that, in light of the circumstances under which it was made, is false or misleading with respect to a material fact;

(b) has violated or failed to comply with a provision of this chapter or order of the commissioner;

(c) within the past ten years has been convicted of, or pled guilty or nolo contendere to, a misdemeanor involving financial services or financial services related business or an offense involving breach of trust or fraudulent or dishonest dealing, or money laundering or has been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court;

(d) is permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing conduct or practice involving financial services or financial services related business;

(e) is the subject of an order of the commissioner denying, suspending, or revoking that person’s license;

(f) is the subject of an order entered by the authority of a governmental entity with jurisdiction over the financial services or financial services related industry denying or revoking that person’s license;

(g) does not meet the qualifications or the financial responsibility, character, or general fitness requirements, or a bond or capital requirements, pursuant to this chapter;

(h) has been the executive officer or controlling shareholder or owned a controlling interest in a financial services or financial services related business that has been subject to an order or injunction described in subitems (d), (e), or (f);

(i) has failed to pay the proper filing or renewal fee pursuant to this chapter or a fine, penalty, or fee imposed by any governmental entity. However, the commissioner may enter only a denial order pursuant to this subitem, and the commissioner shall vacate the order when the deficiency is corrected; or

(j) has falsely certified attendance or completion of hours at an approved education course.

(B) The commissioner, by order, summarily may postpone or suspend the license of a licensee pending final determination of a proceeding pursuant to this section. Upon entering the order, the commissioner shall notify promptly the applicant or licensee that the order has been entered, the reasons for the order, and the procedure for requesting a hearing before the Administrative Law Court. If a licensee does not request a hearing and the commissioner does not request a hearing, the order remains in effect until it is modified or vacated by the commissioner.

(C) The commissioner, by order, may impose an administrative penalty upon a licensee or any member, partner, officer, director, or other person occupying a similar status or performing similar functions on behalf of a licensee for a violation of this chapter. The administrative penalty may not exceed ten thousand dollars for each violation of this chapter by a licensee. The commissioner may impose an administrative penalty that may not exceed ten thousand dollars for each violation of this chapter by a person other than a licensee or exempt person.

(D) In addition to other powers pursuant to this chapter, upon finding that an action of a person is in violation of this chapter, the commissioner may order the person to cease from the prohibited action. If the person subject to the order fails to request a contested case hearing in accordance with Section 37‑22‑130, or if the person requests the hearing and it is denied or dismissed, and the person continues to engage in the prohibited action in violation of the commissioner’s order, the person is subject to an administrative penalty that may not exceed twenty‑five thousand dollars for each violation of the commissioner’s order. The penalty provision of this section is in addition to and not instead of another provision of law for failure to comply with an order of the commissioner.

(E) Unless otherwise provided, all actions and hearings pursuant to this chapter are governed by Chapter 23, Title 1.

(F) If a licensee is accused of any act, omission, or misconduct that subjects the licensee to disciplinary action, the licensee, with the consent and approval of the commissioner, may surrender the license and the rights and privileges pertaining to it and is not eligible to receive, or to submit an application for, licensure for a period of time established by the commissioner.

(G) If the commissioner has reasonable grounds to believe that a licensee or other person has violated this chapter or that facts exist that would be the basis for an order against a licensee or other person, the commissioner, either personally or by a person duly designated by the commissioner, at any time may investigate or examine the loans and business of the licensee and examine the books, accounts, records, and files of the licensee or other person relating to the complaint or matter under investigation. The reasonable cost of this investigation or examination must be charged against the licensee. The commissioner may require the licensee or other person to submit a consent to a national and state fingerprint‑based criminal history record check and a set of that person’s fingerprints in a form acceptable to the commissioner in connection with an examination or investigation. Refusal to submit the requested criminal history record check or a set of fingerprints is grounds for disciplinary action.

(H) The commissioner may subpoena documents and witnesses and compel their production and attendance, to examine under oath all persons whose testimony the commissioner considers relative to the person’s business and require the production of books, papers, or other materials.

(I) The commissioner, at the licensee’s expense, may conduct routine examinations of the books and records of a licensee to determine compliance with this chapter.

(J) The commissioner shall cooperate and share information with an agency of this State, other states, or the federal government concerning activity regulated by this chapter. The commissioner shall accept or participate in examinations conducted by one of these agencies.

(K) In addition to the authority described in this section, the commissioner may require a person to pay to a borrower or other natural person amounts received by the person or its employees in violation of this chapter.

(L) If the commissioner finds that the managing principal, branch manager, or loan originator of a licensee had knowledge of, or reasonably should have had knowledge of, or participated in an activity that results in the entry of an order suspending or withdrawing the license of a licensee, the commissioner may prohibit the branch manager, managing principal, or loan originator from serving as a branch manager, managing principal, or loan originator for the period of time the commissioner considers necessary.

(M) Orders issued by the commissioner or by the Administrative Law Court pursuant to this chapter must be reported by the commissioner to the Nationwide Mortgage Licensing System and Registry.

Section 37‑22‑210. (A) The commissioner shall keep a list of all applicants for licensure pursuant to this chapter which includes the date of application, name, and place of residence and whether the license was granted or refused.

(B) The commissioner shall keep a current roster containing the names and places of business of all licensees and containing their respective loan originators. The rosters must: (i) be kept on file in the office of the commissioner; (ii) contain information regarding all orders or other action taken against the licensees, loan originators, and other persons; and (iii) be open to public inspection.

(C)(1) A licensee shall make and keep the accounts, correspondence, memoranda, papers, books, and other records prescribed by the commissioner. Records must be preserved for three years unless the commissioner prescribes otherwise for particular types of records. A licensee should develop, maintain, and test disaster recovery plans for all records that are maintained. The recordkeeping requirements imposed by the commissioner or this subsection must not be greater than those imposed by applicable state or federal law. Licensee’s records may be maintained electronically, if approved by the commissioner, so long as they are readily accessible for examination by the commissioner.

(2) Beginning on January 1, 2010, in addition to the records required to be maintained by licensees pursuant to subitem (1), each licensee shall maintain a mortgage log that contains these specific data elements: (i) credit score of the borrower, (ii) adjustable or fixed type of the loan, (iii) term of the loan, (iv) annual percentage rate of the loan, and (v) appraised value of the collateral. Each licensee shall submit to the commissioner by March thirty‑first of each year its mortgage log data and the data identified in 12 C.F.R. Part 203 et seq., in a form determined by the commissioner. The licensee shall pay a fine of one hundred dollars a day for late or incomplete data submissions. Data collected by the commissioner pursuant to this section is confidential and may be released to the public only in composite form. The commissioner annually shall submit to the department, in a form prescribed by the department and no later than April thirtieth, the data that it collected. The department shall prepare and make available to the public a report based on the data. The report must be available by June thirtieth each year.

(D) If the information contained in a document filed with the commissioner is or becomes inaccurate or incomplete in a material respect, the licensee promptly shall file a correcting amendment to the information contained in the document.

(E) A licensee shall maintain in a segregated escrow fund or trust account funds that come into the licensee’s possession, but which are not the licensee’s property and which the licensee is not entitled to retain under the circumstances. The escrow fund or trust account must be held on deposit in a federally insured financial institution. Escrow funds must be accounted for in compliance with the rules under RESPA.

(F) A licensee clearly shall display the unique identifier assigned by the Nationwide Mortgage Licensing System and Registry on all mortgage loan forms, solicitations, or advertisements including business cards or websites and any other documents furnished in connection with a mortgage loan transaction.

(G) A licensee ceasing activities regulated by this chapter and desiring no longer to be licensed shall inform the commissioner at least seven days in advance. The licensee shall include with the notification a plan of withdrawal that includes a timetable for the disposition of the business, the location of the books, records, and accounts until the end of the retention period, and certification of the proper disposal of those records after that.

Section 37‑22‑220. (A) A licensee shall maintain records in conformity with generally accepted accounting principles and practices in a manner that will enable the commissioner to determine if the licensee is complying with the provisions of this chapter and other state and federal laws. The recordkeeping system of a licensee is sufficient if it makes the required information reasonably available. The records need not be kept in the place of business where loans are made if the commissioner is given free access to the records wherever located and the licensee pays the reasonable cost of their examination.

(B) On or before March thirty‑first each year, a licensee shall file with the commissioner an annual report in the form prescribed by the commissioner relating to all mortgage loans made, serviced, or brokered by it. The licensee shall pay a fine of one hundred dollars a day for each late or incomplete annual reports.

(C) The mortgage loan report shall include, but is not limited to, the total number and dollar amounts in connection with all mortgage loans, of:

(1) first and subordinate lien loans originated by licensee and closed in the name of another party;

(2) first and subordinate lien loans originated by another party and closed in the name of the licensee;

(3) first and subordinate lien loans originated by and closed in the name of the licensee;

(4) first and subordinate lien loans originated by and closed in the name of another party but funded by licensee;

(5) loans purchased by licensee;

(6) first and subordinate lien loans serviced by licensee;

(7) loans owned with and without servicing rights;

(8) loans sold with and without servicing rights;

(9) loans paid off before and at maturity;

(10) unpaid loans at the beginning and end of the reporting year;

(11) delinquent loans that are 30‑59, 60‑89, and ninety days or more delinquent, of all the loans the licensee owned as of December thirty‑first;

(12) loans in foreclosure as of December thirty‑first and foreclosed in the previous calendar year by licensee;

(13) mortgage loans charged against reserve for loan losses as a result of foreclosures during the reporting year; and

(14) loans repurchased during the previous calendar year.

(D) The annual report also must include the total gross revenue earned in this State under this license, the total dollar amount of points paid to the licensee by borrowers on first and subordinate lien mortgage loans, the total dollar amount of points paid to brokers by the licensee on first and subordinate lien mortgage loans, including yield spread premiums, and the lending institution, maximum amount available, outstanding balance, and expiration date of licensee’s four largest warehouse lines of credit during the previous calendar year.

(E) Information contained in annual reports is confidential and may be published only in composite form.

(F) The commissioner annually shall submit to the department, in a form prescribed by the Department of Consumer Affairs and no later than April thirtieth, the data that it collected. The department shall prepare and make available to the public a report based on the data. The report must be available by June thirtieth each year.

Section 37‑22‑230. A person who wilfully violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than six months, or both, for each violation. Each transaction involving the unlawful making or servicing of a mortgage loan is a separate offense.

Section 37‑22‑240. (A) The South Carolina Law Enforcement Division (SLED) shall provide a criminal history record check to the commissioner for a person who has applied for or holds a mortgage lender or loan originator license through the commissioner pursuant to this chapter.

(B) In addition, if a person described in subsection (A) is a corporation, partnership, limited liability company, association, or trust, SLED shall provide a criminal history record check to the commissioner for a person who has control of that person, or who is the managing principal or a branch manager of that person.

(C) The commissioner shall provide to SLED, along with the request, the fingerprints of the person, additional information required by SLED, records check fees required by SLED and the Federal Bureau of Investigation (FBI), and a form signed by the person consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the state or national repositories. Using the information supplied by the commissioner to SLED, the applicant must undergo a state criminal records check, supported by fingerprints, by SLED, and a national criminal records check, supported by fingerprints, by the FBI. The results of these criminal records checks must be reported to the commissioner. SLED is authorized to retain the fingerprints for certification purposes and for notification of the commissioner regarding subsequent criminal charges which may be reported to SLED or the FBI or both. The commissioner shall keep all information pursuant to this section privileged, in accordance with applicable state and federal guidelines.

Section 37‑22‑250. All funds specified in this chapter must be paid to the commissioner, must be used to implement the provisions of this chapter, and are nonrefundable.

Section 37‑22‑260. (A) The commissioner may promulgate regulations necessary to effectuate the purposes of this chapter.

(B) For the purpose of participating in the Nationwide Mortgage Licensing System and Registry, the commissioner may waive or modify, in whole or in part, by rule, regulation, or order, any or all of the requirements of this chapter and establish new requirements as reasonably necessary to participate in the Nationwide Mortgage Licensing System and Registry.

(C) For the purposes of implementing an orderly and efficient licensing process, the commissioner may establish licensing rules or regulations and interim procedures for licensing and acceptance of applications. For previously registered or licensed individuals, the commissioner may establish expedited reviews, expedited licensing procedures, and grandfather provisions.

Section 37‑22‑270. (A) The commissioner may participate in a Nationwide Mortgage Licensing System and Registry and may:

(1) facilitate and participate in the establishment and implementation of the Nationwide Mortgage Licensing System and Registry;

(2) enter into agreements and contracts including cooperative, coordinating, and information sharing agreements;

(3) contract with third parties to process, maintain and store information collected by the Nationwide Mortgage Licensing System and Registry;

(4) authorize the Nationwide Mortgage Licensing System and Registry to collect fingerprints on the commissioner’s behalf in order to receive national and state criminal history background records checks from the FBI and SLED and furnish the fingerprints to SLED to retain for certification purposes and for notification of the commissioner regarding subsequent criminal charges which may be reported to SLED, or the FBI or both in accordance with Sections 37‑22‑140 and 37‑22‑240;

(5) authorize the Nationwide Mortgage Licensing System and Registry to collect credit reports on the commissioner’s behalf for all licensees in accordance with Section 37‑22‑140;

(6) require persons that must be licensed by this chapter to utilize the Nationwide Mortgage Licensing System and Registry;

(7) require all applicants and licensees to pay all applicable funds provided for in this chapter through the Nationwide Mortgage Licensing System and Registry;

(8) provide information to and receive information from the Nationwide Mortgage Licensing System and Registry;

(9) authorize a third party to collect funds associated with licensure on behalf of the commissioner; and

(10) authorize the Nationwide Mortgage Licensing System and Registry to collect and disburse consumer complaints.

(B) Persons required to be licensed pursuant to this chapter must be required to pay all applicable fees to utilize the Nationwide Mortgage Licensing System and Registry and consent to utilizing the Nationwide Mortgage Licensing System and Registry to obtain fingerprint‑based criminal history background records checks and credit reports.

(C) The commissioner shall provide licensees with written notice sent to the address of record on file with the commissioner through the United States Postal Service the date the Nationwide Mortgage Licensing System and Registry will be available for their use. Licensees shall have one hundred and twenty days from the date the system is available for use to enter all their licensing information into the Nationwide Mortgage Licensing System and Registry. All filings required by the commissioner pursuant to this chapter after the date the system is available for use must be made through the Nationwide Mortgage Licensing System and Registry, except for exempt persons.

(D) All licensees licensed through the Nationwide Mortgage Licensing System and Registry must use the unique identifier assigned in all advertising and on all mortgage loan documents.

(E) Notwithstanding another provision of law to the contrary, the Nationwide Mortgage Licensing System and Registry is not intended to and does not replace or affect the commissioner’s authority to grant, suspend, revoke, or deny a license required pursuant to this chapter.

(F) The Commissioner shall develop a plan that ensures an orderly transition to the Nationwide Mortgage Licensing System and Registry. This transition plan must address issues of prelicensing education, written examinations, credit reports, and national and state fingerprint‑based criminal histories and record checks.”

SECTION 3.A. Section 34‑1‑20 of the 1976 Code, as last amended by Act 252 of 2006, is further amended to read:

“Section 34‑1‑20. The State Board of Financial Institutions is composed of ~~ten~~ eleven members, one of whom is the State Treasurer as an ex officio member and as the chairman. The remaining ~~nine~~ ten members must be appointed by the Governor with the advice and consent of the Senate. Four must be engaged in banking and recommended by the South Carolina Bankers Association, one must be recommended by the association of supervised lenders, one must be engaged in the mortgage lending business and recommended by the Mortgage Bankers Association of the Carolinas, one must be engaged in the licensed consumer finance business as a restricted lender or a supervised lender and recommended by the Independent Consumer Finance Association, two must be engaged in the cooperative credit union business and recommended by the State Cooperative Credit Union League, and one must be unaffiliated with a financial organization and serve as a representative of the consumer of the State. The terms of the present members are not affected. Each member shall represent the best interests of the public and shall not serve more than two consecutive four‑year terms. The association which is to provide a member to fill a vacancy on the board, except for a consumer representative, shall submit three names, from three different institutions, from which the Governor shall select one.”

B. Section 34‑1‑110(A) of the 1976 Code, as last amended by Act 42 of 1999, is further amended to read:

“(A) Notwithstanding any other provision of law and in addition to all of the powers granted under Chapters 1 through 31 ~~of~~ , Title 34 and Chapter 3 ~~of~~ , Title 37, the State Board of Financial Institutions, by regulation or by issuing operational instructions, may permit:

(1) state‑chartered banks to engage in any activity authorized for national banks by federal law or regulation of the Comptroller of the Currency or for state‑chartered savings and loan associations by this title or regulation or operational instruction of the State Board of Financial Institutions;

(2) state‑chartered savings and loan associations to engage in any activity authorized for federally~~‑~~chartered savings and loan associations by federal law or regulation of the Office of Thrift Supervision or for state‑chartered banks by this title or regulation or operational instruction of the State Board of Financial Institutions;

(3) cooperative credit unions to engage in any activity authorized for federally~~‑~~chartered credit unions by federal law or by regulation of the National Credit Union Administration; ~~and~~

(4) consumer finance companies operating pursuant to a license to make supervised loans as provided in Part 5, Chapter 3, Title 37, to engage in any lending activity authorized for supervised financial organizations by law or by regulation of an agency given supervisory authority over those institutions, except where otherwise restricted by statute~~.~~ ; and

(5) mortgage lenders and loan originators operating pursuant to a license to make mortgage loans as provided in Chapter 22, Title 37, to engage in a mortgage lending activity authorized for licensed mortgage lenders and loan originators by law or by regulation of an agency given supervisory authority over those institutions, except where otherwise restricted by statute.”

SECTION 4.A. Section 37‑1‑301(29) of the 1976 Code is amended to read:

“(29) ‘Licensee’ means ~~a supervised lender licensed under Section 37‑3‑503~~ a person licensed pursuant to this title.”

B. Section 37‑3‑105(3) of the 1976 Code is amended to read:

“(3) Loans excluded from the definition of a ‘consumer loan’ pursuant to subsection (1) also are subject to the provisions of Chapter 7, Chapter 10, Chapter 22, and Chapter 23 of this title.”

C. Section 37‑3‑501(1) of the 1976 Code is amended to read:

“(1) ‘Supervised loan’ means a consumer loan in which the rate of the loan finance charge exceeds twelve percent per year as determined according to the provisions on the loan finance charge for consumer loans (Section 37‑3‑201). A supervised loan does not include a mortgage loan as defined in Section 37‑22‑110(29).”

D. Section 37‑23‑20(9), (10) and (12) of the 1976 Code, as added by Act 42 of 2003, is amended to read:

“(9) ‘High‑cost home loan’ means:

(a) a loan, other than an open‑end credit plan or a reverse mortgage transaction, in which the:

~~(a)~~(i) principal amount of the loan does not exceed the conforming loan size limit for a single‑family dwelling as established from time to time by the Federal National Mortgage Association;

~~(b)~~(ii) borrower is a natural person;

~~(c)~~(iii) debt is incurred by the borrower primarily for personal, family, or household purposes;

~~(d)~~(iv) loan is secured by either a security interest in a residential manufactured home, as defined in Section 37‑1‑301(24) which is to be occupied by the borrower as the borrower’s principal dwelling, or a mortgage on real estate upon which there is located or there is to be located a structure designed principally for occupancy from one to four families and which is or is to be occupied by the borrower as the borrower’s principal dwelling; and

~~(e)~~(v) terms of the loan exceed one or more of the ~~threshold~~ thresholds as defined in item (15) of this section~~.~~; or

(b) an adjustable rate mortgage at the fully indexed rate assuming a fully amortizing repayment schedule that would exceed one or more of the thresholds as defined in item (15) of this section.

(10) ‘Lender’ includes, but is not limited to, a mortgage broker ~~or a mortgage banker~~ originating a loan in a tablefunded loan transaction in which the broker ~~or banker~~ is identified as the original payee of the note.

(12) ‘Originator’ or ‘loan originator’ means an employee of a mortgage ~~loan~~ broker or mortgage lender whose primary job responsibilities include direct contact with ~~and~~ or informing loan applicants of the rates, terms, disclosure, ~~and~~ or other aspects of the mortgage. It does not mean an employee whose primary job responsibilities are clerical in nature, such as processing the loan.”

E. Section 37‑23‑20 of the 1976 Code, as added by Act 42 of 2003, is amended by adding:

“(17) An adjustable rate mortgage (ARM) is a mortgage in which the interest rate and monthly payment may vary over time.”

F. Section 37‑23‑40(2) of the 1976 Code, as added by Act 42 of 2003, is amended to read:

“(2) make a high‑cost home loan unless the lender reasonably believes at the time the loan is consummated that one or more of the obligors, when considered individually or collectively, is able to make the scheduled payments to repay the obligation based upon a consideration of their current and expected income, current obligations, employment status, and other financial resources other than the borrower’s equity in the dwelling that secures repayment of the loan. If the loan is an adjustable rate mortgage (ARM), the analysis of the obligor must include an evaluation of the ability to repay by final maturity at the fully indexed rate assuming a fully amortizing repayment schedule. An obligor is presumed to be able to make the scheduled payments to repay the obligation if, at the time the loan is consummated, the obligor’s total monthly debts, including amounts owed pursuant to the loan including, but not limited to, principal, interest, current property taxes, and current insurance, do not exceed fifty percent of the obligor’s monthly gross income as verified by the credit application, ~~the obligor’s financial statement, a credit report, financial information provided to the lender by or on behalf of the obligor, or another authoritative means~~ a credit report, and information provided to a lender by a third party, including the Internal Revenue Service (IRS). A presumption of inability to make the scheduled payments to repay the obligation does not arise solely from the fact that, at the time the loan is consummated, the obligor’s total monthly debts, including amounts owed under the loan, exceed fifty percent of the obligor’s monthly gross income;”

G. Section 37‑23‑45 of the 1976 Code, as added by Act 42 of 2003, is amended by adding:

“(4) for a loan that is an ARM as defined in Section 37‑23‑20(17), a listing of the schedule when the loan may be reset, for each and every reset, and a listing of the monthly payment that is owed for each change that is allowed by the terms of the contract. If the consumer escrows the insurance and taxes with each monthly payment, it must be reflected in the payment listed.”

H. Section 37‑23‑75 of the 1976 Code, as added by Act 42 of 2003, is amended by adding:

“(4) for a loan that is an ARM as defined in Section 37‑23‑20(17), a listing of the schedule when the loan may be reset, for each and every reset, and a listing of the monthly payment that is owed for each change that is allowed by the terms of the contract. If the consumer escrows the insurance and taxes with each monthly payment, it must be reflected in the payment listed.”

I. Section 29‑4‑20(1) and (3) of the 1976 Code is amended to read:

“(1) provides cash advances to a borrower based on the equity or future appreciation in value in a borrower’s owner‑occupied principal residence;

(3) is made by a lender authorized to engage in business as a bank, savings institution, or credit union under the laws of the United States or of South Carolina, or ~~authorized seller‑servicers selling mortgage loans to the Federal National Mortgage Association or to the Federal Home Loan Mortgage Corporation, or supervised lenders regulated by the State Board of Financial Institutions.~~ a mortgage lender licensed pursuant to Chapter 22, Title 37.”

SECTION 5. Chapter 58, Title 40 of the 1976 Code is amended to read:

“CHAPTER 58

~~Registration~~ Licensing of Mortgage ~~Loan~~ Brokers

Section 40‑58‑10. (A) This chapter may be cited as the Licensing of Mortgage Brokers ~~Requirements~~ Act ~~of Certain Brokers of Mortgages on Residential Real Property~~.

(B) ~~No~~ A person~~, partnership, corporation, banking organization, or other organization~~ ~~shall~~ may not broker a ~~residential~~ mortgage loan as defined in this chapter unless the broker of the mortgage loan:

(1) is an exempt person ~~or organization~~ as defined by Section 40‑58‑20(15); or

(2) has complied with the provisions of this chapter.

Section 40‑58‑20. As used in this chapter:

~~(1)~~ ~~‘Mortgage’ means a loan to a natural person made primarily for personal, family, or household use primarily secured by a mortgage on residential real property.~~

~~(2)~~ ~~‘Residential real property’ means real property located in this State upon which there is located or there is to be located one or more single family, owner‑occupied dwellings or dwelling units.~~

~~(3)~~ ~~‘Mortgage broker’ means a person or organization in the business of soliciting, processing, placing, or negotiating mortgages for others or offering to process, place, or negotiate mortgages for others. Mortgage broker also includes a person or organization who brings borrowers or lenders together to obtain mortgages or renders a settlement service as described in 24 CFR Part 3500.2(a)(16)(ii).~~

~~(4)~~ ~~‘Soliciting, processing, placing, or negotiating a mortgage loan’ means for compensation or gain, either directly or indirectly, accepting or offering to accept an application for a mortgage, assisting or offering to assist in the processing of an application for a mortgage, soliciting or offering to solicit a mortgage on behalf of a third party, or negotiating or offering to negotiate the terms or conditions of a mortgage with a lender on behalf of a third party.~~

~~(5)~~ ~~‘Exempt person or organization’ means:~~

~~(a)~~ ~~a bank, bank holding company, credit union, savings and loan association, savings and loan association holding company, their affiliates and subsidiaries, a supervised licensed lender under Title 37 and a restricted lender under Title 34 and their affiliates and subsidiaries, a Department of Housing and Urban Development or Federal Housing Administration approved mortgagee authorized, chartered, licensed, or approved under the laws of this State or of the United States or an instrumentality of them; or persons or organizations which sell or place all of their conventional mortgages on real property with federally insured and/or regulated financial institutions including, but not limited to, banks, savings and loan associations, and credit unions.~~

~~(b)~~ ~~an attorney at law licensed to practice law in South Carolina who is not engaged principally in negotiating mortgages when the attorney renders services in the course of his practice as an attorney at law;~~

~~(c)~~ ~~a person employed by an organization defined in subitem (a) of this item;~~

~~(d)~~ ~~title company which is qualified to issue title insurance, directly or through its agents.~~

~~(6)~~ ~~‘Licensee’ means a person or organization who is licensed pursuant to Section 40‑58‑50 which engages in the business of soliciting, processing, placing, or negotiating mortgages for others or offering to process, place, or negotiate mortgages for others. Licensee includes mortgage brokers as defined in item (3) and originators as defined in item (14).~~

~~(7)~~ ~~‘Administrator’ means the administrator of the Department of Consumer Affairs of this State.~~

~~(8)~~ ~~‘RESPA’ means the Real Estate Settlement Procedures Act of 1974, 12 USC Section 2601 et seq., as amended.~~

~~(9)~~ ~~‘Recasting’ means a promise for an individual to recoup a home sold to a third party with the intent of the original seller to rent back the property for a specific time at which the original seller will have the option to purchase the property back at a specific price. The specific period of time would normally be one year.~~

~~(10)~~ ~~‘HUD’ means the Department of Housing and Urban Development.~~

~~(11)~~ ~~‘Department’ means the South Carolina Department of Consumer Affairs.~~

~~(12)~~ ~~‘Regular business hours’ means open for business not less than thirty hours a week, Monday through Friday.~~

~~(13)~~ ~~‘Satellite office’ means a location at which a mortgage broker may conduct mortgage broker business other than at a location that is open for regular business hours and is not required to be staffed full time by one or more employees who have the authority to contract on behalf of the broker and to accept service on behalf of the broker.~~

~~(14)~~ ~~‘Originator’ means an employee of a mortgage broker whose primary job responsibilities include direct contact with and informing mortgage applicants of the rates, terms, disclosure, and other aspects of the mortgage, including accepting or offering to accept applications for mortgages. It does not mean an employee, including processors, whose job responsibilities are limited to clerical and administrative tasks and who does not solicit borrowers or negotiate the rates, terms, disclosure, or other aspects of a mortgage on behalf of the employer which do not require licensure.~~

~~(15)~~ ~~‘Processor’ means an employee of a mortgage broker whose primary job responsibilities are mortgage processing and may include direct contact with applicants but does not include informing applicants of rates, terms, disclosure, or solicitation of mortgages.~~

(1) ‘Act as a mortgage broker’ means to act, for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, by: (i) soliciting, processing, placing, or negotiating a mortgage loan for a borrower from a mortgage lender or depository institution or offering to process, place, or negotiate a mortgage loan for a borrower from a mortgage lender or depository institution, (ii) engaging in tablefunding of mortgage a loan, or (iii) acting as a loan correspondent, as that term is defined in 24 C.F.R. Part 202, et seq., whether those acts are done by telephone, by electronic means, by mail, or in person with the borrowers or potential borrowers. ‘Act as a mortgage broker’ also includes bringing a borrower and lender together to obtain mortgage loan or rendering a settlement service as described in 12 U.S.C. 2602(3) and 24 C.F.R. Part 3500.2(b).

(2) ‘Act as a mortgage lender’ means to engage in the business of making or servicing mortgage loan for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, including soliciting, processing, placing, or negotiating a mortgage loan.

(3) ‘Administrator’ means the administrator of the Department of Consumer Affairs (department) or the administrator’s designees.

(4) ‘Advertising’ means a commercial message in a medium that promotes, either directly or indirectly, a mortgage loan transaction.

(5) ‘Affiliate’ means a company that controls, is controlled by, or is under common control with another company, as set forth in the Bank Holding Company Act of 1956 (12 U.S.C. Section 1841, et seq.). For purposes of this item, the term ‘control’ means ownership of all of the voting stock or comparable voting interest of the controlled person.

(6) ‘Borrower’ means a natural person in whose dwelling a security interest is or is intended to be retained or acquired if that person’s ownership interest in the dwelling is or is to be subject to the security interest.

(7) ‘Branch manager’ means the natural person who is in charge of and who is responsible for the business operations of a branch office of a licensee.

(8) ‘Branch office’ means an office of the licensee that is separate and distinct from the licensee’s principal office.

(9) ‘Control’, except as provided in item (5), means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. A person is presumed to have ‘control’ of a company if that person, (i) is a director, general partner or executive officer, (ii) directly or indirectly has the right to vote ten percent or more of a class of a voting security or has the power to sell or direct the sale of ten percent or more of a class of voting securities, (iii) in the case of an LLC, is the managing member, or (iv) in the case of a partnership, has the right to receive upon dissolution, or has contributed, ten percent or more of the capital.

(10) ‘Depository institution’ has the same meaning as in Section 3 of the Federal Deposit Insurance Act (12 U.S.C. Section 1811, et seq.), and includes a credit union.

(11) ‘Dwelling’ means the same as the term ‘dwelling’ means in Section 226.2(a)19 of Title 12 of the Code of Federal Regulations and the Federal Reserve Board’s Official Staff Commentary to that section.

(12) ‘Employee’ means a natural person who has an employment relationship, acknowledged by both the natural person and the mortgage broker, and is treated like an employee for purposes of compliance with the federal income tax laws.

(13) ‘Escrow account’ means an account that a mortgage lender establishes or controls on behalf of a borrower to pay taxes, insurance premiums including flood insurance, or other charges with respect to a mortgage loan, including charges that the borrower and mortgage lender have voluntarily agreed that the mortgage lender collects and pays. The definition encompasses an account established for this purpose. For purposes of this item, the term ‘escrow account’ excludes an account that is under the borrower’s total control.

(14) ‘Escrow funds’ means money entrusted to a mortgage lender by a borrower for the purpose of payment of taxes and insurance or other payments to be made in connection with the servicing of a mortgage loan.

(15) ‘Exempt person’ means:

(a) an employee of a licensee whose responsibilities are limited to clerical and administrative tasks for the employer and who does not solicit borrowers, accept applications, or negotiate the terms of loans on behalf of the employer;

(b) a depository institution or a subsidiary that is wholly owned and controlled by the depository institution and regulated by a federal banking agency or an institution regulated by the Farm Credit Administration. This chapter does not apply to the exempt persons described in this subitem;

(c) an officer, registered loan originator or employee of an exempt person described in subitem (b) of this section when acting in the scope of employment for the exempt person;

(d) a person who offers or negotiates terms of a mortgage loan with or on behalf of an immediate family member of the individual;

(e) an individual who offers or negotiates terms of a mortgage loan secured by a dwelling that served as the person’s residence;

(f) a natural person who sells residential real estate and who lends or services, in one calendar year, no more than five purchase money notes secured by mortgages, deeds of trust, or other security instruments on the real estate sold as security for the purchase money obligation, unless the United States Department of Housing and Urban Development or a court of competent jurisdiction determines that this exemption is not in compliance with the SAFE Act pursuant to Section 1508 of Title V of The Housing and Economic Recovery Act of 2008, Public Law 110‑289;

(g) an employee whose employment as a processor or underwriter is undertaken pursuant to the direction and supervision of a licensee or exempt person except when the processor or underwriter is working as an independent contractor;

(h) an attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney’s representation of the client, unless the attorney is compensated by a mortgage lender, a mortgage broker, or other mortgage loan originator or by an agent of the mortgage lender, mortgage broker, or other mortgage loan originator;

(i) an attorney who works for a mortgage lender, pursuant to a contract, for loss mitigation efforts or third party independent contractor who is HUD‑certified, Neighborworks‑certified, or similarly certified, who works for a mortgage lender, pursuant to a contract, for loss mitigation efforts; or

(j) a manufactured home retailer and its employees if performing only administrative or clerical tasks in connection with the sale or lease of a manufactured home and the manufactured home retailer and its employees receive no compensation or other gain from a mortgage lender or a mortgage broker for the performance of the administrative or clerical tasks.

(16) ‘Federal banking agencies’ means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(17) ‘Financial Services or financial services related’ means pertaining to securities, commodities, banking, insurance, consumer lending, or real estate including, but not limited to, acting as or being associated with a bank or savings association, credit union, mortgage lender, mortgage servicer, mortgage broker, real estate broker, real estate salesperson or agent, closing agent, title company, or escrow agent.

(18) ‘Immediate family member’ means a spouse, child, sibling, parent, grandparent, or grandchild including stepparents, stepchildren, stepsiblings, and adoptive relationships.

(19) ‘Individual servicing a mortgage loan’ means an employee of a mortgage lender licensed in this State, that:

(a) collects or receives payments including payments of principal, interest, escrow amounts, and other amounts due on existing obligations due and owing to the licensed mortgage lender for a mortgage loan when:

(i) the borrower is in default; or

(ii) the borrower is in reasonably foreseeable likelihood of default;

(b) works with the borrower and the licensed mortgage lender, collects data, and makes decisions necessary to modify, either temporarily or permanently, certain terms of those obligations; or

(c) otherwise finalizes collection through the foreclosure process.

(20) ‘Licensee’ means a person who is licensed pursuant to this chapter.

(21) ‘Loan commitment’ or ‘commitment’ means a statement, written or electronic, by the mortgage lender setting forth the terms and conditions upon which the mortgage lender is willing to make a particular mortgage loan to a particular borrower.

(22) ‘Loan originator’ means a natural person who, in exchange for compensation or gain or in the expectation of compensation or gain as an employee of a licensed mortgage broker, solicits, negotiates, accepts, or offers to accept applications for mortgage loans, including electronic applications, or includes direct contact with, or informing mortgage loan applicants of, the rates, terms, disclosures, and other aspects of the mortgage loan. The definition of ‘loan originator’ does not include an exempt person described in item (15) of this section or a person solely involved in extensions of credit relating to timeshare plans, as that term is defined in section 101(53D) of Title 11, United States Code. The definition of loan originator does not apply to an individual servicing a mortgage loan as that term is defined in this chapter until July 31, 2011, unless the United States Department of Housing and Urban Development or a court of competent jurisdiction determines before that time that those individuals servicing mortgage loans are ‘loan originators’ as that term is defined in the SAFE Act pursuant to Section 1508 of Title V of The Housing and Economic Recovery Act of 2008, Public Law 110‑289.

(23) ‘Make a mortgage loan’ means to close a mortgage loan, advance funds, offer to advance funds, or make a commitment to advance funds to a borrower under a mortgage loan.

(24) ‘Managing principal’ means a natural person who meets the requirements of Section 40‑58‑50(B) and who agrees to be primarily responsible for the operations of a licensed mortgage broker.

(25) ‘Mortgage broker’ means a person who acts as a mortgage broker, as that term is defined in subitem (1) of this section.

(26) ‘Mortgage lender’ means a person who acts as a mortgage lender as that term is defined in subitem (2) of this section or engages in the business of servicing mortgage loans for others or collecting or otherwise receiving mortgage loan payments directly from borrowers for distribution to another person. This definition does not include engaging in a tablefunded transaction.

(27) ‘Mortgage loan’ means a loan made to a natural person primarily for personal, family, or household use, primarily secured by a mortgage, deed of trust, or other security interest on residential real property or security interest arising under an installment sales contract or equivalent security interest against the borrower’s dwelling and: (i) located in South Carolina, (ii) negotiated, offered or otherwise transacted within this State, in whole or in part, or (iii) made or extended within this State.

(28) ‘Nationwide Mortgage Licensing System and Registry’ means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators of licensees licensed pursuant to this chapter.

(29) ‘Nontraditional mortgage product’ means a mortgage product other than a thirty‑year fixed rate mortgage loan.

(30) ‘Person’ means a natural person, partnership, limited liability company, limited partnership, corporation, association, or other group engaged in joint business activities, however organized.

(31) ‘Processor or underwriter’ means an employee of a mortgage broker, mortgage lender, or exempt person who performs clerical or support duties at the direction of and subject to the supervision and instruction of a licensee or exempt person and may include direct contact with applicants but does not include soliciting, negotiating, accepting, or offering to accept applications that include personal identifying information as defined in Section 16‑13‑510(D) for mortgage loans including electronic applications or informing applicants of the rates, terms, disclosures, and other aspects of the mortgage loan.

(a) Clerical or support duties may include after the receipt of an application: (i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a mortgage loan, and (ii) communication with a consumer to obtain the information necessary for the processing or underwriting of a mortgage loan, to the extent that the communication does not include offering or negotiating loan rates or terms or counseling consumers about mortgage loans.

(b) A person engaging solely in loan processor or underwriter activities may not represent to the public, through advertising or other means of communicating or providing information including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items that the person may or will perform any of the activities of a loan originator.

(c) A processor or underwriter who is an independent contractor may not engage in the activities of a processor or underwriter unless the independent contractor processor or underwriter obtains and maintains a license as provided by rule or regulation pursuant to Section 40‑58‑100.

(32) ‘Registered loan originator’ means a natural person who meets the definition of loan originator and is an employee of a depository institution or a subsidiary that is wholly owned and controlled by the depository institution and regulated by a federal banking agency or an institution regulated by the Farm Credit Administration and is registered with and maintains a unique identifier through the Nationwide Mortgage Licensing System and Registry.

(33) ‘Residential real property’ means real property located in the State of South Carolina upon which there is located or is to be located one or more single‑family dwellings or dwelling units that are to be occupied as the owner’s dwelling, and includes real estate and residential manufactured home (land/home) transactions.

(34) ‘RESPA’ means the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. Section 2601, et seq. and regulations adopted pursuant to it by the Department of Housing and Urban Development.

(35) ‘Soliciting, processing, placing, or negotiating a mortgage loan’ means, for compensation or gain or in the expectation of compensation or gain, either directly or indirectly, accepting or offering to accept an application for a mortgage loan, assisting or offering to assist in the processing of an application for a mortgage loan, soliciting or offering to solicit a mortgage loan, or negotiating or offering to negotiate the terms or conditions of a mortgage loan.

(36) ‘Tablefunding’ means a settlement at which a loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds.

(37) ‘TILA’ means the Truth in Lending Act, 15 U.S.C. Section 1601, et seq. and regulations adopted pursuant to it by the Board of Governors of the Federal Reserve System.

(38) ‘Unique identifier’ means a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.

Section 40‑58‑30. (A) A ~~mortgage broker, as defined in Section 40‑58‑20(3), or an originator, as defined in Section 40‑58‑20(14)(13),~~ person may not ~~engage in the business of processing, placing, or negotiating a mortgage or offering to process, place, or negotiate a mortgage~~ act as a mortgage broker in this State without first being licensed with the administrator. A person, required to be licensed pursuant to this chapter, may not do business without a license under any name or title, or circulate or use advertising, including electronic means, or make a representation or give information to any person, which indicates or reasonably implies activity within the scope of this chapter unless that person has a license.

(B) It is unlawful for a person to employ, to compensate, or to appoint as its agent ~~an~~ a loan originator unless the loan originator is licensed pursuant to this chapter. The license of ~~an~~ a loan originator is not effective during any period when that person is not employed by a mortgage broker licensed pursuant to this chapter. When ~~an~~ a loan originator ceases to be employed by a licensed mortgage broker, the loan originator and the mortgage broker by whom that person was employed shall promptly notify the ~~department~~ administrator in writing. The mortgage broker’s notice must include a statement of the specific reason or reasons for the termination of the loan originator’s employment. The reason for termination is confidential information and must not be released to the public. ~~An~~ A loan originator must not be employed simultaneously by more than one mortgage broker. If a licensed loan originator changes employment, a new license must be issued and a fee of twenty‑five dollars must be paid for issuance of the new license.

(C) Notwithstanding subsection (A) of this section, the provisions of this chapter do not apply to an exempt person ~~or organization as defined in Section 40‑58‑20(5)~~ .

(D) Independent contractors, including processors and underwriters. must be separately licensed.

Section 40‑58‑40. ~~A person or organization may not offer or agree to offer mortgage brokerage services in this State without first depositing and continuously maintaining the amount of ten thousand dollars in cash or securities approved by the administrator or a bond in the amount of ten thousand dollars executed by a surety company authorized by the laws of this State to transact business within this State. Continuously maintaining a bond may be considered evidence of financial responsibility for a person or organization that offers or agrees to offer mortgage brokerage services. The bond must be executed to the State of South Carolina and must be for the use of the State and for any consumers who may have a cause of action against the mortgage broker.~~ A mortgage broker shall post and maintain a surety bond in an amount determined by the administrator that is based on the total dollar amount of mortgage loans originated in a calendar year pursuant to the following: (1) dollar volume of mortgage loans from $0 to $49,999,999 surety bond of $25,000, (2) dollar volume of mortgage loans from $50,000,000 to $99,999,999 surety bond of $40,000, (3) dollar volume of mortgage loans greater than $100,000,000 surety bond of $55,000. In no case will the surety bond be less than the amount of twenty five thousand dollars. The surety bond must be executed by a surety company authorized by the laws of this State to transact business within this State. The surety bond must be in a form satisfactory to the administrator, must be executed to the administrator, and must be for the use of the State for the recovery of expenses, fines, and/or fees levied pursuant to this chapter and for consumers who have losses or damages as a result of noncompliance with this chapter by the mortgage broker. The full amount of the surety bond must be in effect at all times. The license of a licensee expires upon the termination of the bond by the surety company, unless, a new bond has been filed with the administrator before the termination of the previous bond. In the event that the license expires based on bond termination, all licensed activity must cease and the person must apply for a license pursuant to Section 40‑58‑50.

Section 40‑58‑50. (A) An application to become licensed as a mortgage broker or ~~an~~ loan originator must be in writing, under oath, and in a form prescribed by the ~~department~~ administrator. The application must contain any information the administrator deems necessary including the name and complete business and residential address or addresses, and social security number or if applicable Employer Identification Number (EIN) of the applicant. If the applicant for a mortgage broker license is a partnership, association, limited liability company, corporation, or other form of business organization, the names and complete business and residential addresses of each member, director, and principal officer and a list of all employees who engage in direct brokerage activity including, but not limited to, loan originators.

(B)(1) The application for a mortgage broker license must include an affirmation of financial solvency noting bonding requirements required by the ~~department~~ administrator and the descriptions of the business activities, credit history, financial responsibility, educational background, and general character and fitness of the applicant and any partner, officer, or director, a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the applicant as required by this chapter, including consent to a national and state criminal history records check and a set of the applicant’s fingerprints in a form acceptable to the administrator. The application must be accompanied by a nonrefundable fee, payable to the department, of five hundred fifty dollars, in addition to the actual cost of obtaining credit reports and national and state criminal history record checks by the Federal Bureau of Investigation (FBI) and the South Carolina Law Enforcement Division (SLED). Using the information supplied by the administrator to SLED, the applicant must undergo a state criminal records check, supported by fingerprints, by SLED, and a national criminal records check, supported by fingerprints, by the FBI. The results of these criminal records checks must be reported to the administrator. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the administrator regarding criminal charges. The administrator shall keep all information pursuant to this section privileged, in accordance with applicable state and federal guidelines.

(2) An applicant for a mortgage broker’s license must have at least ~~two~~ three years’ experience ~~working as an originator under the supervision of a mortgage broker~~ in financial services or financial services related business or other experience or competency requirements the administrator may impose before an initial license is issued.

(a) ~~In lieu~~ Instead of a showing of ~~two~~ three years’ experience, an applicant may show proof of ~~two~~ three years’ employment with a federally insured depository institution, or a VA, FHA, or HUD approved mortgagee ~~during which the applicant was actively engaged in originating residential mortgages.~~

(b) ~~In lieu~~ Instead of one of the required year’s experience, an applicant may show proof of the equivalent of six or more semester hours of satisfactorily completed course work in real estate finance, real estate law, or similar course work counting toward the successful completion of a degree that is baccalaureate level or more advanced with a major or minor in finance, accounting, business administration, real estate finance, economics, or similar baccalaureate or more advanced degree, approved by the administrator or the administrator’s designee, from an accredited college or university.

(c) ~~However, all mortgage loan brokers properly licensed as a mortgage loan broker before October 1, 1998, may act as mortgage brokers after that date without regard to the experience or education requirement of this subsection if they maintain compliance with the continuing professional education requirements of Section 40‑58‑67 and otherwise comply with this chapter~~

(3) If the applicant is a partnership, limited liability company (LLC), or corporation, at least one partner, member‑manager, or principal officer shall have the experience required for the applicant. Each applicant shall identify the person meeting the experience requirement to serve as the applicant’s managing principal. The managing principal shall operate the business under his full charge, control, and supervision. The managing principal also may serve as the branch manager of a licensee branch office. Each main and branch office of a mortgage broker licensed pursuant to this chapter must have a branch manager who meets the experience requirements of subsection (B)(2). The mortgage broker licensee must designate a managing principal in writing and notify the administrator of any changes in managing principal. The managing principal and each branch manager must meet the requirements in subsection (C) of this section.

(C) The application for ~~an~~ a loan originator license must designate the employing mortgage broker and must include descriptions of the business activities, credit history, financial responsibility, educational background, and general character and fitness of the applicant as required by this chapter, including consent to a national and state criminal history records check and a set of the applicant’s fingerprints in a form acceptable to the administrator. The application must be accompanied by a nonrefundable fee, payable to the department, of fifty dollars, in addition to the actual cost of obtaining credit reports and national and state criminal history record checks by the ~~South Carolina Law Enforcement Division~~ FBI and SLED. Using the information supplied by the administrator to SLED, the applicant must undergo a state criminal records check, supported by fingerprints, by SLED, and a national criminal records check, supported by fingerprints, by the FBI. The results of these criminal records checks must be reported to the administrator. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the administrator regarding criminal charges. The administrator shall keep all information pursuant to this section privileged, in accordance with applicable state and federal guidelines. Additionally, the applicant must:

(1) complete satisfactorily a pre‑licensing educational course of at least twenty hours and a written examination approved pursuant to 12 U.S.C. 5101 et seq.;

(2) have never had a loan originator license revoked in any governmental jurisdiction;

(3) have not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court (i) during the ten‑year period preceding the date of application for licensing, or (ii) at any time if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering; and

(4) be at least eighteen years of age and otherwise comply with this chapter.

(D) ~~An applicant for an originator’s license must be at least eighteen years of age and must have at least six months of experience in residential mortgage lending or complete eight hours of continuing education within ninety days of employment. Additionally, all originators properly licensed before April 1, 2005, may act as originators after that date without regard to the experience or education requirement of this subsection if they maintain compliance with the continuing professional education requirements of Section 40‑58‑67 and otherwise comply with this chapter.~~ Any sole proprietor, general partner, member or manager of a limited liability company, or officer of a corporation who meets individually the requirements of subsection (C) of this section, upon payment of the applicable fee, meets the qualifications for licensure as a loan originator subject to the provisions of Section 40‑58‑60 of this chapter.

Section 40‑58‑55. ~~(A)~~ ~~Upon request for a contested case hearing by a person whose application for a license or renewal of a license has been denied, the Administrative Law Court may review the determination by the department that the applicant or his agent has:~~

~~(1)~~ ~~violated a provision of this chapter or an order of the department;~~

~~(2)~~ ~~withheld material information in connection with an application for a license or its renewal, or made a material misstatement in connection with the application;~~

~~(3)~~ ~~been convicted of a felony or of an offense involving breach of trust, moral turpitude, fraud, or dishonest dealing within the past ten years.~~

~~(B)~~ ~~A person who was in business as a mortgage broker or is an agent of a broker before October 1, 1998, and who has been convicted of a felony or an offense involving breach of trust, moral turpitude, fraud, or dishonest dealing within the past ten years may continue in business as a mortgage broker or agent, but if a mortgage broker or an agent of a broker is convicted of an offense enumerated in item (3) of subsection (A) on or after October 1, 1998, that person is subject to the provisions of this chapter.~~ (Reserved)

Section 40‑58‑60. (A) Upon the filing of an application for a license, if the ~~department~~ administrator finds that the financial responsibility, experience, character, and general fitness of the applicant, and of the members if the applicant is a ~~copartnership~~ partnership, association, or limited liability company, and of the officers and directors if the applicant is a corporation, are such as to command the confidence of the community and to warrant belief that the business may be operated honestly, fairly, and efficiently according to the purposes of this chapter and in accordance with all applicable state and federal laws, it shall license the applicant and issue a license. If the ~~department~~ administrator does not so find, it shall refuse to license the applicant and shall notify him of the denial.

(B) Upon the receipt of the license, the licensee is authorized to engage in the business for which the license was issued.

(C) Each license issued to a licensee must state the address ~~or addresses~~ at which the business is to be conducted and must state fully the name of the licensee and the date of the license. A ~~copy of the~~ license must be posted prominently in each place of business of the licensee. The license is not transferable or assignable.

(D) Issuance of a license does not indicate approval or acceptance of any contract, agreement, or other document submitted in support of the application. A licensee may not represent that its services or contracts are approved by the State or a state agency.

(E) If the information contained in any document filed with the administrator is or becomes inaccurate or incomplete in a material respect, the licensee promptly shall file a correcting amendment to the information contained in the document.

(F) All advertisements of mortgage loans must comply with the Truth in Lending Act, 15 U.S.C. 1601, et seq. and the South Carolina Consumer Protection Code, Title 37.

Section 40‑58‑65. (A) A mortgage broker licensed pursuant to this chapter must maintain at his usual place of business books, records, and documents pertaining to the business conducted, to enable the ~~department~~ administrator to determine compliance with this chapter, and shall include a mortgage loan log that contains these specific data elements: (i) credit score of the borrower, (ii) adjustable or fixed type of loan, (iii) term of the loan, (iv) annual percentage rate of the loan, and (v) appraised value of the collateral. Each licensee shall submit its mortgage loan log data and the data identified in 12 C.F.R. Part 203, et seq., in a form determined by the administrator by March thirty‑first of each year. The licensee shall pay a fine of one hundred dollars a day for late or incomplete data submissions. Data collected by the administrator pursuant to this section is confidential and may be released only in composite form. The administrator shall prepare and make available to the public a report based on the above data. The report must be available by June thirtieth of each year. The mortgage loan log must be completed with information known at the time of review by the administrator and must include loans in process, closed loans, turndowns, denials, and withdrawals. A mortgage broker with two or more licensed offices may consolidate the records at any one of the licensed offices so long as the administrator is notified of the location of the records. The records must be available for examination to the administrator or his designee upon request. Books and records must be maintained for at least three years. A licensee’s records may be maintained electronically, if approved by the administrator, so long as they are readily accessible for examination by the administrator.

(B) A mortgage broker doing business in this State shall maintain a sufficient physical presence in this State and his records must be maintained at the licensed location in this State. At a minimum, the broker shall maintain an official place of business open during regular business hours, staffed by one or more licensees who have the authority to contract on behalf of the broker and to accept service on behalf of the broker. If the official place of business is not open for business within the hours of 8:30 AM until 5:00 PM, Monday through Friday, the broker shall notify the ~~department~~ administrator in writing ~~of the business hours maintained by the broker’s official place of business~~.

(C) A licensed mortgage broker with an official place of business within South Carolina also may maintain one or more branch ~~or satellite~~ offices if the:

(1) mortgage broker notifies the ~~department~~ administrator in writing ~~ten~~ seven days before the opening of a branch ~~satellite~~ office of the location of the branch ~~or satellite~~ office, the branch manager for each branch location, and ~~notifies the department~~ that all records from the branch ~~or satellite~~ office are stored in a main or branch location in this State which is staffed by one or more ~~employees~~ licensees during regular business hours;

(2) records of any pending mortgage loan application or records in which a loan closing is still in process are made available at the mortgage broker’s main or branch location as provided in item (1) to the administrator ~~or his designee~~ within ~~two~~ seven business days of a written request delivered by facsimile transmission, mail, or hand‑delivery by the administrator ~~or his designee~~;

(3) broker notifies the ~~department~~ administrator in writing within ~~two~~ seven business days of closing a branch ~~or satellite~~ office~~.~~;

(4) mortgage broker licensee is responsible and accountable for the activities of all licensed locations, branch managers, and loan originators. Compliance reviews must include examination of all facts and circumstances of branch operations to ensure this responsibility and accountability.

(D) The ~~department~~ administrator may examine the books and records of a mortgage broker and other ~~specified~~ documents and records to determine whether there has been substantial compliance with this chapter. Unless there is reason to believe a violation of this chapter has occurred, examinations must be limited to one each year. Records and information obtained by the ~~department~~ administrator during an examination are confidential and the ~~department~~ administrator must certify that it is in compliance with the Right to Financial Privacy Act (RFPA).

(E) The administrator may cooperate and share information with an agency of this State, other states, or the federal government. The administrator may accept or participate in examinations conducted by one of these agencies.

~~(E)~~(F) If the mortgage broker fails to notify the ~~department~~ administrator of the existence or closing of a branch ~~or satellite~~ office, the actual operating hours of the main or branch offices where records are kept, or the whereabouts of its records, the broker is subject to ~~a penalty of not less than fifty dollars and not more than two hundred fifty dollars. If after the assessment of a fine within a one‑year period, the administrator finds that additional violations of this section are both intentional and repeated, the mortgage broker is subject to all of the remedies for violations of this chapter~~ penalties as set forth in Section 40‑58‑80.

(G) A mortgage broker licensee who ceases doing business in this State must notify the administrator at least seven days in advance. The notification must include a withdrawal plan that includes a timetable for disposition of the business, the location of the books, records, and accounts until the end of the retention period, and certification of the proper disposal of those records.

(H) A mortgage broker licensee may develop, maintain, and test disaster recovery plans for all records that are maintained.

Section 40‑58‑67. (A)(1) ~~Effective for license years beginning after September 30, 1998, for licensed mortgage brokers and after March 31, 2005, for licensed originators,~~ Licensees must complete at least eight hours of continuing professional education annually. Continuing education credit may be granted only for the year in which the class is taken and may not be granted for the same course in successive years. ~~If the licensed mortgage broker is a sole proprietorship or partnership, any owners and partners must complete the required eight hours of continuing professional education annually. If the licensed mortgage broker is a limited liability company or corporation, any member or president, chief executive officer, or other officer who has ownership interest of twenty‑five percent or greater and who actively participates in the broker entity must complete the required eight hours of continuing professional education annually.~~ ~~Up to eight hours of continuing professional education may be carried forward from one year to the next year. for the license year beginning October 1, 1998, up to eight hours of continuing professional education taken in the preceding twelve months may be carried forward~~. The continuing professional education completed must be reported to the ~~department~~ administrator annually ~~on a form approved by it showing the date and title of the courses taken, the teacher or sponsor of the course taken, and the hours of continuing professional education claimed for the course~~. ~~If the course is taught in a classroom setting, fifty minutes of classroom contact equal one hour of continuing professional education.~~ Course ~~sponsors~~ providers must maintain records of attendees for two years after the course. ~~As used in this chapter, ‘actively participates’ means engaging in direct brokering activity as defined in Section 40‑58‑20(3) and (4).~~

(2) Documentation of ~~attendance at the courses or correspondence~~ courses completed must be maintained by the mortgage broker for all licensees and shall consist of a certificate of completion issued by the ~~teacher or sponsor~~ provider of the course showing the recommended number of hours of continuing professional education. This documentation is subject to inspection by the ~~department~~ administrator for up to two years after the date of the course. ~~Courses offered by the National Association of Mortgage Brokers, the South Carolina Mortgage Brokers Association, or the department or courses related to real estate law or related law topics, appraisals, mortgage lending, financial management, financial planning, or mortgage processing qualify for continuing professional education. The department shall offer continuing professional education courses to assist mortgage brokers in obtaining the continuing professional education required by this chapter.~~

~~(B)~~ ~~The department shall appoint two mortgage brokers and one representative of the department to a panel for two‑year terms to approve any courses questioned as to their qualifications as continuing professional education. The panel may conduct its meetings via conference call. The department shall develop a questionnaire to ascertain the interest and background of potential members of this panel.~~

~~(C)~~(B) If a licensee fails to complete his continuing professional education ~~in a timely manner~~ prior to renewal, his license shall expire and the licensee shall pay a penalty ~~not in excess~~ of one hundred dollars in order to renew the license.

~~(D)~~ ~~However, the licensee may request an administrative hearing to appeal the expiration of his license for failure to complete continuing professional education requirements. A license may be renewed without penalty within thirty days after the expiration if the licensee completes his professional education requirements.~~

(C) All prelicensing education, continuing education and written examinations must be approved through the Nationwide Mortgage Licensing System and Registry pursuant to 12 U.S.C. 5101, et seq. before credit may be awarded. Applicants and licensees that successfully complete education or testing approved through the Nationwide Mortgage Licensing System and Registry shall fulfill the requirements of this State.

Section 40‑58‑70. ~~A licensee may not~~ In addition to the activities prohibited by other provisions of state or federal law, it is unlawful for a person in the course of a mortgage loan transaction to:

(1) misrepresent the material facts or make false promises likely to influence, persuade, or induce an applicant for a mortgage loan or a mortgagor to take a mortgage loan. This includes presenting the broker in the guise of a lender or pursuing a course of misrepresentation through agents or otherwise;

(2) intentionally misrepresent or conceal a material factor, term, or condition of a transaction to which he is a party, pertinent to an applicant for a mortgage loan or a mortgagor;

(3) engage in a transaction, practice, or course of business which is unconscionable ~~in light of the regular practices of a mortgage broker~~, as provided in Section 37‑5‑108, or which operates a fraud upon a person~~,~~ in connection with the making of or purchase or sale of a mortgage loan;

(4) fail to use due diligence and make reasonable efforts ~~to procure~~ in procuring a mortgage loan on behalf of a borrower;

(5) collect any allowable third party fees excluding appraisals or credit reports before a conditional mortgage loan commitment is obtained by the mortgage broker ~~with the exception of normal processing expenses associated with the making of mortgages as authorized or allowed by FNMA, FHLMC, FHA, VA, or any additional fees authorized or allowed by the department~~;

(6) ~~engage in recasting unless the applicant obtains the advice and counsel of a licensed attorney who is independent to the transaction. A party to a transaction, other than the consumer, may not recommend, retain, or influence the selection of independent counsel. An applicant for recasting shall provide to the broker a document identifying the applicant, provide a brief summary of the proposed transaction, and a written statement from an attorney certifying that the applicant has been advised of the potential consequences of recasting.~~ influence or attempt to influence through coercion, extortion, or bribery the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan. This item does not prohibit a mortgage broker or mortgage lender from asking the appraiser to do one or more of the following:

(a) consider additional appropriate property information;

(b) provide further detail, substantiation, or explanation for the appraiser’s value conclusion; or

(c) correct errors in the appraisal report;

(7) fail to pay reasonable fees within a reasonable time to a licensed third party for services that are:

(a) requested from the third party in writing by the mortgage broker or an employee of the mortgage broker; and

(b) performed by the third party in connection with the origination or closing of a mortgage loan for a customer or mortgage lender;

(8) advertise mortgage loans, including rates, margins, discounts, points, fees, commissions, or other material information, including material limitations on the loans, unless the person is able to make the mortgage loans as advertised available to qualified applicants;

(9) fail to provide disclosures as required by state or federal law or collect any fee prior to providing required disclosures;

(10) fail to comply with this chapter or any other state or federal law including rules and regulations applicable to a business regulated by this chapter;

(11) falsely advertise or misuse names in violation of 18 U.S.C. Section 709 or state law; or

(12) use any trade name or insignia of membership in any organization of which the licensee is not a member or advertise falsely through any material including, but not limited to, any business card, stationary, or signage concerning a designation or certification of special education, credentials, trade organization membership, or business.

Section 40‑58‑75. (A) Within three business days of the receipt of an application for a mortgage loan, the broker must provide a mortgage broker fee agreement that discloses ~~in a statement~~ the total estimated charges to the borrower for the mortgage loan and an itemization of the charges provided if required under ~~RESPA~~, federal or state law. The disclosure is considered delivered when deposited with United States Postal Service for first class delivery.

(B) A person may not earn, charge or collect a mortgage ~~broker’s~~ broker or processing fee unless the person meets the requirements of this chapter, is authorized to conduct mortgage brokerage services by this chapter, or is exempt from the requirements of this chapter.

(C) All fees earned for services rendered as a mortgage broker must be disclosed to the applicant by the mortgage broker as required by ~~RESPA~~, federal or state law .

(D) A mortgage broker fee agreement must be in writing and include the current name, address, and telephone number of the mortgage broker’s branch office, the account number, if any, the date of the agreement, the name of the borrower or proposed borrower, signature of the borrower and mortgage broker, the amount of any fees, and the nature of services provided to the borrower. A copy of the completed agreement must be provided to the borrower by the mortgage broker. The mortgage broker agreement may provide for a signed acknowledgement by the borrower of receipt of a copy of the agreement. If a mortgage broker co‑brokers mortgage loans, the mortgage broker agreement must contain a statement advising the applicant that the loan may be co‑brokered. Within three days of making a final decision to co‑broker a loan, the broker must provide the applicant with written notice of co‑brokering, including the name and street and mailing address of the co‑broker as well as which broker is to be contacted regarding progress of the mortgage brokers’ services provided to the applicant. Each broker in a co‑brokering arrangement must be licensed with the administrator.

(E) Additional disclosure requirements exist and must be complied with pursuant to Chapter 10 and Chapter 23, Title 37.

Section 40‑58‑78. (A) A ~~loan~~ mortgage broker fee agreement with a mortgage broker or loan originator must contain an explicit statement that:

(1) the mortgage broker or loan originator is acting as the agent of the borrower in providing brokerage services to the borrower;

(2) when acting as agent for the borrower, it owes to that borrower a duty of utmost care, honesty, and loyalty in the transaction, including the duty of full disclosure of all material facts. If the mortgage broker or loan originator is authorized to act as an agent for any other person, the ~~brokerage~~ mortgage broker fee agreement must contain a statement of that fact and identification of that person;

(3) a detailed description of the services the mortgage broker or loan originator agrees to perform for the borrower, and a good faith estimate of any fees the mortgage broker or loan originator will receive for those services, whether paid by the borrower, the institutional lender, or both; and

(4) a clear and conspicuous statement of the conditions under which the borrower is obligated to pay for the services rendered under the agreement.

(B) If a mortgage broker or loan originator violates the provisions of subsection (A), the borrower may recover from the mortgage broker or loan originator charged with the violation:

(1) a penalty in an amount determined by the court of not less than one thousand five hundred dollars and not more than seven thousand five hundred dollars for each loan transaction;

(2) fees paid by the borrower to the mortgage broker or loan originator for services rendered by the agreement; and

(3) actual costs, including attorney’s fees, for enforcing the borrower’s rights under the agreement.

(C) ~~No~~ A mortgage broker or loan originator charged with the violation ~~may~~ must not be held liable in an action brought under this section for a violation if the mortgage broker or loan originator charged with the violation shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error.

Section 40‑58‑80. ~~Cease and desist orders; penalties; revocation of license.~~

~~(A)~~ ~~Upon a finding that an action of a licensee may be in violation of this chapter, or of a law or regulation of this State or of the federal government or an agency of either, the department may file a request for a contested case hearing with the Administrative Law Court seeking an order to require the licensee to cease and desist from the action.~~

~~(B)~~ ~~If an administrative law judge issues an order requiring the licensee to cease and desist from the action and the licensee fails to appeal the cease and desist order and continues to engage in the action in violation of the order, the licensee is subject to a penalty of not less than one thousand or more than two thousand five hundred dollars for each action the licensee takes in violation of the order. The penalty provision of this section is in addition to and not instead of other provisions of law applicable to a licensee.~~

~~(C)~~ ~~The administrative law judge, upon a finding that a licensee has engaged intentionally or repeatedly in a course of conduct in violation of this chapter, may revoke the license temporarily or permanently in its discretion after reasonable notice and an opportunity to be heard and may increase the mortgage broker’s required bond up to a maximum of twenty‑five thousand dollars to ensure that the public is protected adequately. The administrative law judge also may impose upon persons violating the provisions of this chapter administrative fines of not more than five hundred dollars for each offense or not more than five thousand dollars for the same set of transactions or occurrences. Each violation constitutes a separate offense. If it is determined that the required bond must be increased, the administrative law judge shall state in writing the reasons for the increase and immediately serve it upon the mortgage broker and the department. The mortgage broker shall provide the new bond within thirty days or the department shall revoke the license of the mortgage broker.~~

~~(D)~~ ~~A person who violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than six months, or both.~~

~~(E)~~ ~~Nothing in this chapter limits a statutory or common law right of a person to bring an action in a court for an act or the right of the State to punish a person for a violation of a law.~~

~~(F)~~ ~~The administrator of the department may suspend the right of an individual to engage in mortgage broker activity after finding that an originator or other employee of a licensed mortgage broker has failed to comply with a provision of this chapter. After an action by the administrator pursuant to this section, the originator or other employee of a licensed mortgage broker may request a contested case hearing before the Administrative Law Court.~~

(A) The administrator, by order, may deny, suspend, revoke, or refuse to issue or renew a license of a licensee or applicant pursuant to this chapter or may restrict or limit the activities relating to mortgage loans of a licensee or a person who owns an interest in or participates in the business of a licensee, if the administrator finds that both:

(1) the order is in the public interest; and

(2) any of the following circumstances apply to the applicant, licensee, or any partner, member, manager, officer, director, loan originator, managing principal, or other person occupying a similar status or performing similar functions or a person directly or indirectly controlling the applicant or licensee. The person:

(a) has filed an application for license that, as of its effective date or as of a date after filing, contained a statement that, in light of the circumstances under which it was made, is false or misleading with respect to a material fact;

(b) has violated or failed to comply with any provision of this chapter or order of the administrator;

(c) has been convicted of, or pled guilty or nolo contendere to, a felony, or, within the past ten years, a misdemeanor involving financial services or financial services related business, or an offense involving breach of trust or fraudulent or dishonest dealing, or money laundering in a domestic, foreign, or military court;

(d) is enjoined permanently or temporarily by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving financial services or financial services related business;

(e) is the subject of an order of the administrator denying, suspending, or revoking that person’s license;

(f) is the subject of an order entered by the authority of a governmental entity with jurisdiction over the financial services or financial services related industry denying or revoking that person’s license;

(g) does not meet the qualifications or the financial responsibility, character, or general fitness requirements, or bond or capital requirements, pursuant to this chapter;

(h) has been the executive officer or controlling shareholder or owned a controlling interest in a financial services or financial services related business that has been subject to an order or injunction described in subitem (d),(e), or (f) of this item;

(i) has failed to pay the proper filing or renewal fee pursuant to this chapter or any fine or fee imposed by any governmental entity. However, the administrator may enter only a denial order pursuant to this subitem, and the administrator shall vacate the order when the deficiency is corrected; or

(j) has falsely certified attendance or completion of hours at an approved education course.

(B) The administrator, by order, summarily may postpone or suspend the license of a licensee pending final determination of a proceeding pursuant to this section. Upon entering the order, the administrator shall notify promptly the applicant or licensee that the order has been entered, the reasons for the order, and the procedure for requesting a hearing before the Administrative Law Court. If a licensee does not request a hearing and the administrator does not request a hearing, the order remains in effect until it is modified or vacated by the administrator.

(C) The administrator, by order, may impose an administrative penalty upon a licensee or any partner, member, officer, director, or other person occupying a similar status or performing similar functions on behalf of a licensee for a violation of this chapter. The administrative penalty may not exceed ten thousand dollars for each violation. The administrator may impose an administrative penalty that may not exceed ten thousand dollars for each violation of this chapter by a person other than a licensee or exempt person.

(D) In addition to other powers pursuant to this chapter, upon finding that an action of a person is in violation of this chapter, the administrator may order the person to cease and desist from the prohibited action. If the person subject to the order fails to request a contested case hearing in accordance with Section 40‑58‑90, or if the person requests the hearing and it is denied or dismissed, and the person continues to engage in the prohibited action in violation of the administrator’s order, the person is subject to an administrative penalty that may not exceed twenty‑five thousand dollars for each violation of the administrator’s order. The penalty provision of this section is in addition to and not instead of another provision of law for failure to comply with an order of the administrator.

(E) Unless otherwise provided, all actions and hearings pursuant to this chapter are governed by Chapter 23, Title 1.

(F) When a licensee is accused of any act, omission, or misconduct that subjects the licensee to disciplinary action, the licensee, with the consent and approval of the administrator, may surrender the license and the rights and privileges pertaining to it and is not eligible to receive, or to submit an application for, licensure for a period of time established by the administrator.

(G) If the administrator has reasonable grounds to believe that a licensee or other person has violated this chapter or that facts exist that would be the basis for an order against a licensee or other person, the administrator, either personally or by a person duly designated by the administrator, at any time may investigate or examine the loans and business of the licensee and examine the books, accounts, records, and files of the licensee or other person relating to the complaint or matter under investigation. The reasonable cost of this investigation or examination must be charged against the licensee. The administrator may require the licensee or other person to submit a consent to a national and state fingerprint‑based criminal history record check and a set of that person’s fingerprints in a form acceptable to the administrator in connection with an examination or investigation. Refusal to submit the requested criminal history record check or a set of fingerprints is grounds for disciplinary action.

(H) The administrator may subpoena documents and witnesses, and compel their production and attendance, to examine under oath all persons whose testimony the administrator considers relative to the person’s business, and require the production of books, papers, or other materials.

(I) The administrator may conduct routine examinations of the books and records of a licensee to determine compliance with this chapter.

(J) The administrator may cooperate and share information with an agency of this State, other states, or the federal government. The administrator may accept or participate in examinations conducted by one of these agencies.

(K) In addition to the authority described in this section, the administrator may require a person to pay to a borrower or other natural person amounts received by the person or its employees in violation of this chapter.

(L) If the administrator finds that the managing principal, branch manager, or loan originator of a licensee had knowledge of, or reasonably should have had knowledge of, or participated in any activity that results in the entry of an order suspending or withdrawing the license of a licensee, the administrator may prohibit the branch manager, managing principal, or loan originator from serving as a branch manager, managing principal, or loan originator for the period of time the administrator considers necessary.

(M) A person who wilfully violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than six months, or both, for each offense. Each violation is considered a separate offense.

(N) Orders issued by the administrator or by the Administrative Law Court pursuant to this chapter must be reported by the administrator to the Nationwide Mortgage Licensing System and Registry.

Section 40‑58‑90. (A) ~~All appeals are to be made pursuant to the Administrative Procedures Act and the rules governing practice before the Administrative Law Court.~~ A person aggrieved by an administrative order issued by the administrator may request a contested case hearing before the Administrative Law Court in accordance with the court’s rules of procedure. If the person fails to request a contested case hearing within the time provided in the court’s rules of procedure, the administrative order becomes final and the administrator may bring an action to enforce its order pursuant to Chapter 23, Title 1. This section does not limit utilization of or the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by law. A preliminary, procedural, or intermediate action or ruling of the Administrative Law Court is reviewable immediately if review of the final decision of the Administrative Law Court would not provide an adequate remedy.

(B) Contested case proceedings are instituted by filing a request for a contested case hearing with the Administrative Law Court according to the rules of procedure of the Administrative Law Court. Copies of the request for a contested case hearing must be served upon the administrator and all parties of record. The final decision of the administrative law judge may be appealed as provided in Chapter 23, Title 1.

Section 40‑58‑100. The ~~department~~ administrator may promulgate regulations necessary to effectuate the purposes of this chapter.

Section 40‑58‑110. (A)(1) In addition to the initial nonrefundable license application fee of five hundred fifty dollars required by Section 40‑58‑50, first time mortgage broker licensees also shall pay a one‑time, nonrefundable processing fee of two hundred dollars. Thereafter, a mortgage broker licensee shall pay an annual nonrefundable renewal fee of five hundred fifty dollars. A mortgage broker licensee shall pay an initial nonrefundable fee of one hundred fifty dollars and, thereafter, a nonrefundable renewal fee of one hundred fifty dollars for each branch ~~or satellite~~ location.

(2) The initial nonrefundable license fee is fifty dollars for ~~an~~ a loan originator license, and fifty dollars, nonrefundable, for a renewal license. In addition, all licensees must pay the cost of obtaining credit reports and national and state criminal history record checks as the ~~department~~ administrator may require. The broker shall notify the ~~department~~ administrator in writing ten days before opening a new~~, official branch or satellite~~ location or changing the address of a licensed location. ~~No initial~~ A fee of twenty‑five dollars is required when the licensee notifies the ~~department~~ administrator of a change in address for ~~an official branch or satellite~~ a licensed location.

(B)(1) The term of each license is one year. Licenses issued ~~under~~ pursuant to this chapter expire on ~~September thirtieth each year for mortgage brokers and March thirty‑first for originators~~ December thirty‑first annually or another date that the administrator may determine and must be renewed in accordance with the provisions of this section.

(2) The renewal period for all licensees is from November first through December thirty‑first annually or on any other dates that the administrator may determine.

(3) Applications received after December thirty‑first, or any other date the administrator may determine, are late and late fees apply.

(C) ~~Failure to renew a license within thirty days of its expiration results in the license being canceled by the department requiring the licensee to complete the initial licensing process, including a criminal records check. A license renewed within thirty days of expiration must be accompanied by a late penalty of two hundred fifty dollars for mortgage brokers and twenty‑five dollars for originators in addition to the nonrefundable renewal fee.~~ If a license of a licensed mortgage broker is not renewed before the dates in subsection (B), five hundred dollars in addition to the renewal fee pursuant to subsection (A) must be assessed as a late fee to any renewal. If a license of a licensed loan originator is not renewed before the dates in subsection (B), one hundred dollars in addition to the renewal fee pursuant to subsection (A) of this section must be assessed as a late fee to any renewal. If a licensee fails to renew his license within thirty days after the date the license expires or otherwise maintain a valid license, the administrator shall require the licensee to comply with the requirements for the initial issuance of a license pursuant to this chapter, in addition to paying any fee that has accrued. All ~~renewable~~ renewal applications must contain information required by the ~~department~~ administrator. All ~~fees~~ funds collected by the department pursuant to this chapter must be used to implement the provisions of this chapter and are nonrefundable.

Section 40‑58‑120. (A) A licensee shall maintain records in conformity with generally accepted accounting principles and practices in a manner that will enable the administrator to determine whether the licensee is complying with this chapter. The recordkeeping system of a licensee is sufficient if he makes the required information reasonably available.

(B) On or before March thirty‑first each year a licensee shall file with the administrator a composite annual report in the form prescribed by the administrator relating to all mortgage loans made or brokered by him. The licensee shall pay a fine of one hundred dollars each day for late or incomplete annual reports.

(C) The report must include, but is not limited to, the volume and amounts of first and second lien mortgage loans originated by licensee and closed in the name of another party and the volume and amounts of first and second lien mortgage loans originated and closed in the name of the licensee.

(D) The annual report also must include the total gross revenue earned in this State under this license.

(E) Information contained in annual reports is confidential and may be published only in composite form.

Section 40‑58‑130. (A) The administrator may participate in a Nationwide Mortgage Licensing System and Registry, may take all actions necessary and appropriate to that end including, but not limited to, the following:

(1) facilitating and participating in the establishment and implementation of the Nationwide Mortgage Licensing System and Registry;

(2) entering into agreements and contracts including cooperative, coordinating and information sharing agreements;

(3) contracting with third parties to process, maintain and store information collected by the Nationwide Mortgage Licensing System and Registry;

(4) authorizing the Nationwide Mortgage Licensing System and Registry to collect fingerprints on the administrator’s behalf in order to receive national and state criminal history background records check from the FBI and SLED and furnishing the fingerprints to SLED to retain for certification purposes and for notification of the administrator regarding subsequent criminal charges which may be reported to SLED, or the FBI or both in accordance with Section 40‑58‑50;

(5) authorizing the Nationwide Mortgage Licensing System and Registry to collect credit reports on the administrator’s behalf for all licensees;

(6) requiring persons that must be licensed by this chapter to utilize the Nationwide Mortgage Licensing System and Registry;

(7) requiring all applicants and licensees to pay all applicable funds provided for in this Chapter through the Nationwide Mortgage Licensing System and Registry;

(8) providing information to and receiving information from the Nationwide Mortgage Licensing System and Registry;

(9) authorizing a third party to collect funds associated with licensure on behalf of the administrator; and

(10) authorizing the Nationwide Mortgage Licensing System and Registry to collect and disburse consumer complaints.

(B) Persons required to be licensed pursuant to this chapter shall pay all applicable fees to utilize the Nationwide Mortgage Licensing System and consent to utilizing the Nationwide Mortgage Licensing System and Registry to obtain fingerprint‑based criminal history background records checks and credit reports.

(C) The administrator shall provide licensees with written notice sent to the address of record on file with the administrator through the United States Postal Service the date the Nationwide Mortgage Licensing System will be available for their use. Licensees have one hundred and twenty days from the date the system is available for use to enter all their licensing information into the Nationwide Mortgage Licensing System. All filings required by the administrator pursuant to this chapter after the date the system is available for use must be made through the Nationwide Mortgage Licensing System.

(D) All licensees licensed through the Nationwide Mortgage Licensing System and Registry must use the unique identifier assigned in all advertising and on all mortgage loan documents.

(E) Notwithstanding another provision of law, the Nationwide Mortgage Licensing System is not intended to and does not replace or affect the administrator’s authority to grant, suspend, revoke, or deny a license required pursuant to this chapter.”

SECTION 6. 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. Any provision of this act deemed by HUD to conflict with its interpretation of the SAFE Act, provided for in Section 1508 of Title V of The Housing and Economic Recovery Act of 2008, Public law 110‑289, must be interpreted, applied, or amended in such a way so as to comply with HUD’s interpretation of the SAFE Act. The regulating authority shall adopt emergency regulations or take other actions necessary to ensure compliance with the SAFE Act and the regulating authority’s continued jurisdiction over and supervision of the mortgage business in this State.

SECTION 7. Except as otherwise provided herein, this act is effective January 1, 2010, except that the definition of ‘mortgage loan originator’ does not include an individual servicing a mortgage loan as that term is defined in Section 37‑22‑110(21) and Section 40‑58‑20(19) until July 31, 2011. /

Renumber sections to conform.

Amend title to conform.

Rep. SANDIFER spoke in favor of the amendment.

Reps. KENNEDY, OTT, HOSEY, HART, J. H. NEAL, CLYBURN, J. E. SMITH, H. B. BROWN, JEFFERSON, CLEMMONS, CRAWFORD, LOWE, DANING, R. L. BROWN, HUTTO, BRANTLEY and KING requested debate on the Bill.

**S. 232--DEBATE ADJOURNED**

The following Bill was taken up:

S. 232 -- Senators Ryberg, Hutto, Massey, Coleman, O'Dell, Anderson, L. Martin and Nicholson: A BILL TO AMEND SECTION 48-52-210 OF THE 1976 CODE, RELATING TO THE PLAN FOR THE STATE ENERGY POLICY, TO ENCOURAGE THE USE OF CLEAN ENERGY SOURCES; AND TO AMEND ARTICLE 2, CHAPTER 52, TITLE 48 BY ADDING SECTION 48-52-220 TO PROVIDE A DEFINITION FOR "RENEWABLE ENERGY RESOURCES".

Rep. HIOTT proposed the following Amendment No. 3 (COUNCIL\BBM\9375HTC09):

Amend the bill, as and if amended, by adding a penultimate SECTION appropriately numbered to read:

/ SECTION \_\_. Chapter 52, Title 48 of the 1976 Code is amended by adding:

“Article 12

State Government Energy Efficiency

and Renewable Energy Goals

Section 48-52-910. (A) Each agency must consider reductions of its energy, water, and wastewater use, and must implement recommended conservation measures to the degree the agency determines that the measures are cost effective. An audit must be performed by internal or external auditors, or by an energy services company in the manner provided in Section 48‑52‑670. Audit results and recommendations must be included in the report to the State Energy Office, pursuant to Section 48-52-900(B).

(B) Each agency must comply with this section by July 1, 2011.”/

Renumber sections to conform.

Amend title to conform.

Rep. HIOTT explained the amendment.

Rep. HIOTT moved to adjourn debate on the Bill, which was agreed to.

**H. 3279--REQUESTS FOR DEBATE**

The following Joint Resolution was taken up:

H. 3279 -- Reps. T. R. Young, D. C. Smith, G. R. Smith, J. R. Smith, Stewart, Millwood, Daning, Horne, Funderburk, Wylie, Bedingfield and Hart: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 7, ARTICLE VI OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE CONSTITUTIONAL OFFICERS OF THIS STATE, SO AS TO DELETE THE SECRETARY OF STATE FROM THE LIST OF STATE OFFICERS WHICH THE CONSTITUTION REQUIRES TO BE ELECTED AND PROVIDE THAT THE SECRETARY OF STATE MUST BE APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE SENATE FOR A TERM COTERMINOUS WITH THE GOVERNOR UPON THE EXPIRATION OF THE TERM OF THE SECRETARY OF STATE SERVING IN OFFICE ON THE DATE OF THE RATIFICATION OF THIS PROVISION, AND TO PROVIDE THAT THE GENERAL ASSEMBLY SHALL PROVIDE BY LAW FOR THE DUTIES, COMPENSATION, AND QUALIFICATIONS FOR OFFICE, THE PROCEDURES BY WHICH THE APPOINTMENT IS MADE, AND THE PROCEDURES BY WHICH THE SECRETARY OF STATE MAY BE REMOVED FROM OFFICE.

Reps. OTT, KENNEDY, J. H. NEAL, HODGES, MCEACHERN, J. E. SMITH, JEFFERSON, COBB-HUNTER, VICK, HOSEY, SELLERS, MACK, WHITE, LOWE, LONG, CATO, CRAWFORD, GOVAN, UMPHLETT, JENNINGS, ERICKSON, R. L. BROWN, BRANTLEY, HUTTO, KING, PINSON, PARKS and HARVIN requested debate on the Joint Resolution.

**H. 3280--REQUESTS FOR DEBATE**

The following Joint Resolution was taken up:

H. 3280 -- Reps. T. R. Young, Allison, Parker, D. C. Smith, G. R. Smith, J. R. Smith, Stewart, Millwood, Horne, Funderburk, Viers, Wylie, Bedingfield and Hart: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 7, ARTICLE VI OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE CONSTITUTIONAL OFFICERS OF THIS STATE, SO AS TO DELETE THE SUPERINTENDENT OF EDUCATION FROM THE LIST OF STATE OFFICERS WHICH THE CONSTITUTION REQUIRES TO BE ELECTED AND PROVIDE THAT THE SUPERINTENDENT OF EDUCATION MUST BE APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE SENATE FOR A TERM COTERMINOUS WITH THE GOVERNOR UPON THE EXPIRATION OF THE TERM OF THE SUPERINTENDENT OF EDUCATION SERVING IN OFFICE ON THE DATE OF THE RATIFICATION OF THIS PROVISION, AND TO PROVIDE THAT THE GENERAL ASSEMBLY SHALL PROVIDE BY LAW FOR THE DUTIES, COMPENSATION, AND QUALIFICATIONS FOR OFFICE, THE PROCEDURES BY WHICH THE APPOINTMENT IS MADE, AND THE PROCEDURES BY WHICH THE SUPERINTENDENT OF EDUCATION MAY BE REMOVED FROM OFFICE.

Reps. OTT, HARVIN, J. E. SMITH, JEFFERSON, WILLIAMS, HOSEY, COBB-HUNTER, J. H. NEAL, MCEACHERN, HART, R. L. BROWN, BRANTLEY, HARRISON and CLEMMONS requested debate on the Joint Resolution.

Further proceedings were interrupted by the Joint Assembly.

**JOINT ASSEMBLY**

At 12:00 Noon the Senate appeared in the Hall of the House. The President of the Senate called the Joint Assembly to order and announced that it had convened under the terms of a Concurrent Resolution adopted by both Houses.

**ELECTION OF MEMBERS OF THE BOARDS OF TRUSTEES FOR COASTAL CAROLINA UNIVERSITY, COLLEGE OF CHARLESTON, SOUTH CAROLINA STATE UNIVERSITY, WIL LOU GRAY OPPORTUNITY SCHOOL, AND WINTHROP UNIVERSITY AND ONE MEMBER AT LARGE TO THE OLD EXCHANGE BUILDING COMMISSION**

The Reading Clerk of the House read the following Concurrent Resolution:

S. 659 -- Senators Knotts, Alexander, Rose, S. Martin, Elliott, McConnell, Williams, Malloy, Peeler, Leatherman, Grooms, Campbell, Cromer, Cleary, Scott, Shoopman, Bryant, Ryberg, Bright, Davis, Setzler and Ford: A CONCURRENT RESOLUTION TO FIX WEDNESDAY, APRIL 29, 2009, AT NOON, AS THE DATE AND TIME FOR THE HOUSE OF REPRESENTATIVES AND THE SENATE TO MEET IN JOINT SESSION IN THE HALL OF THE HOUSE OF REPRESENTATIVES FOR THE PURPOSE OF ELECTING MEMBERS OF THE BOARDS OF TRUSTEES FOR COASTAL CAROLINA UNIVERSITY, COLLEGE OF CHARLESTON, SOUTH CAROLINA STATE UNIVERSITY, WIL LOU GRAY OPPORTUNITY SCHOOL, AND WINTHROP UNIVERSITY TO SUCCEED THOSE MEMBERS WHOSE TERMS EXPIRE IN 2009, OR WHOSE POSITIONS OTHERWISE MUST BE FILLED; AND TO ESTABLISH A PROCEDURE REGARDING NOMINATIONS AND SECONDING SPEECHES FOR THE CANDIDATES FOR THESE OFFICES DURING THE JOINT SESSION; IMMEDIATELY FOLLOWING ELECTION OF BOARDS OF TRUSTEE MEMBERS, THE HOUSE OF REPRESENTATIVES AND THE SENATE SHALL ELECT ONE MEMBER AT LARGE TO THE OLD EXCHANGE BUILDING COMMISSION TO SUCCEED THE MEMBER WHOSE TERM IS EXPIRING.

The PRESIDENT of the Senate recognized Sen. Knotts, Chairman of the Screening Committee for the State Colleges Boards and Universities Boards of Trustees.

**COASTAL CAROLINA UNIVERSITY**

FIRST CONGRESSIONAL DISTRICT, SEAT 1

The PRESIDENT announced that nominations were in order for the First Congressional District, Seat 1.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Ms. Natasha M. Hanna had been screened, found qualified, and placed her name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Ms. Natasha M. Hanna was duly elected for the term prescribed by law.

FIRST CONGRESSIONAL DISTRICT, SEAT 2

The PRESIDENT announced that nominations were in order for the First Congressional District, Seat 2.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. Larry Biddle had been screened, found qualified, and placed his name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Mr. Larry Biddle was duly elected for the term prescribed by law.

SECOND CONGRESSIONAL DISTRICT, SEAT 4

The PRESIDENT announced that nominations were in order for the Second Congressional District, Seat 4.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. Robert G. Templeton had been screened, found qualified, and placed his name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Mr. Robert G. Templeton was duly elected for the term prescribed by law.

THIRD CONGRESSIONAL DISTRICT, SEAT 6

The PRESIDENT announced that nominations were in order for the Third Congressional District, Seat 6.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. William L. Lyles, Jr., had been screened, found qualified, and placed his name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Mr. William L. Lyles, Jr., was duly elected for the term prescribed by law.

FOURTH CONGRESSIONAL DISTRICT, SEAT 8

The PRESIDENT announced that nominations were in order for the Fourth Congressional District, Seat 8.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. D. Wyatt Henderson had been screened, found qualified, and placed his name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Mr. D. Wyatt Henderson was duly elected for the term prescribed by law.

FIFTH CONGRESSIONAL DISTRICT, SEAT 10

The PRESIDENT announced that nominations were in order for the Fifth Congressional District, Seat 10.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. Robert D. Brown had been screened, found qualified, and placed his name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Mr. Robert D. Brown was duly elected for the term prescribed by law.

SIXTH CONGRESSIONAL DISTRICT, SEAT 12

The PRESIDENT announced that nominations were in order for the Sixth Congressional District, Seat 12.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. J. Wayne George had been screened, found qualified, and placed his name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Mr. J. Wayne George was duly elected for the term prescribed by law.

AT-LARGE DISTRICT, SEAT 14

The PRESIDENT announced that nominations were in order for the At-Large District, Seat 14.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. William H. Alford had been screened, found qualified, and placed his name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Mr. William H. Alford was duly elected for the term prescribed by law.

**COLLEGE OF CHARLESTON**

AT-LARGE, SEAT 13

The PRESIDENT announced that nominations were in order for the First Congressional District, Seat 1.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. Daniel Ravenel had been screened, found qualified, and placed his name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Mr. Daniel Ravenel was duly elected for the term prescribed by law.

**SOUTH CAROLINA STATE UNIVERSITY**

FIFTH CONGRESSIONAL DISTRICT, SEAT 5

The PRESIDENT announced that nominations were in order for the Fifth Congressional District, Seat 5

Senator Knotts, on behalf of the Joint Screening Committee, stated that Ms. Linda Edwards-Duncan had been screened, found qualified, and placed her name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Ms. Linda Edwards-Duncan was duly elected for the term prescribed by law.

SIXTH CONGRESSIONAL DISTRICT, SEAT 6

The PRESIDENT announced that nominations were in order for the Sixth Congressional District, Seat 6.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. Maurice G. Washington and Ms. Patricia Lott had been screened, found qualified, and placed their names in nomination.

The Reading Clerk of the Senate called the roll of the Senate, and the Senators voted *viva voce* as their names were called.

The following named Senators voted for Washington:

Alexander Bright Bryant

Campbell Campsen Cleary

Cromer Davis Elliott

Fair Ford Grooms

Jackson Knotts Malloy

Martin, S.Massey McConnell

Peeler Rose Shoopman

Thomas Williams

**Total--23**

The following named Senators voted for Lott:

Anderson Coleman Courson

Hayes Hutto Land

Leatherman Leventis Lourie

Martin, L*.* Matthews McGill

Nicholson O’Dell Rankin

Reese Scott Setzler

Sheheen Verdin

**Total--20**

On motion of Sen. Knotts, with unanimous consent, the Members of the House voted by electronic roll call.

The following named Representatives voted for Washington:

|  |  |  |
| --- | --- | --- |
| Agnew | Allison | Barfield |
| Bedingfield | Bingham | Bowen |
| Brady | R. L. Brown | Cato |
| Chalk | Clemmons | Cole |
| Crawford | Daning | Delleney |
| Duncan | Erickson | Frye |
| Gambrell | Gilliard | Gullick |
| Haley | Hamilton | Harrell |
| Harrison | Herbkersman | Horne |
| Jefferson | King | Limehouse |
| Littlejohn | Loftis | Long |
| Lowe | Lucas | McEachern |
| Millwood | Moss | Nanney |
| Owens | Parker | M. A. Pitts |
| Rice | Rutherford | Scott |
| Simrill | D. C. Smith | G. R. Smith |
| J. R. Smith | Sottile | Stavrinakis |
| Stewart | Thompson | Umphlett |
| Williams | Willis | Wylie |
| A. D. Young | T. R. Young |  |

**Total--59**

The following named Representatives voted for Lott:

|  |  |  |
| --- | --- | --- |
| Allen | Anderson | Anthony |
| Bales | Ballentine | Bannister |
| Battle | Bowers | Branham |
| Brantley | G. A. Brown | H. B. Brown |
| Clyburn | Cobb-Hunter | Dillard |
| Edge | Forrester | Funderburk |
| Govan | Gunn | Hardwick |
| Hart | Harvin | Hayes |
| Hearn | Hiott | Hodges |
| Hosey | Howard | Huggins |
| Jennings | Kelly | Kennedy |
| Kirsh | Knight | Mack |
| McLeod | Merrill | Miller |
| J. H. Neal | J. M. Neal | Neilson |
| Ott | Parks | E. H. Pitts |
| Sandifer | Sellers | Skelton |
| J. E. Smith | Spires | Toole |
| Vick | Viers | Weeks |
| White | Whitmire |  |

**Total--56**

**RECAPITULATION**

Total number of Senators voting 43

Total number of Representatives voting 115

Grand Total 158

Necessary to a choice 80

Of which Washington received 82

Of which Lott received 76

Whereupon, the PRESIDENT announced that Mr. Maurice G. Washington was duly elected for the term prescribed by law.

**AT-LARGE, SEAT 8**

The PRESIDENT announced that nominations were in order for the At-large, Seat 8.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. James C. Hampton and Mr. Matthew T. Richardson had been screened, found qualified, and placed their names in nomination.

The Reading Clerk of the Senate called the roll of the Senate, and the Senators voted *viva voce* as their names were called.

The following named Senators voted for Hampton:

**Total--0**

The following named Senators voted for Richardson:

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Courson

Cromer Davis Elliott

Fair Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy Martin, L.

Martin, S. Massey Matthews

McConnell McGill Mulvaney

Nicholson O’Dell Peeler

Rankin Reese Rose

Scott Setzler Sheheen

Shoopman Thomas Verdin

Williams

**Total--43**

On motion of Sen. Knotts, with unanimous consent, the Members of the House voted by electronic roll call.

The following named Representatives voted for Hampton:

|  |  |  |
| --- | --- | --- |
| Barfield | Clemmons | Gilliard |
| Horne | Mack | E. H. Pitts |
| Willis |  |  |

**Total--7**

The following named Representatives voted for Richardson:

|  |  |  |
| --- | --- | --- |
| Agnew | Allen | Allison |
| Anderson | Anthony | Bales |
| Ballentine | Bannister | Barfield |
| Battle | Bedingfield | Bingham |
| Bowen | Bowers | Brady |
| Brantley | G. A. Brown | H. B. Brown |
| R. L. Brown | Cato | Chalk |
| Clyburn | Cobb-Hunter | Cole |
| Crawford | Daning | Delleney |
| Dillard | Duncan | Erickson |
| Forrester | Frye | Funderburk |
| Gambrell | Govan | Gunn |
| Haley | Hamilton | Hardwick |
| Harrell | Harrison | Hart |
| Harvin | Hayes | Hearn |
| Herbkersman | Hiott | Hodges |
| Hosey | Howard | Hutto |
| Jefferson | Jennings | Kelly |
| Kennedy | King | Kirsh |
| Knight | Limehouse | Littlejohn |
| Loftis | Long | Lowe |
| Lucas | McEachern | McLeod |
| Merrill | Miller | Millwood |
| Moss | Nanney | J. H. Neal |
| J. M. Neal | Neilson | Ott |
| Owens | Parker | Parks |
| M. A. Pitts | Rice | Rutherford |
| Sandifer | Scott | Sellers |
| Simrill | Skelton | D. C. Smith |
| G. R. Smith | J. E. Smith | J. R. Smith |
| Sottile | Stavrinakis | Stewart |
| Stringer | Thompson | Toole |
| Umphlett | Vick | Viers |
| Weeks | White | Whitmire |
| Williams | Wylie | A. D. Young |
| T. R. Young |  |  |

**Total--106**

**RECAPITULATION**

Total number of Senators voting 43

Total number of Representatives voting 113

Grand Total 156

Necessary to a choice 79

Of which Hampton received 7

Of which Richardson received 149

Whereupon, the PRESIDENT announced that Mr. Matthew T. Richardson was duly elected for the term prescribed by law.

AT-LARGE, SEAT 10

The PRESIDENT announced that nominations were in order for the At-large, Seat 10.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. Jonathan Pinson had been screened, found qualified, and placed his name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Mr. Jonathan Pinson was duly elected for the term prescribed by law.

**WIL LOU GRAY OPPORTUNITY SCHOOL**

FOUR AT-LARGE SEATS

The PRESIDENT announced that nominations were in order for four At-Large Seats.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. Stewart Cooner, Mr. Russell E. Hart, Mr. Wayne Sims, and Mrs. Elizabeth Thrailkill had been screened, found qualified, and placed their names in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominees.

Whereupon, the PRESIDENT announced that Mr. Stewart Cooner, Mr. Russell E. Hart, Mr. Wayne Sims, and Mrs. Elizabeth Thrailkill were duly elected for the term prescribed by law.

**WINTHROP UNIVERSITY**

FIRST CONGRESSIONAL DISTRICT

The PRESIDENT announced that nominations were in order for the First Congressional District.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. Timothy Sease had been screened, found qualified, and placed his name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Mr. Timothy Sease was duly elected for the term prescribed by law.

AT-LARGE, SEAT 9

The PRESIDENT announced that nominations were in order for At-large, Seat 9.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. Dalton B. Floyd, Jr., had been screened, found qualified, and placed his name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Mr. Dalton B. Floyd, Jr., was duly elected for the term prescribed by law.

**OLD EXCHANGE BUILDING COMMISSION**

ONE AT-LARGE SEAT

The PRESIDENT announced that nominations were in order for one At-Large Seat.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. Greg Ohanesian had been screened, found qualified, and placed his name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Mr. Greg Ohanesian was duly elected for the term prescribed by law.

**JOINT ASSEMBLY RECEDES**

The purposes of the Joint Assembly having been accomplished, the PRESIDENT announced that under the terms of the Concurrent Resolution the Joint Assembly would recede from business.

The Senate accordingly retired to its Chamber.

**THE HOUSE RESUMES**

At 12:30 p.m. the House resumed, the SPEAKER in the Chair.

Rep. LIMEHOUSE moved that the House recede until 2:30 p.m., which was agreed to.

**THE HOUSE RESUMES**

At 2:30 p.m. the House resumed, Acting Speaker ERICKSON in the Chair.

**POINT OF QUORUM**

The question of a quorum was raised.

A quorum was later present.

**SPEAKER IN CHAIR**

Further proceedings were interrupted by expiration of time on the uncontested Calendar.

**RECURRENCE TO THE MORNING HOUR**

Rep. HERBKERSMAN moved that the House recur to the Morning Hour, which was agreed to.

**REPORTS OF STANDING COMMITTEES**

Rep. KIRSH, from the Committee on York Delegation, submitted a favorable report with amendments on:

S. 491 -- Senator Hayes: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 18 TO CHAPTER 23, TITLE 57 SO AS TO DESIGNATE CERTAIN HIGHWAYS IN WESTERN YORK COUNTY AS THE WESTERN YORK COUNTY SCENIC BYWAY, TO MAKE IT SUBJECT TO THE REGULATIONS OF THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION AND THE SOUTH CAROLINA SCENIC HIGHWAYS COMMITTEE, AND TO PROHIBIT OFF-PREMISES OUTDOOR ADVERTISING ON THE ROUTES COMPRISING THE WESTERN YORK COUNTY SCENIC BYWAY.

Ordered for consideration tomorrow.

Rep. HARRISON, from the Committee on Judiciary, submitted a favorable report with amendments on:

H. 3677 -- Rep. Cobb-Hunter: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ENACTING THE "VIOLENCE AGAINST WOMEN FEDERAL COMPLIANCE ACT" TO CONFORM STATE LAW TO FEDERAL REQUIREMENTS BY AMENDING SECTION 16-3-740 RELATING TO TESTING CERTAIN CRIMINALS FOR HEPATITIS B AND THE HUMAN IMMUNODEFICIENCY VIRUS AT THE REQUEST OF A VICTIM, SO AS TO REVISE THE DEFINITION OF "OFFENDER" TO INCLUDE ADULTS AND JUVENILES, TO CLARIFY PROCEDURES FOR DISCLOSING TEST RESULTS, TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL SHALL ADVISE THE VICTIM OF AVAILABLE TREATMENT OPTIONS, AND UPON REQUEST OF THE VICTIM PROVIDE TESTING AND POST-TESTING COUNSELING; BY ADDING SECTION 16-3-750 SO AS TO PROHIBIT LAW ENFORCEMENT AND PROSECUTING OFFICERS FROM ASKING OR REQUIRING A VICTIM OF AN ALLEGED CRIMINAL SEXUAL CONDUCT OFFENSE TO SUBMIT TO A POLYGRAPH EXAMINATION AND TO PROVIDE THAT REFUSAL OF A VICTIM TO SUBMIT TO SUCH AN EXAMINATION DOES NOT PREVENT THE INVESTIGATION, CHARGING, OR PROSECUTION OF THE OFFENSE; TO AMEND SECTION 16-3-1350 RELATING TO MEDICOLEGAL EXAMINATIONS FOR VICTIMS OF CRIMINAL SEXUAL CONDUCT OR CHILD SEX ABUSE, SO AS TO DELETE THE PROVISION REQUIRING SUCH A VICTIM TO FILE AN INCIDENT REPORT WITH A LAW ENFORCEMENT AGENCY IN ORDER TO RECEIVE A MEDICOLEGAL EXAMINATION WITHOUT CHARGE; TO AMEND SECTION 16-3-177, AS AMENDED, RELATING TO THE FORM AND CONTENT OF A RESTRAINING ORDER, SO AS TO PROVIDE CIRCUMSTANCES UNDER WHICH A PERSON SUBJECT TO A RESTRAINING ORDER MAY NOT SHIP, TRANSPORT, OR POSSESS A FIREARM; BY ADDING SECTION 16-25-30 SO AS TO PROVIDE THAT A PERSON CONVICTED OF CRIMINAL DOMESTIC VIOLENCE OR CRIMINAL DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE MUST BE NOTIFIED IN WRITING THAT IT IS UNLAWFUL FOR SUCH A DEFENDANT TO SHIP, TRANSPORT, OR POSSESS A FIREARM; AND TO AMEND SECTION 20-4-60, AS AMENDED, RELATING TO THE FORM AND CONTENT OF AN ORDER OF PROTECTION FROM DOMESTIC VIOLENCE, SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON SUBJECT TO AN ORDER OF PROTECTION TO SHIP, TRANSPORT, OR POSSESS A FIREARM.

Ordered for consideration tomorrow.

Rep. HARRISON, from the Committee on Judiciary, submitted a favorable report with amendments on:

S. 351 -- Senators Grooms, McConnell and Ford: A BILL TO AMEND ARTICLE 1, CHAPTER 3, TITLE 54 OF THE 1976 CODE, RELATING TO THE CREATION AND ORGANIZATION OF THE SOUTH CAROLINA STATE PORTS AUTHORITY, TO CLARIFY THAT THE POWERS AND DUTIES OF THE AUTHORITY ARE EXERCISED BY A BOARD OF DIRECTORS, TO PROVIDE THAT CANDIDATES FOR APPOINTMENT MUST POSSESS CERTAIN QUALIFICATIONS, TO PROVIDE THAT CANDIDATES MUST BE SCREENED TO DETERMINE WHETHER THEY POSSESS THE REQUIRED QUALIFICATIONS BEFORE THEY MAY SERVE ON THE BOARD, TO PROVIDE THAT MEMBERS OF THE BOARD MAY BE REMOVED FROM OFFICE ONLY FOR CAUSE, TO PROVIDE THAT THE BOARD MUST PERFORM AN ANNUAL PERFORMANCE REVIEW OF THE EXECUTIVE DIRECTOR, TO ESTABLISH THAT DIRECTORS HAVE A DUTY OF GOOD FAITH AND ORDINARY CARE WHEN DISCHARGING THEIR DUTIES AS A DIRECTOR, TO PROHIBIT CONFLICT OF INTEREST TRANSACTIONS, TO ESTABLISH A SOUTH CAROLINA STATE PORTS ADVISORY BOARD, AND SET THE MEMBERSHIP, DUTIES, AND RESPONSIBILITIES OF THE ADVISORY BOARD; TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 2, RELATING TO PORTS AUTHORITY MANAGEMENT, TO PROVIDE THAT THE BOARD OF DIRECTORS MUST HIRE AN EXECUTIVE DIRECTOR OF PORT OPERATIONS AND TO ESTABLISH THE DIRECTOR'S DUTY TO OPERATE THE PORTS IN A MANNER CONSISTENT WITH THE MISSION, POLICIES, AND DIRECTION OF THE BOARD; TO AMEND SECTION 54-3-140(5), TO PROVIDE THAT THE BOARD OF DIRECTORS MUST ADOPT AN ORGANIZATIONAL STRUCTURE FOR AUTHORITY OPERATIONS; TO AMEND SECTION 54-3-140, RELATING TO THE POWERS OF THE PORTS AUTHORITY, BY ADDING TWO NEW ITEMS THAT REQUIRE A LONG-RANGE PORT DEVELOPMENT AND CAPITAL FINANCING PLAN AND TO PROVIDE THAT THE AUTHORITY MUST CONSIDER PUBLIC-PRIVATE PARTNERSHIPS FOR CURRENT AND FUTURE OPERATIONS; TO AMEND SECTION 54-3-1040, RELATING TO THE ANNUAL FINANCIAL STATEMENT, AND TO PROVIDE THAT COPIES OF THE STATEMENT MUST BE FORWARDED TO THE ADVISORY COMMITTEE AND THE GENERAL ASSEMBLY; TO AMEND ARTICLE 11, CHAPTER 3, TITLE 54, RELATING TO FINANCIAL MATTERS, BY ADDING SECTION 54-3-1060, TO PROVIDE THAT THE AUTHORITY MUST MAINTAIN A TRANSACTION REGISTER OF ALL FUNDS EXPENDED OVER ONE HUNDRED DOLLARS AND MUST MAINTAIN ON ITS INTERNET WEBSITE A COPY OF EACH MONTHLY CREDIT CARD STATEMENT FOR ALL CREDIT CARDS MAINTAINED BY THE AUTHORITY; AND TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 13, RELATING TO LEGISLATIVE OVERSIGHT, TO REQUIRE REGULAR OVERSIGHT REVIEW OF THE AUTHORITY AND THE EXECUTIVE DIRECTOR.

Ordered for consideration tomorrow.

**CONCURRENT RESOLUTION**

The following was introduced:

H. 3995 -- Reps. White, Agnew, Bowen, Gambrell, Thompson, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Toole, Umphlett, Vick, Viers, Weeks, Whipper, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO EXPRESS THE DEEPEST SYMPATHY OF THE MEMBERS OF THE GENERAL ASSEMBLY TO THE FAMILY AND MANY FRIENDS OF M. J. "DOLLY" COOPER OF PIEDMONT, A DECORATED WORLD WAR II VETERAN, SUCCESSFUL BUSINESSMAN, AND A FORMER MEMBER OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES, UPON HIS DEATH, AT THE AGE OF EIGHTY-EIGHT.

Whereas, the members of the General Assembly were deeply saddened to learn of the death on Saturday, April 25, 2009, of M. J. “Dolly” Cooper of Piedmont, a decorated World War II veteran, successful businessman, and former member of the South Carolina House of Representatives; and

Whereas, he was born in Piedmont, was educated in the Anderson County school system, attended Draughon’s Business College, Greenville Technical College, and Furman University, and for almost forty-five years was a department store owner in his local community before his retirement; and

Whereas, Dolly Cooper joined the Easley National Guard on September 3, 1940. He served with the 30th Infantry Division in World War II, where he saw eleven months of combat in Europe from Normandy, St-Lo, Mortain, Battle of the Bulge, Roer River, Rhine River, and the capture of the last large German city of Madgeburg, forty-five miles from Berlin. He was awarded the Purple Heart, Bronze Star, American Defense Service Medal, and Combat Infantry Badge. He later received the Belgian Forragere Award from the Belgian Embassy for service in the Battle of the Bulge; and

Whereas, he was elected to the South Carolina House of Representatives in 1974, campaigning for more health care services for Piedmont, Pelzer, and Williamston. He served House District 10 for sixteen years as a member of the Medical, Military, Public and Municipal Affairs Committee. He was awarded the Order of the Palmetto by Governor Carroll Campbell upon his retirement in 1989. He was elected to the MUSC Board of Trustees, where he served from 1989 through 1996. He also served many years as a board member for the Pelzer Rescue Squad, Appalachian Health Council, and the Baptist Hospital Boards for Easley and Columbia; and

Whereas, he was a leader in the Baptist church, as a member of the Grove Station Baptist, River Road Mission, and First Baptist Piedmont, serving as deacon, Sunday school director, training union director, RA leader, and Sunday school teacher at various times throughout his life. He also served his community as a member of the Piedmont and Pelzer Lions Clubs for fifty-five years and as a member of the Wren Ruritan Club; and

Whereas, Dolly Cooper was a man who earned the respect and affection of all those with whom he came into contact. He was without question a person who never met a stranger and loved to help people. After his retirement, his passion was to visit the residents of Riverside Living Center on a daily basis, often bringing fresh fruit which he had purchased from local growers on his many trips to Florida. This admiration and respect was evidenced by the honors he received from the Anderson County Council with the naming of the M. J. “Dolly” Cooper Park in his honor and by the South Carolina General Assembly, which named the newly opened state veterans cemetery in Anderson after him; and

Whereas, Dolly Cooper was blessed with a large and wonderful family. He is survived by his wife of sixty-one years, Melba, with whom he shared his life’s work and to whom he was deeply devoted. Together they had four children Bob, Beth, Tim, and Dan, our friend and colleague in the General Assembly, and they count among their family a large number of grandchildren, great-grandchildren, and nieces and nephews; and

Whereas, with the death of this fine man at the age of eighty-eight, the people of Piedmont, Anderson County, and the State of South Carolina have lost a decorated veteran, respected public servant, a community leader, and good friend; and

Whereas, the members of the General Assembly would like the entire Cooper family to know their thoughts and prayers are with them in this time of sorrow and loss. Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

That the members of the South Carolina General Assembly express their deepest sympathy to the family and many friends of M. J. “Dolly” Cooper of Piedmont, a decorated World War II veteran, successful businessman, and a former member of the South Carolina House of Representatives, upon his death, at the age of eighty-eight.

Be it further resolved that a copy of this resolution be forwarded to his widow, Mrs. Melba Cooper.

The Concurrent Resolution was agreed to and ordered sent to the Senate.

**INTRODUCTION OF BILLS**

The following Bills were introduced, read the first time, and referred to appropriate committees:

H. 3996 -- Reps. M. A. Pitts and Umphlett: A BILL TO AMEND SECTION 50-9-1130, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEDUCTION OF ACCUMULATED POINTS, SO AS TO REQUIRE THE DEPARTMENT OF NATURAL RESOURCES TO DEDUCT THREE ACCUMULATED POINTS FROM A PERSON'S RECORD UPON A SHOWING THAT THE PERSON SUCCESSFULLY COMPLETED A DEPARTMENT PROGRAM OF INSTRUCTION ESTABLISHED PURSUANT TO SECTION 50-9-310.

Referred to Committee on Agriculture, Natural Resources and Environmental Affairs

H. 3997 -- Reps. H. B. Brown and McEachern: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-6-3632 SO AS TO PROVIDE FOR A CREDIT AGAINST THE STATE INCOME TAX FOR DONATIONS OF WASTE OIL FROM THE KITCHENS OF RESTAURANTS AND OTHER COMMERCIAL KITCHENS TO REGISTERED PRODUCERS OF BIODIESEL FUEL.

Referred to Committee on Ways and Means

S. 153 -- Senators Campsen, Leventis and Knotts: A BILL TO AMEND THE 1976 CODE TO ENACT THE "HOME INVASION PROTECTION ACT", BY ADDING SECTION 16-11-395 TO ESTABLISH THE OFFENSES OF HOME INVASION IN THE FIRST, SECOND, AND THIRD DEGREES, AND TO PROVIDE GRADUATED PENALTIES; TO AMEND SECTION 16-1-60, RELATING TO VIOLENT OFFENSES, TO INCLUDE HOME INVASION, FIRST AND SECOND DEGREE; AND TO AMEND SECTION 16-3-20, RELATING TO THE PUNISHMENT FOR MURDER, TO INCLUDE AS A SEPARATE STATUTORY AGGRAVATING CIRCUMSTANCE WHICH MAY BE CONSIDERED IN THE DETERMINATION OF WHETHER THE DEATH PENALTY SHOULD BE IMPOSED, A MURDER COMMITTED WHILE IN THE COMMISSION OF THE OFFENSE OF HOME INVASION IN THE FIRST DEGREE.

Referred to Committee on Judiciary

S. 374 -- Senator L. Martin: A BILL TO AMEND SECTION 41-1-10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO POSTING NOTICES CONCERNING THE EMPLOYMENT OF ADULTS AND CHILDREN IN PLACES OF EMPLOYMENT, SO AS TO DELETE THE PROVISION REQUIRING NOTICE TO BE POSTED IN EVERY ROOM WHERE FIVE OR MORE PERSONS ARE EMPLOYED; TO AMEND SECTION 41-3-10, AS AMENDED, RELATING TO THE DIVISION OF LABOR WITHIN THE DEPARTMENT OF LABOR, LICENSING AND REGULATION AND TO THE APPOINTMENT AND DUTIES OF THE DIRECTOR OF THE DEPARTMENT, SO AS TO DELETE THE PROVISION ESTABLISHING THE DIVISION OF LABOR; TO AMEND SECTION 41-3-40, AS AMENDED, RELATING TO THE DIRECTOR OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, SO AS TO DELETE THE REFERENCE TO REGULATIONS PERTAINING TO THE DIVISION OF LABOR; TO AMEND SECTIONS 41-3-50, 41-3-60, 41-3-100, AND 41-3-120, ALL AS AMENDED, ALL RELATING TO VARIOUS DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, SO AS TO MAKE TECHNICAL CORRECTIONS; AND TO REPEAL SECTIONS 41-1-40, 41-1-50, 41-3-80, 41-15-10, AND 41-15-50; ARTICLE 5, CHAPTER 3, TITLE 41; CHAPTER 21, TITLE 41; AND CHAPTER 23, TITLE 41 ALL RELATING TO VARIOUS OBSOLETE PROVISIONS PERTAINING TO THE DEPARTMENT OF LABOR, LICENSING AND REGULATION.

Referred to Committee on Labor, Commerce and Industry

S. 377 -- Senators Scott, Williams, Campsen, Cleary, Sheheen, Coleman, Rose, Campbell, Cromer, Shoopman, Verdin, Reese, Anderson, Grooms, Hutto, McGill, Bryant, Matthews, Nicholson, Land, Lourie, Rankin and Ford: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-103-200 SO AS TO REQUIRE A PUBLIC INSTITUTION OF HIGHER LEARNING TO DEVELOP A CREDIT CARD MARKETING AND SOLICITATION POLICY, TO REQUIRE THE POLICY TO BE FILED WITH THE COMMISSION ON HIGHER EDUCATION, TO PROVIDE CONSIDERATIONS FOR THE POLICY, AND TO PROHIBIT A PUBLIC INSTITUTION OF HIGHER LEARNING THAT HAS NOT ADOPTED A POLICY FROM ALLOWING A CREDIT CARD MARKETER TO DISTRIBUTE APPLICATIONS OR PROMOTIONAL OR MARKETING MATERIALS.

Referred to Committee on Education and Public Works

S. 406 -- Senator Grooms: A BILL TO AMEND SECTION 40-60-35 OF THE 1976 CODE, RELATING TO CONTINUING EDUCATION REQUIREMENTS FOR ASSESSORS, TO REDUCE THE NUMBER OF HOURS OF INSTRUCTION EACH YEAR FOR ASSESSORS WITH AN ACTIVE LICENSE OR CERTIFICATION FROM NINE HOURS TO SEVEN HOURS, AND TO MAKE TECHNICAL CHANGES.

Referred to Committee on Ways and Means

S. 412 -- Senator Thomas: A BILL TO AMEND SECTION 56-19-290 OF THE 1976 CODE, RELATING TO THE CONTENTS OF A CERTIFICATE OF TITLE ISSUED BY THE DEPARTMENT OF MOTOR VEHICLES, TO PROVIDE THAT THE TITLE AND BILL OF SALE FOR A MOBILE HOME MUST CONTAIN A STATEMENT ADVISING A PURCHASER OF A MOBILE HOME TO CONSULT WITH THE COUNTY ASSESSOR'S OFFICE TO DETERMINE IF THERE ARE BACK TAXES DUE ON THE MOBILE HOME, AND THE SELLER MUST CERTIFY, UNDER PENALTY OF PERJURY, THAT HE HAS MADE THE PURCHASER AWARE OF ANY TAXES THAT ARE DUE ON THE MOBILE HOME; AND TO AMEND CHAPTER 45, TITLE 12, RELATING TO THE COLLECTION OF TAXES, BY ADDING SECTION 12-45-440, TO PROVIDE THAT THE GOVERNING BODY OF A COUNTY BY RESOLUTION MAY WAIVE BACK TAXES DUE ON A MOBILE HOME, INCLUDING LATE PAYMENT PENALTIES, FOR PROPERTY TAX YEARS BEGINNING AFTER 2009.

Referred to Committee on Ways and Means

S. 593 -- Senator S. Martin: A BILL TO AMEND SECTION 16-23-430 OF THE 1976 CODE, RELATING TO THE CARRYING OF WEAPONS ON SCHOOL PROPERTY, TO PROVIDE THAT THIS SECTION DOES NOT APPLY TO A PERSON WHO IS AUTHORIZED TO CARRY A CONCEALED WEAPON WHEN THE WEAPON IS INSIDE A MOTOR VEHICLE.

Referred to Committee on Judiciary

S. 636 -- Senators Thomas and Ford: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 64 TO TITLE 38 SO AS TO ENACT THE "LIFE SETTLEMENTS ACT"; TO PROVIDE FOR THE REGULATION OF A LIFE SETTLEMENT CONTRACT; TO PROVIDE FOR THE PROTECTION OF PERSONS ENTERING INTO THESE AGREEMENTS REGARDING CONTRACTUAL AND PROPERTY RIGHTS OF A LIFE INSURANCE POLICY OWNER AND AUTHORIZE THE DIRECTOR OF INSURANCE TO ENFORCE THE PROVISIONS OF THIS CHAPTER; TO PROVIDE FOR THE LICENSING OF A BROKER OR PRODUCER TO ENTER INTO LIFE SETTLEMENT CONTRACTS; TO PROVIDE FOR THE SUSPENSION, REVOCATION, OR REFUSAL TO RENEW THESE LICENSES; TO PROVIDE FOR CONTRACT REQUIREMENTS, REPORTING AND PRIVACY REQUIREMENTS; TO AUTHORIZE THE DIRECTOR TO EXAMINE THE BUSINESS AND AFFAIRS OF A LICENSEE OR APPLICANT, PROVIDE FOR EXAMINATION REPORTS AND CONFIDENTIALITY OF EXAMINATION INFORMATION, PROHIBIT CONFLICT OF INTEREST BY AN EXAMINER, AND PROVIDE FOR IMMUNITY FROM LIABILITY; TO PROVIDE FOR ADVERTISING REQUIREMENTS OF A BROKER OR LICENSED PROVIDER; TO PROVIDE FOR CERTAIN DISCLOSURES TO AN OWNER; TO PROVIDE DISCLOSURE BY A PROPOSED OWNER OF A LIFE INSURANCE POLICY IF THE OWNER INTENDS TO PAY PREMIUMS WITH THE ASSISTANCE OF FINANCING FROM A LENDER THAT WILL USE THE POLICY AS COLLATERAL TO SUPPORT THE FINANCING; TO REQUIRE A PROVIDER ENTERING INTO A LIFE SETTLEMENT CONTRACT WITH AN OWNER OF THE POLICY WHERE THE INSURED IS TERMINALLY OR CHRONICALLY ILL TO OBTAIN CERTAIN INFORMATION; TO AUTHORIZE THE DIRECTOR TO PROMULGATE REGULATIONS TO IMPLEMENT AND EFFECTUATE THE PROVISIONS OF THIS CHAPTER; TO PROVIDE FOR PROHIBITIVE PRACTICES, FRAUD PREVENTION, AND CONTROL; AND TO PROVIDE PENALTIES FOR VIOLATIONS.

Referred to Committee on Labor, Commerce and Industry

S. 690 -- Senators Peeler, Shoopman, S. Martin, Mulvaney, L. Martin, Courson, Alexander, Massey, Campbell, Bryant, Fair, Rose, Cromer, Hayes, Anderson, Ryberg, Bright, Setzler, Leatherman, Davis, McConnell and Grooms: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-6-3760, SO AS TO ALLOW A STATE TAX CREDIT FOR EMPLOYERS HIRING AN UNEMPLOYED INDIVIDUAL RECEIVING UNEMPLOYMENT COMPENSATION BENEFITS, TO PROVIDE THE AMOUNT OF THE CREDIT, THOSE TAXES AGAINST WHICH THE CREDIT IS ALLOWED, AND THE ELIGIBILITY REQUIREMENTS FOR CREDITABLE EMPLOYEES, TO PROVIDE FOR THE ADMINISTRATION OF THE CREDIT, AND TO PROVIDE THAT THE CREDIT IS ALLOWED FOR ELIGIBLE INDIVIDUALS HIRED AFTER JUNE 30, 2009, AND BEFORE JULY 1, 2010, AND EXTENDS FOR TWENTY-FOUR MONTHS FOR EACH CREDITABLE EMPLOYEE.

Referred to Committee on Ways and Means

**S. 232--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 232 -- Senators Ryberg, Hutto, Massey, Coleman, O'Dell, Anderson, L. Martin and Nicholson: A BILL TO AMEND SECTION 48-52-210 OF THE 1976 CODE, RELATING TO THE PLAN FOR THE STATE ENERGY POLICY, TO ENCOURAGE THE USE OF CLEAN ENERGY SOURCES; AND TO AMEND ARTICLE 2, CHAPTER 52, TITLE 48 BY ADDING SECTION 48-52-220 TO PROVIDE A DEFINITION FOR "RENEWABLE ENERGY RESOURCES".

Rep. HIOTT proposed the following Amendment No. 3 (COUNCIL\BBM\9375HTC09), which was adopted:

Amend the bill, as and if amended, by adding a penultimate SECTION appropriately numbered to read:

/ SECTION \_\_. Chapter 52, Title 48 of the 1976 Code is amended by adding:

“Article 12

State Government Energy Efficiency

and Renewable Energy Goals

Section 48-52-910. (A) Each agency must consider reductions of its energy, water, and wastewater use, and must implement recommended conservation measures to the degree the agency determines that the measures are cost effective. An audit must be performed by internal or external auditors, or by an energy services company in the manner provided in Section 48‑52‑670. Audit results and recommendations must be included in the report to the State Energy Office, pursuant to Section 48-52-900(B).

(B) Each agency must comply with this section by July 1, 2011.”/

Renumber sections to conform.

Amend title to conform.

Rep. HIOTT spoke in favor of the amendment.

The amendment was then adopted.

Rep. DUNCAN proposed the following Amendment No. 1 (COUNCIL\SWB\5890CM09), which was tabled:

Amend the bill, as and if amended, Section 48‑52‑210(B)(4), as contained in SECTION 1, by inserting / nuclear reprocessing, / after / nuclear energy, / on line 38, page 1.

Amend the bill further, Section 48‑52‑210(B)(12), as contained in SECTION 1, by inserting / nuclear reprocessing, / after /energy, / on line 18, page 2.

Amend the bill further, Section 48‑52‑420(12), as contained in SECTION 3, by inserting / nuclear reprocessing, / after /energy,/ on line 38, page 2.

Renumber sections to conform.

Amend title to conform.

Rep. DUNCAN explained the amendment.

Rep. DUNCAN moved to table the amendment, which was agreed to.

The Bill, as amended, was read the second time and ordered to third reading.

**H. 3746--REQUESTS FOR DEBATE**

The following Bill was taken up:

H. 3746 -- Rep. Clemmons: A BILL TO AMEND SECTION 7-11-70, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE NOMINATION OF CANDIDATES BY A PETITION, SO AS TO PROVIDE THAT NO QUALIFIED ELECTOR WHO VOTED IN A PRIMARY ELECTION IS ELIGIBLE TO SIGN A PETITION FOR A CANDIDATE TO RUN FOR AN OFFICE TO BE FILLED AT THE GENERAL ELECTION FOLLOWING THAT PRIMARY AND TO PROVIDE THAT A QUALIFIED ELECTOR OTHERWISE ELIGIBLE TO SIGN A PETITION FOR A CANDIDATE TO APPEAR ON A GENERAL ELECTION BALLOT MAY NOT SIGN MORE THAN ONE PETITION PER GENERAL ELECTION PER OFFICE; BY ADDING SECTION 7-11-75 SO AS TO PROVIDE THAT A PERSON OFFERING FOR ELECTION AS A PETITION CANDIDATE IN ANY GENERAL ELECTION MUST HAVE FIRST NOTIFIED THE ENTITY TO WHICH THE PETITION IS REQUIRED TO BE FILED BY THE BEGINNING DATE OF THE PRIMARY ELECTION PRECEDING THAT GENERAL ELECTION OF HIS INTENTION TO FILE AS A PETITION CANDIDATE FOR THAT OFFICE, AND TO PROVIDE THAT FAILURE TO DO SO DISQUALIFIES HIM AS A PETITION CANDIDATE FOR THAT GENERAL ELECTION; TO AMEND SECTION 7-11-80, AS AMENDED, RELATING TO THE FORM OF NOMINATING PETITIONS, SO AS TO REQUIRE ALL THE SIGNATURES TO BE LEGIBLE SO THAT THE NAME OF THE VOTER CAN BE IDENTIFIED BEYOND A REASONABLE DOUBT; TO AMEND SECTION 7-11-85, RELATING TO VERIFICATION OF THE SIGNATURES ON PETITIONS, SO AS TO REVISE THE VERIFICATION PROCESS, TO PROVIDE THAT ALL QUALIFIED ELECTORS SIGNING A PETITION FOR A CANDIDATE TO APPEAR ON A GENERAL ELECTION BALLOT FOR ELECTION TO A PARTICULAR OFFICE MUST HAVE BEEN A QUALIFIED ELECTOR WHO REGISTERED TO VOTE AT LEAST THIRTY DAYS BEFORE SUBMISSION OF THE PETITION, AND TO REQUIRE THE REGISTRATION BOARD TO VERIFY THE VOTER IS A QUALIFIED ELECTOR IN THAT JURISDICTION; BY ADDING SECTION 7-11-95 SO AS TO PROVIDE THAT THE ENTITY TO WHICH A PETITION MUST BE FILED MAY REJECT THE PETITION IF, AFTER A HEARING, THE ENTITY FINDS THAT BY A PREPONDERANCE OF THE EVIDENCE FRAUD WAS COMMITTED IN THE EXECUTION OF THE PETITION, AND TO PROVIDE THAT THE VALIDATION OF THE SIGNATURES ON A PETITION AND THE DETERMINATION OF WHETHER OR NOT FRAUD WAS COMMITTED IN THE EXECUTION OF THE PETITION MUST BE CONDUCTED IN PUBLIC AFTER NOTICE; AND BY ADDING SECTION 7-11-100 SO AS TO PROVIDE THAT DECISIONS OF A LOCAL ENTITY TO WHICH A PETITION MUST BE FILED MAY BE APPEALED TO THE STATE ELECTION COMMISSION AND THEREAFTER TO A COURT OF COMPETENT JURISDICTION IN THE MANNER IN WHICH APPEALS FROM THE STATE ELECTION COMMISSION MAY BE TAKEN.

Rep. MCLEOD moved to adjourn debate on the Bill until Thursday, April 30.

Rep. CRAWFORD moved to table the motion.

Rep. CRAWFORD demanded the yeas and nays which were taken, resulting as follows:

Yeas 65; Nays 38

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allison | Bales | Ballentine |
| Barfield | Bedingfield | Bingham |
| Bowen | Brady | Chalk |
| Clemmons | Cole | Crawford |
| Daning | Delleney | Duncan |
| Edge | Erickson | Forrester |
| Gambrell | Gullick | Hardwick |
| Harrell | Harrison | Hearn |
| Herbkersman | Hiott | Horne |
| Huggins | Kelly | Kirsh |
| Littlejohn | Long | Lowe |
| Lucas | Millwood | Moss |
| Nanney | Neilson | Owens |
| Parker | Pinson | E. H. Pitts |
| M. A. Pitts | Rice | Scott |
| Simrill | Skelton | D. C. Smith |
| G. M. Smith | G. R. Smith | J. E. Smith |
| J. R. Smith | Sottile | Spires |
| Stewart | Stringer | Thompson |
| Toole | Umphlett | White |
| Whitmire | Willis | Wylie |
| A. D. Young | T. R. Young |  |

**Total--65**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Agnew | Allen | Anderson |
| Anthony | Battle | Branham |
| Brantley | G. A. Brown | R. L. Brown |
| Cobb-Hunter | Dillard | Frye |
| Funderburk | Gilliard | Govan |
| Hart | Harvin | Hayes |
| Hodges | Hosey | Hutto |
| Jefferson | Kennedy | King |
| Knight | Mack | McEachern |
| McLeod | Miller | Mitchell |
| J. H. Neal | J. M. Neal | Parks |
| Sellers | Stavrinakis | Vick |
| Weeks | Williams |  |

**Total--38**

So, the motion to adjourn debate was tabled.

Reps. SELLERS, HART, WEEKS, J. H. NEAL, HODGES, MCEACHERN, MCLEOD, JEFFERSON, KENNEDY, HARVIN, COBB-HUNTER, OTT, HOSEY, GOVAN, LONG, CRAWFORD, LOWE, UMPHLETT, FUNDERBURK, CLEMMONS, LITTLEJOHN, R. L. BROWN, HUTTO, MACK, ERICKSON, BEDINGFIELD, ALLEN, DILLARD, WYLIE and KING requested debate on the Bill.

**H. 3199--REQUESTS FOR DEBATE**

The following Bill was taken up:

H. 3199 -- Reps. Harrison, Allison, G. M. Smith, Weeks and Hutto: A BILL TO AMEND SECTION 1-30-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEPARTMENTS IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT, TO ENACT THE BEHAVIORAL HEALTH SERVICES ACT OF 2009, SO AS TO ADD THE DEPARTMENT OF BEHAVIORAL HEALTH SERVICES AND TO DELETE THE DEPARTMENT OF ALCOHOL AND OTHER DRUG ABUSE SERVICES AND THE DEPARTMENT OF MENTAL HEALTH; TO AMEND SECTION 1-30-20, RELATING TO AGENCIES PREVIOUSLY TRANSFERRED TO THE DEPARTMENT OF ALCOHOL AND OTHER DRUG ABUSE SERVICES, SO AS TO PROVIDE THAT THE POWER AND DUTIES OF THE DEPARTMENT OF ALCOHOL AND OTHER DRUG ABUSE SERVICES ARE TRANSFERRED TO AND DEVOLVED UPON THE DEPARTMENT OF BEHAVIORAL HEALTH SERVICES, DIVISION OF ALCOHOL AND OTHER DRUG ABUSE SERVICES; TO AMEND SECTION 1-30-70, RELATING TO AGENCIES PREVIOUSLY TRANSFERRED TO THE DEPARTMENT OF MENTAL HEALTH, SO AS TO PROVIDE THAT THE POWERS AND DUTIES OF THE DEPARTMENT OF MENTAL HEALTH ARE TRANSFERRED TO AND DEVOLVED UPON THE DEPARTMENT OF BEHAVIORAL HEALTH SERVICES, DIVISION OF MENTAL HEALTH; BY ADDING SECTION 1-30-72 SO AS TO PLACE THE DEPARTMENT OF MENTAL HEALTH AND THE DEPARTMENT OF ALCOHOL AND OTHER DRUG ABUSE SERVICES UNDER THE DEPARTMENT OF BEHAVIORAL HEALTH SERVICES; BY ADDING CHAPTER 8 TO TITLE 44 SO AS TO CREATE THE DEPARTMENT OF BEHAVIORAL HEALTH SERVICES COMPRISED OF THE DIVISION OF ALCOHOL AND OTHER DRUG ABUSE SERVICES AND THE DIVISION OF MENTAL HEALTH AND TO PROVIDE FOR THE DEPARTMENT'S POWERS AND DUTIES, INCLUDING DEVELOPING AND IMPLEMENTING A STATE PLAN FOR THE COORDINATED CARE AND UNIFIED DELIVERY OF BEHAVIORAL HEALTH SERVICES AND OVERSEEING THE ADMINISTRATION AND DELIVERY OF BEHAVIORAL HEALTH SERVICES; TO AMEND CHAPTERS 9, 11, 13, and 15 OF TITLE 44, RELATING, AMONG OTHER THINGS, TO THE ORGANIZATION AND OPERATION OF THE DEPARTMENT OF MENTAL HEALTH AND ITS FACILITIES, THE SOUTH CAROLINA MENTAL HEALTH COMMISSION, AND LOCAL MENTAL HEALTH PROGRAMS AND BOARDS, SO AS TO CONFORM THESE CHAPTERS TO THE PROVISIONS OF THIS ACT AND TO PROVIDE THAT THE MENTAL HEALTH COMMISSION IS AN ADVISORY BOARD TO THE DIVISION OF MENTAL HEALTH; TO AMEND CHAPTER 49, TITLE 44, RELATING TO THE DEPARTMENT OF ALCOHOL AND OTHER DRUG ABUSE SERVICES, SO AS TO CONFORM THIS CHAPTER TO THE PROVISIONS OF THIS ACT AND TO CREATE AN ADVISORY BOARD TO THE DIVISION; AND TO AMEND SECTIONS 44-52-10, 44-52-165, 44-52-200, AND 44-52-210, RELATING, AMONG OTHER THINGS, TO ALCOHOL AND DRUG ABUSE COMMITMENTS AND PROGRAMS FOR CHEMICALLY DEPENDENT PERSONS, SO AS TO CONFORM THESE SECTIONS TO THE PROVISIONS OF THIS ACT.

Reps. SIMRILL, GULLICK, KIRSH, HOSEY, HARVIN, WEEKS, HART, HARRISON, J. E. SMITH, J. H. NEAL, MCLEOD, LOWE, CRAWFORD, JEFFERSON, MACK and BRANTLEY requested debate on the Bill.

**H. 3608--DEBATE ADJOURNED**

Rep. HARRISON moved to adjourn debate upon the following Bill until Thursday, April 30, which was adopted:

H. 3608 -- Reps. Mack, Alexander, Allen, R. L. Brown, Williams and Weeks: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 7-13-25 SO AS TO PROVIDE THAT THE AUTHORITY CHARGED BY LAW CONDUCTING AN ELECTION SHALL ESTABLISH EARLY VOTING CENTERS, TO ESTABLISH EARLY VOTING CENTERS TO ALLOW A REGISTERED COUNTY RESIDENT TO VOTE OUTSIDE THEIR PRECINCT, TO PROVIDE A PROCEDURE BY WHICH A QUALIFIED ELECTOR MAY REGISTER TO VOTE AND CAST A BALLOT DURING THE EARLY VOTING PERIOD, TO PROVIDE FOR THE ESTABLISHMENT OF EARLY VOTING LOCATIONS, AND TO REQUIRE THESE LOCATIONS AND TIMES TO BE IN COMPLIANCE WITH THE PROVISIONS OF SECTION 30-4-80.

**H. 3919--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

H. 3919 -- Reps. Mitchell, Alexander, Gunn, Dillard, Hamilton, Limehouse, J. R. Smith, King, Kirsh, Littlejohn, J. M. Neal, Herbkersman, Stavrinakis, Chalk, Cobb-Hunter, Anthony, Branham, Brantley, Parker, Allison, Gilliard, J. H. Neal, Whipper, Mack, Battle, Hosey, Allen, Weeks, Jennings, Loftis, Knight, Vick, Rutherford and Hutto: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 2-1-250 SO AS TO ESTABLISH THE SOUTH CAROLINA HOUSING COMMISSION TO PROVIDE RECOMMENDATIONS TO ENSURE AND FOSTER THE AVAILABILITY OF SAFE, SOUND, AND AFFORDABLE HOUSING AND WORKFORCE HOUSING FOR EVERY SOUTH CAROLINIAN, TO PROVIDE FOR THE MEMBERSHIP OF THE COMMISSION, AND FOR OTHER PROCEDURAL MATTERS.

Rep. MITCHELL proposed the following Amendment No. 1 (COUNCIL\GJK\20321SD09), which was adopted:

Amend the bill, as and if amended, in subsection (A) of Section 2-1-250 of the 1976 Code, as contained in SECTION 1, by striking / affordable workforce housing / on line 31, page 1, and inserting /affordable housing and workforce housing /;

Amend the bill further, as and if amended, in Section 2-1-250 of the 1976 Code, as contained in SECTION 1, by striking subsection (D) in its entirety;

Amend the bill further, as and if amended, by striking in the title / AFFORDABLE WORKFORCE HOUSING/ on line 15, page 1, and inserting / AFFORDABLE HOUSING AND WORKFORCE HOUSING /.

Renumber subsections to conform.

Amend title to conform.

Rep. HERBKERSMAN explained the amendment.

The amendment was then adopted.

Rep. KENNEDY proposed the following Amendment No. 2 (COUNCIL\SWB\5898CM09), which was ruled out of order:

Amend the bill, as and if amended, by adding the following appropriately numbered SECTION:

/SECTION \_\_. Section 40‑59‑20(6) of the 1976 Code, as amended by Act 359 of 2002, is further amended to read:

“(6) ‘Residential builder’ means one who constructs, superintends, or offers to construct or superintend the construction, repair, improvement, or reimprovement of a residential building or structure which is not over three floors in height and which does not have more than sixteen units in any single apartment building, when the cost of the undertaking exceeds ~~five~~ fifteen thousand dollars. Anyone who engages or offers to engage in such undertaking in this State is considered to have engaged in the business of residential building.” /

Renumber sections to conform.

Amend title to conform.

Rep. KENNEDY explained the amendment.

**POINT OF ORDER**

Rep. LOFTIS raised the Point of Order that Amendment No. 2 was out of order in that it was not germane to the Bill.

SPEAKER HARRELL stated that the Bill dealt with establishing a commission to provide recommendations to ensure and foster the availability of safe, sound, and affordable workforce housing for every South Carolinian. He stated further that the amendment attempted to increase housing repair expenses which would not require a contractor’s license. Therefore, he sustained the Point of Order and ruled the amendment out of order.

Rep. HERBKERSMAN spoke in favor of the Bill.

The Bill, as amended, was read the second time and ordered to third reading.

**SPEAKER *PRO TEMPORE* IN CHAIR**

**H. 3889--RECOMMITTED**

The following Bill was taken up:

H. 3889 -- Rep. Bales: A BILL TO AMEND SECTION 47-13-1350, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE HEALTH CERTIFICATION REQUIREMENTS FOR A HORSE TO ENTER THE STATE, SO AS TO REQUIRE TESTING FOR EQUINE STRANGLES AND A VETERINARY CERTIFICATE OF GOOD HEALTH ISSUED NOT MORE THAN THIRTY DAYS BEFORE ENTRY; TO AMEND SECTION 47-13-1370, AS AMENDED, RELATING TO THE PROOF OF TESTS REQUIRED FOR THE PUBLIC ASSEMBLY OF HORSES, SO AS TO REQUIRE THAT HORSES MAINTAINED AT A PUBLIC STABLE OR OTHER PUBLIC FACILITY BE TESTED FOR EQUINE INFECTIOUS ANEMIA NOT LESS THAN ONCE EACH TWENTY-FOUR MONTHS AND TO INCREASE THE PENALTIES FOR VIOLATIONS; TO AMEND SECTION 47-13-1390, AS AMENDED, RELATING TO THE POSSESSION OF A FALSE CERTIFICATE SHOWING A NEGATIVE COGGINS TEST FOR ANY HORSE, SO AS TO INCREASE THE PENALTIES FOR VIOLATIONS; AND TO AMEND SECTION 47-13-1400, AS AMENDED, RELATING TO ADDITIONAL PENALTIES FOR VIOLATIONS OF ARTICLE 13, CHAPTER 13, TITLE 47, SO AS TO INCREASE THE RANGE OF PENALTIES.

Rep. DUNCAN moved to recommit the Bill to the Committee on Agriculture, Natural Resources and Environmental Affairs.

Rep. BALES moved to table the motion.

Rep. BEDINGFIELD demanded the yeas and nays which were taken, resulting as follows:

Yeas 3; Nays 101

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Hart | Kennedy | McLeod |

**Total--3**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Agnew | Alexander | Allen |
| Allison | Anderson | Anthony |
| Bales | Ballentine | Bannister |
| Barfield | Battle | Bedingfield |
| Bingham | Bowen | Bowers |
| Brady | Branham | Brantley |
| G. A. Brown | H. B. Brown | R. L. Brown |
| Cato | Chalk | Cole |
| Crawford | Daning | Delleney |
| Dillard | Duncan | Edge |
| Erickson | Forrester | Frye |
| Funderburk | Gambrell | Gilliard |
| Govan | Gullick | Haley |
| Hamilton | Hardwick | Harrell |
| Harrison | Hayes | Hearn |
| Herbkersman | Hiott | Hodges |
| Horne | Hosey | Huggins |
| Hutto | Jefferson | Jennings |
| Kelly | King | Kirsh |
| Knight | Littlejohn | Long |
| Lowe | Lucas | Mack |
| McEachern | Miller | Mitchell |
| Moss | Nanney | J. H. Neal |
| J. M. Neal | Neilson | Owens |
| Parker | Pinson | E. H. Pitts |
| M. A. Pitts | Rice | Sandifer |
| Scott | Sellers | Simrill |
| Skelton | D. C. Smith | G. M. Smith |
| G. R. Smith | J. R. Smith | Spires |
| Stavrinakis | Stringer | Thompson |
| Toole | Umphlett | Vick |
| Weeks | White | Whitmire |
| Williams | Willis | Wylie |
| A. D. Young | T. R. Young |  |

**Total--101**

So, the House refused to table the motion.

The question then recurred to the motion to recommit to the Committee on Agriculture, Natural Resources and Environmental Affairs, which was agreed to.

**RECURRENCE TO THE MORNING HOUR**

Rep. HARRELL moved that the House recur to the Morning Hour, which was agreed to.

**HOUSE RESOLUTION**

The following was introduced:

H. 3998 -- Reps. Harrell, Bingham, Allison, Ballentine, Bannister, Barfield, Bedingfield, Bowen, Brady, Cato, Chalk, Clemmons, Cole, Cooper, Crawford, Daning, Delleney, Duncan, Edge, Erickson, Forrester, Frye, Gambrell, Gullick, Haley, Hamilton, Hardwick, Harrison, Hearn, Herbkersman, Hiott, Horne, Huggins, Kelly, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Millwood, Nanney, Owens, Parker, Pinson, E. H. Pitts, M. A. Pitts, Rice, Sandifer, Scott, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. R. Smith, Sottile, Spires, Stewart, Stringer, Thompson, Toole, Umphlett, Viers, White, Whitmire, Willis, Wylie, A. D. Young and T. R. Young: A HOUSE RESOLUTION TO RECOGNIZE AND HONOR KATON EDWARDS DAWSON, CHAIRMAN OF THE SOUTH CAROLINA REPUBLICAN PARTY, FOR HIS CONTRIBUTIONS TO THE POLITICAL DISCOURSE IN THE STATE OF SOUTH CAROLINA AS HE RETIRES FROM THIS POSITION, AND EXTEND TO HIM BEST WISHES IN ALL HIS FUTURE ENDEAVORS.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 3999 -- Reps. Allen, Agnew, Alexander, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A HOUSE RESOLUTION TO RECOGNIZE AND HONOR LOUIE GOLDEN, ATHLETIC DIRECTOR AND HEAD BOYS BASKETBALL COACH FOR GREENVILLE'S SOUTHSIDE HIGH SCHOOL, FOR THIRTY-SEVEN YEARS OF COACHING EXCELLENCE, TYPIFIED BY HIS LATEST WIN, THE 2009 CLASS AA STATE BOYS BASKETBALL CHAMPIONSHIP TITLE.

The Resolution was adopted.

**CONCURRENT RESOLUTION**

The Senate sent to the House the following:

S. 343 -- Senators Lourie and Knotts: A CONCURRENT RESOLUTION TO REQUEST THE SOUTH CAROLINA BUDGET AND CONTROL BOARD TO REQUIRE ALL AGENCIES WITH INVESTIGATIVE AUTHORITY PURSUANT TO THE OMNIBUS ADULT PROTECTION ACT, OR ANY FEDERAL STATUTE, TO MAKE THEIR CASES OF ABUSE, NEGLECT, AND EXPLOITATION OF VULNERABLE ADULTS WHICH WERE SUBSTANTIATED OR RESULTED IN CRIMINAL CONVICTIONS AVAILABLE ON THE STATE'S WEBSITE IN A FORMAT TO BE DEVELOPED BY THE ADULT PROTECTION COORDINATING COUNCIL.

The Concurrent Resolution was ordered referred to the Committee on Ways and Means.

**H. 4000--ADOPTED**

The following was taken up for immediate consideration:

H. 4000 -- Rep. Harrell: A CONCURRENT RESOLUTION TO PROVIDE THAT PURSUANT TO ARTICLE III, SECTION 9 OF THE CONSTITUTION OF THIS STATE AND SECTION 2-1-180 OF THE 1976 CODE, WHEN THE RESPECTIVE HOUSES OF THE GENERAL ASSEMBLY ADJOURN ON THURSDAY, MAY 21, 2009, NOT LATER THAN 5:00 P.M., EACH HOUSE SHALL STAND ADJOURNED TO MEET AT A TIME MUTUALLY AGREED UPON BY THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES NOT EARLIER THAN NOON ON TUESDAY, JUNE 16, 2009, FOR A PERIOD NOT TO EXCEED THREE STATEWIDE LEGISLATIVE DAYS FOR THE CONSIDERATION OF CERTAIN MATTERS, TO PROVIDE THAT WHEN EACH HOUSE ADJOURNS AFTER THIS THREE-DAY PERIOD NOT LATER THAN 5:00 P.M. ON THE THIRD LEGISLATIVE DAY, EACH HOUSE SHALL STAND ADJOURNED TO MEET AT A TIME MUTUALLY AGREED UPON BY THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES UPON CERTAIN OCCURRENCES AND FOR THE CONSIDERATION OF SPECIFIED MATTERS, AND TO PROVIDE THAT UNLESS ADJOURNED EARLIER, THE GENERAL ASSEMBLY SHALL STAND ADJOURNED SINE DIE NO LATER THAN 5:00 P.M. ON MONDAY, JANUARY 11, 2010.

Rep. HARRELL explained the Concurrent Resolution.

The yeas and nays were taken resulting as follows:

Yeas 112; Nays 0

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Allen | Allison |
| Anderson | Anthony | Bales |
| Ballentine | Bannister | Barfield |
| Battle | Bedingfield | Bingham |
| Bowen | Brady | Branham |
| Brantley | G. A. Brown | H. B. Brown |
| R. L. Brown | Cato | Chalk |
| Clemmons | Clyburn | Cobb-Hunter |
| Cole | Crawford | Delleney |
| Dillard | Duncan | Edge |
| Erickson | Forrester | Frye |
| Funderburk | Gambrell | Gilliard |
| Govan | Gullick | Haley |
| Hamilton | Hardwick | Harrell |
| Harrison | Hart | Hayes |
| Hearn | Herbkersman | Hiott |
| Hodges | Horne | Hosey |
| Howard | Huggins | Hutto |
| Jefferson | Jennings | Kelly |
| Kennedy | King | Kirsh |
| Knight | Littlejohn | Loftis |
| Long | Lowe | Lucas |
| Mack | McLeod | Miller |
| Millwood | Mitchell | Moss |
| Nanney | J. H. Neal | J. M. Neal |
| Neilson | Ott | Owens |
| Parker | Parks | Pinson |
| E. H. Pitts | M. A. Pitts | Rice |
| Sandifer | Scott | Sellers |
| Simrill | Skelton | D. C. Smith |
| G. M. Smith | G. R. Smith | J. E. Smith |
| J. R. Smith | Sottile | Spires |
| Stavrinakis | Stewart | Stringer |
| Thompson | Toole | Umphlett |
| Vick | Viers | Weeks |
| White | Whitmire | Williams |
| Willis | Wylie | A. D. Young |
| T. R. Young |  |  |

**Total--112**

Those who voted in the negative are:

**Total--0**

The Concurrent Resolution was adopted and sent to the Senate.

**REPORT OF STANDING COMMITTEE**

Rep. MILLER, from the Georgetown Delegation, submitted a favorable report on:

S. 704 -- Senators McGill and Cleary: A BILL TO AMEND SECTION 7-7-270, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN GEORGETOWN COUNTY, SO AS TO REDESIGNATE A MAP NUMBER ON WHICH LINES OF THESE PRECINCTS ARE DELINEATED AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD AND TO CORRECT ARCHAIC REFERENCES.

Ordered for consideration tomorrow.

**H. 3488--AMENDED AND ORDERED TO THIRD READING**

The following Joint Resolution was taken up:

H. 3488 -- Reps. J. E. Smith, Hart, Williams, R. L. Brown, Hutto and Weeks: A JOINT RESOLUTION TO ESTABLISH A COMMITTEE TO STUDY CERTAIN ISSUES AFFECTING VETERANS AND PROVIDE FOR RELATED MATTERS INCLUDING, BUT NOT LIMITED TO, COMMITTEE MEMBERSHIP AND DUTIES, THE FILLING OF VACANCIES, COMMITTEE MEETINGS, AND STAFFING.

The Medical, Military, Public and Municipal Affairs Committee proposed the following Amendment No. 1 (COUNCIL\MS\7277ZW09), which was adopted:

Amend the joint resolution, as and if amended, by striking SECTION 4 in its entirety, page 2, lines 16 through 26, and inserting:

/ SECTION 4. The committee shall receive clerical and related assistance from the staff of the Senate and the staff of the House of Representatives, as approved and designated by the President of the Senate and the Speaker of the House, respectively. The members of the committee may not receive compensation and are not entitled to receive mileage, subsistence, and per diem authorized by law for members of state boards and committees. /

Renumber sections to conform.

Amend title to conform.

Rep. HOSEY explained the amendment.

The amendment was then adopted.

The Joint Resolution, as amended, was read the second time and ordered to third reading.

**H. 3794--DEBATE ADJOURNED**

Rep. UMPHLETT moved to adjourn debate upon the following Bill until Thursday, April 30, which was adopted:

H. 3794 -- Rep. Umphlett: A BILL TO AMEND SECTION 50-11-2200, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ESTABLISHMENT OF WILDLIFE MANAGEMENT AREAS, SO AS TO SPECIFY ADDITIONAL PROHIBITED ACTIVITIES; TO AMEND SECTION 50-11-2210, RELATING TO ABUSE OF WILDLIFE MANAGEMENT AREA LANDS, SO AS TO INCLUDE HERITAGE TRUST AND DEPARTMENT OWNED LANDS; TO AMEND SECTION 50-11-2220, AS AMENDED, RELATING TO ADDITIONAL PENALTIES FOR ABUSING WILDLIFE MANAGEMENT AREA LANDS, SO AS TO INCLUDE HERITAGE TRUST AND DEPARTMENT OWNED LANDS; AND BY ADDING SECTION 50-11-2225 SO AS TO CREATE A MISDEMEANOR CRIMINAL OFFENSE FOR ENTERING OR REMAINING ON A CLOSED AREA CONTRARY TO THE INSTRUCTIONS OF A LAW ENFORCEMENT OFFICER, MANAGER, OR DEPARTMENT CUSTODIAL PERSONNEL.

**H. 3718--AMENDED AND REQUESTS FOR DEBATE**

The following Bill was taken up:

H. 3718 -- Rep. Clemmons: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-1-148 SO AS TO PROHIBIT THE RESALE OF FRESH OR FROZEN MEAT OR MEAT PRODUCTS SOLD TO AND RETURNED BY A CONSUMER.

The Agriculture, Natural Resources and Environmental Affairs Committee proposed the following Amendment No. 1 (COUNCIL\GJK\20301SD09), which was adopted:

Amend the bill, as and if amended, by striking Section 44-1-148 of the 1976 Code as contained in SECTION 1 and inserting:

/ Section 44‑1‑148. Fresh meat or fresh meat products sold to a consumer may not be offered to the public for resale if the fresh meat or fresh meat products have been returned by the consumer. /

Renumber sections to conform.

Amend title to conform.

Rep. VICK explained the amendment.

The amendment was then adopted.

Rep. CLEMMONS proposed the following Amendment No. 2 (COUNCIL\NBD\11472AC09):

Amend the bill, as and if amended, by deleting Section 44-1-148 on page 3718-1 and inserting:

/Section 44-1-148. Fresh meat or fresh meat products sold to a consumer may not be offered to the public for resale for human consumption if the fresh meat or fresh meat products have been returned by the consumer./

Renumber sections to conform.

Amend title to conform.

Rep. CLEMMONS explained the amendment.

Reps. HART, KENNEDY, RUTHERFORD, HOSEY, SELLERS, CLEMMONS, GOVAN, G. A. BROWN, CRAWFORD, DANING, LOWE and ERICKSON requested debate on the Bill.

**H. 3651--REQUESTS FOR DEBATE**

The following Bill was taken up:

H. 3651 -- Reps. Duncan, Umphlett, Anthony, Knight, Forrester and Hayes: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 48-23-205 SO AS TO LIMIT THE AUTHORITY OF COUNTIES AND MUNICIPALITIES TO RESTRICT OR REGULATE CERTAIN FORESTRY ACTIVITIES, AND TO PROVIDE THE TERMS AND CONDITIONS OF CERTAIN PERMITTED REGULATIONS.

The Agriculture, Natural Resources and Environmental Affairs Committee proposed the following Amendment No. 1 (COUNCIL\GJK\20305SD09):

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/SECTION 1. Chapter 23, Title 48 of the 1976 Code is amended by adding:

“Section 48‑23‑300. (A) For purposes of this section, the following definitions apply to this section:

(1) ‘Development’ means any activity, including timber harvesting, that is associated with the conversion of forestland to nonforest or nonagricultural use.

(2) ‘Forestland’ means land supporting a stand or potential stand of trees that may be utilized for timber products, watershed or wildlife protection, recreational uses, or for other purposes.

(3) ‘Forestry service’ means any professional service relating to a forestry management plan or activity including, but not limited to, consultation, investigation, evaluation, planning, or responsible supervision of forest management, protection, silviculture, measurements, utilization, economics, education, or other forestry activities in connection with any public or private lands.

(4) ‘Forest management plan’ means a document or documents prepared or approved by a forester registered in this State that defines a landowner’s forest management objectives and describes specific measures to be taken to achieve those objectives. A management plan shall include silvicultural practices, objectives, and measures to achieve them, that relate to a stand or potential stand of trees that may be utilized for timber products, watershed or wildlife protection, recreational uses, or for other purposes.

(5) ‘Forestry activity’ means any activity associated with the growing, managing, harvesting, and related transportation, reforestation, or protection of trees and timber, provided that these activities comply with existing regulations pertaining to forestry.

(B) A county or municipality shall not adopt or enforce any ordinance, rule, regulation, resolution, or permit related to forestry activities on forestland:

(1) that is taxed on the basis of its present‑use value as forestland under Section 12‑43‑220(d);

(2) that are conducted in accordance with a forest management plan;

(3) certified under the Sustainable Forestry Initiative, the Forest Stewardship Council, the American Forest Foundations Tree Farm System, or other nationally recognized forest certification system; or

(4) that is covered by a legally binding conservation easement under which the owner limits the right to develop or subdivide the land.

(C) This section does not limit, expand, or otherwise alter the authority of a county or municipality to:

(1) regulate activities associated with development, provided that:

(a) a county or municipality may only defer a building permit, a site disturbance or subdivision plan, or any other approval for development that if implemented would result in a change from forestland to nonforest or nonagricultural use, for a period of up to:

(i) two years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees from the area included in the building permit, site disturbance or subdivision plan in item (a) that were protected under county or municipal regulations governing development from the portion of the tract of land for which the permit or approval is sought; or

(ii) five years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees from the area included in the building permit, site disturbance, or subdivision plan in item (a) that were protected under county or municipal regulations governing development from the portion of the tract of land for which the permit or approval is sought and the harvest was a wilful violation of the county regulations;

(b) a county or municipality may not defer a permit pursuant to item (a) if ownership of the tract of land for which the permit is sought transfers through inheritance;

(2) regulate trees pursuant to any local act of the General Assembly;

(3) adopt ordinances that are necessary to comply with any federal or state law, regulation, or rule; or

(4) exercise its development permitting, planning, or zoning authority as provided by law.

(D) A person whose application for a building permit, a site disturbance or subdivision plan, or any other approval for development is deferred pursuant to the provisions contained in this section may appeal the decision to the appropriate governmental authority or court of competent jurisdiction.”

SECTION 2. This act takes effect upon approval by the Governor./

Renumber sections to conform.

Amend title to conform.

Rep. VICK moved to adjourn debate on the amendment, which was agreed to.

Reps. GULLICK, LITTLEJOHN, LOFTIS, KENNEDY, CRAWFORD, DANING, SELLERS, DUNCAN, HART, HIOTT, VICK, PARKER and KING requested debate on the Bill.

**S. 453--REQUESTS FOR DEBATE**

The following Bill was taken up:

S. 453 -- Senators Verdin and Ford: A BILL TO AMEND CHAPTER 4, TITLE 47 OF THE 1976 CODE, RELATING TO ANIMALS, LIVESTOCK, AND POULTRY, BY ADDING SECTION 47-4-160 TO PROVIDE THAT POLITICAL SUBDIVISIONS MAY NOT ENACT ORDINANCES, ORDER, OR OTHER REGULATIONS CONCERNING THE CARE AND HANDLING OF LIVESTOCK AND POULTRY, TO PROVIDE THAT IT IS THE INTENT OF THE GENERAL ASSEMBLY TO OCCUPY THE FIELD CONCERNING THE REGULATION OF CARE AND HANDLING OF LIVESTOCK AND POULTRY, AND TO PROVIDE THAT LOCAL LAWS, ORDINANCES, ORDERS, OR OTHER REGULATIONS CONCERNING THE CARE AND HANDLING OF LIVESTOCK AND POULTRY ARE PREEMPTED AND SUPERSEDED.

Reps. KENNEDY, LITTLEJOHN, MCEACHERN, J. H. NEAL, WEEKS and HOSEY requested debate on the Bill.

**SPEAKER IN CHAIR**

**S. 9--RECOMMITTED**

The following Bill was taken up:

S. 9 -- Senators McConnell, Leventis, Rose, Elliott, Massey, Peeler, Bright and Setzler: A BILL TO AMEND CHAPTER 52, TITLE 48, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ENERGY EFFICIENCY, BY ADDING ARTICLE 12, SO AS TO ESTABLISH ENERGY EFFICIENCY AND RENEWABLE ENERGY GOALS FOR STATE GOVERNMENT, TO DIRECT STATE AGENCIES TO PROCURE ENERGY EFFICIENT PRODUCTS, AND TO DIRECT EVERY STATE AGENCY HEAD TO REQUIRE THE REPLACEMENT OF ALL INCANDESCENT LIGHT BULBS WITH COMPACT FLUORESCENT LIGHT BULBS IN EACH STATE AGENCY BY JULY 1, 2011.

Rep. HIOTT moved to recommit the Bill to the Committee on Agriculture, Natural Resources and Environmental Affairs, which was agreed to.

**H. 3530--REQUESTS FOR DEBATE**

The following Bill was taken up:

H. 3530 -- Reps. Bannister, Brantley, Simrill, Anthony, Vick, H. B. Brown, Brady, Funderburk, Gambrell, Hardwick, Horne, Knight, Miller, E. H. Pitts, Viers, A. D. Young, Wylie, Branham, Gullick and J. M. Neal: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56-15-361, SO AS TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES MAY IMPOSE AND COLLECT AN ADMINISTRATIVE FINE AGAINST LICENSED MOTOR VEHICLE DEALERS WHO VIOLATE CERTAIN PROVISIONS OF LAW, AND PROVIDE THAT THE DEPARTMENT SHALL EMPLOY THE STAFF NECESSARY TO ENFORCE THE PROVISIONS CONTAINED IN THIS SECTION.

Reps. R. L. BROWN, HOSEY, MCEACHERN, KENNEDY, BALES and HART requested debate on the Bill.

**H. 3134--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

H. 3134 -- Reps. Bowers and Long: A BILL TO AMEND SECTION 56-3-9910, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF GOLD STAR FAMILY SPECIAL LICENSE PLATES, SO AS TO REDUCE THE FEE FOR THIS SPECIAL LICENSE PLATE.

The Education and Public Works Committee proposed the following Amendment No. 1 (COUNCIL\SWB\5860CM09), which was adopted:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Section 56‑3‑9910 of the 1976 Code, as last amended by Act 347 of 2008, is further amended to read:

“Section 56‑3‑9910. (A) The Department of Motor Vehicles may issue ‘Gold Star Family’ special license plates to owners of private passenger motor vehicles as defined in Section 56‑3‑630 registered in ~~their~~ the names of members of the immediate family of United States armed forces members killed in action. The fee for this special license plate ~~must be~~ is the regular motor vehicle license fee contained in Article 5, Chapter 3 of this title. ~~and the~~ The special fee required by Section 56‑3‑2020 is waived. The license plates issued pursuant to this section must conform to a design agreed to by the department and the chief executive officer of the South Carolina Chapter of American Gold Star Mothers, Inc. or other similar organization operating in this State. ~~Notwithstanding any other provision of law, of the fees collected for the special license plate, the Comptroller General shall place sufficient funds into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the Department of Motor Vehicles in producing and administering the special plate.~~

(B) Notwithstanding another provision of law, the provisions contained in Section 56‑3‑8000(B) and (C) do not apply to the production and distribution of ‘Gold Star Family’ special license plates.

(C) For the purposes of this section, ‘members of the immediate family’ means a person who is a parent, spouse, sibling, or child of a armed forces member killed in action. Each qualifying person is entitle to a limit of two ‘Gold Star Family’ special license plates.”

Renumber sections to conform.

Amend title to conform.

Rep. BRANHAM explained the amendment.

The amendment was then adopted.

The question then recurred to the passage of the Bill on second reading.

The yeas and nays were taken resulting as follows:

Yeas 107; Nays 0

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Allen | Allison |
| Anderson | Anthony | Bales |
| Ballentine | Bannister | Barfield |
| Battle | Bedingfield | Bingham |
| Bowen | Brady | Branham |
| Brantley | G. A. Brown | H. B. Brown |
| R. L. Brown | Cato | Chalk |
| Clemmons | Cobb-Hunter | Cole |
| Daning | Delleney | Dillard |
| Duncan | Edge | Erickson |
| Forrester | Frye | Funderburk |
| Gambrell | Gilliard | Govan |
| Gullick | Haley | Hamilton |
| Hardwick | Harrell | Harrison |
| Hart | Harvin | Hearn |
| Herbkersman | Hodges | Horne |
| Hosey | Huggins | Hutto |
| Jefferson | Jennings | Kelly |
| Kennedy | King | Kirsh |
| Knight | Littlejohn | Loftis |
| Long | Lowe | Lucas |
| Mack | McEachern | McLeod |
| Miller | Millwood | Moss |
| Nanney | J. M. Neal | Neilson |
| Ott | Owens | Parker |
| Parks | Pinson | E. H. Pitts |
| M. A. Pitts | Rice | Rutherford |
| Sandifer | Scott | Sellers |
| Simrill | Skelton | D. C. Smith |
| G. M. Smith | G. R. Smith | J. E. Smith |
| J. R. Smith | Sottile | Spires |
| Stavrinakis | Stringer | Thompson |
| Toole | Umphlett | Vick |
| Viers | Weeks | White |
| Whitmire | Williams | Wylie |
| A. D. Young | T. R. Young |  |

**Total--107**

Those who voted in the negative are:

**Total--0**

So, the Bill, as amended, was read the second time and ordered to third reading.

RECORD FOR VOTING

I was temporarily out of the Chamber on constituent business during the vote on H. 3134. As primary sponsor of this Bill, I support Amendment No. 1 and the Bill in its entirety.

Rep. Bill Bowers

**H. 3678--DEBATE ADJOURNED**

Rep. E. H. PITTS moved to adjourn debate upon the following Bill until Thursday, April 30, which was adopted:

H. 3678 -- Reps. Moss, Whipper, Anthony, Herbkersman, Merrill, Nanney, G. M. Smith, Thompson and Weeks: A BILL TO AMEND SECTION 56-5-4140, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MAXIMUM ALLOWABLE GROSS WEIGHTS OF VEHICLES THAT MAY BE OPERATED ALONG THE STATE'S HIGHWAYS, SO AS TO MAKE A TECHNICAL CHANGE.

**S. 488--DEBATE ADJOURNED**

Rep. ALLISON moved to adjourn debate upon the following Joint Resolution until Thursday, April 30, which was adopted:

S. 488 -- Education Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE STATE BOARD OF EDUCATION, RELATING TO CHARTER SCHOOL APPEALS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4028, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**S. 489--DEBATE ADJOURNED**

Rep. ALLISON moved to adjourn debate upon the following Joint Resolution until Thursday, April 30, which was adopted:

S. 489 -- Education Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE STATE BOARD OF EDUCATION, RELATING TO ASSESSMENT PROGRAM, DESIGNATED AS REGULATION DOCUMENT NUMBER 4029, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**S. 490--DEBATE ADJOURNED**

Rep. ALLISON moved to adjourn debate upon the following Joint Resolution until Thursday, April 30, which was adopted:

S. 490 -- Education Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE STATE BOARD OF EDUCATION, RELATING TO PROGRAM FOR ASSISTING, DEVELOPING, AND EVALUATING PRINCIPAL PERFORMANCE (PADEPP), DESIGNATED AS REGULATION DOCUMENT NUMBER 4027, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**S. 583--DEBATE ADJOURNED**

Rep. ALLISON moved to adjourn debate upon the following Joint Resolution until Thursday, April 30, which was adopted:

S. 583 -- Education Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE BOARD OF EDUCATION, RELATING TO USE AND DISSEMINATION OF TEST RESULTS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4049, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**ORDERED TO THIRD READING**

The following Bills were taken up, read the second time, and ordered to a third reading:

H. 3957 -- Rep. Herbkersman: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 48-1-55 SO AS TO PROVIDE THAT ON ANY NAVIGABLE RIVER IN THIS STATE WHERE AN OYSTER FACTORY IS LOCATED, THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL MAY UTILIZE QUALIFIED PERSONNEL OF THE COUNTY OR MUNICIPALITY IN WHOSE JURISDICTION THE FACTORY OPERATES TO ASSIST WITH THE MONITORING OF WATER QUALITY AND OTHER ENVIRONMENTAL STANDARDS THE DEPARTMENT IS REQUIRED TO ENFORCE.

Rep. HERBKERSMAN explained the Bill.

S. 639 -- Senators O'Dell and Nicholson: A BILL TO AMEND SECTION 7-7-290, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN GREENWOOD COUNTY, SO AS TO REVISE AND RENAME CERTAIN VOTING PRECINCTS OF GREENWOOD COUNTY AND REDESIGNATE A MAP NUMBER FOR THE MAP ON WHICH LINES OF THESE PRECINCTS ARE DELINEATED AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

**S. 711--DEBATE ADJOURNED**

Rep. FORRESTER moved to adjourn debate upon the following Joint Resolution until Thursday, April 30, which was adopted:

S. 711 -- Senator Verdin: A JOINT RESOLUTION TO DIRECT THE CLEMSON UNIVERSITY REGULATORY AND PUBLIC SERVICE PROGRAMS DIVISION TO ESTABLISH A QUARANTINE FOR CITRUS GREENING, ALSO KNOWN AS HUANGLONGBING (CANDIDATUS LIBERIBACTER ASIATICUS) A DISEASE OF CITRUS PLANTS, AND TO PROVIDE REQUIREMENTS FOR AND THE DURATION OF THE QUARANTINE AND PENALTIES FOR VIOLATION.

**H. 3467--DEBATE ADJOURNED**

Rep. LOFTIS moved to adjourn debate upon the following Bill until Thursday, April 30, which was adopted:

H. 3467 -- Reps. M. A. Pitts, Brantley, Allison, Horne, Rice and Spires: A BILL TO AMEND SECTION 8-11-83, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PAYROLL DEDUCTION FOR DUES OF THE STATE EMPLOYEES' ASSOCIATION AND THE SOUTH CAROLINA TROOPERS' ASSOCIATION, SO AS TO ALSO AUTHORIZE A PAYROLL DEDUCTION FOR DUES OF THE SOUTH CAROLINA FRATERNAL ORDER OF POLICE.

**S. 126--DEBATE ADJOURNED**

Rep. OWENS moved to adjourn debate upon the following Bill until Thursday, April 30, which was adopted:

S. 126 -- Senators Sheheen and Elliott: A BILL TO AMEND SECTION 56-3-1910, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF SPECIAL LICENSE TAGS TO CERTAIN HANDICAPPED PERSONS, SO AS TO DEFINE THE TERM "HANDICAPPED", DELETE THE TERM "LICENSE TAG" AND REPLACE IT WITH THE TERM "LICENSE PLATE", AND TO REVISE THE CRITERIA FOR THE ISSUANCE OF THE LICENSE PLATE; TO AMEND SECTION 56-3-1950, RELATING TO THE DEFINITION OF THE TERM "HANDICAPPED", AND THE REQUIREMENT THAT A LICENSED PHYSICIAN SHALL CERTIFY THAT A PERSON'S TOTAL AND PERMANENT DISABILITY SUBSTANTIALLY IMPAIRS HIS ABILITY TO WALK, SO AS TO REVISE THE DEFINITION OF THE TERM "HANDICAPPED" AND TO DELETE THE PROVISION RELATING TO THE CERTIFICATION OF A PERSON WHO IS TOTALLY AND PERMANENTLY DISABLED; TO AMEND SECTION 56-3-1960, RELATING TO FREE PARKING FOR HANDICAPPED PERSONS, AND THE ISSUANCE AND DISPLAY OF HANDICAPPED LICENSE PLATES AND PLACARDS, SO AS TO DELETE THE PROVISION THAT PROVIDES FOR THE ISSUANCE OF HANDICAPPED LICENSE PLATES, AND TO REVISE THE PROVISIONS REGARDING THE CONTENT, ISSUANCE PROCEDURE, AND DISPLAY OF HANDICAPPED PLACARDS; TO AMEND SECTION 56-3-1965, RELATING TO MUNICIPALITIES DESIGNATING PARKING SPACES FOR HANDICAPPED PERSONS, SO AS TO REVISE THE PROCEDURES THAT ALLOW A HANDICAPPED PERSON TO PARK IN METERED OR TIMED PARKING PLACES WITHOUT BEING SUBJECT TO PARKING FEES OR FINES; AND TO AMEND SECTION 56-3-2010, RELATING TO THE ISSUANCE OF PERSONALIZED LICENSE PLATES, SO AS TO PROVIDE THAT A PERSON WHO ALSO QUALIFIES IS QUALIFIED TO RECEIVE THIS LICENSE PLATE AND A HANDICAPPED LICENSE PLATE MAY BE ISSUED A PERSONALIZED LICENSE PLATE THAT INCLUDES A DECAL THAT CONTAINS THE INTERNATIONAL SYMBOL OF ACCESS.

**H. 3814--INTERRUPTED DEBATE**

The following Joint Resolution was taken up:

H. 3814 -- Reps. Allison, Cole, Forrester, Kelly and Parker: A JOINT RESOLUTION TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO DESIGN AND IMPLEMENT A HIGHWAY BEAUTIFICATION PILOT PROJECT TO REDUCE THE NUMBER OF NONCONFORMING BILLBOARDS THROUGHOUT THE STATE.

The Education and Public Works Committee proposed the following Amendment No. 1 (COUNCIL\SWB\5887CM09):

Amend the joint resolution, as and if amended, by deleting SECTION 1, page two in its entirety and inserting:

/ SECTION 1. The Department of Transportation is authorized to develop and submit to the Federal Highway Administration an outdoor advertising control pilot project that permits qualified applicants to upgrade one nonconforming wooden or I‑beam sign adjacent to Interstate 26 or Interstate 95 in exchange for the applicant’s removal of at least two of his other nonconforming signs of similar or larger size on routes regulated by the Highway Control Act. /

Renumber sections to conform.

Amend title to conform.

Rep. E. H. PITTS explained the amendment.

Further proceedings were interrupted by expiration of time on the uncontested Calendar, the pending question being consideration of Amendment No. 1.

**OBJECTION TO RECALL**

Rep. HART asked unanimous consent to recall H. 3953 from the Committee on Ways and Means.

Rep. A. D. YOUNG objected.

**OBJECTION TO RECALL**

Rep. KENNEDY asked unanimous consent to recall H. 3492 from the Committee on Labor, Commerce and Industry.

Rep. SANDIFER objected.

**OBJECTION TO RECALL**

Rep. BALLENTINE asked unanimous consent to recall S. 463 from the Committee on Medical, Military, Public and Municipal Affairs.

Rep. KENNEDY objected.

**OBJECTION TO RECALL**

Rep. E. H. PITTS asked unanimous consent to recall H. 3230 from the Committee on Judiciary.

Rep. KENNEDY objected.

**OBJECTION TO RECALL**

Rep. LITTLEJOHN asked unanimous consent to recall H. 3748 from the Committee on Ways and Means.

Rep. KENNEDY objected.

**S. 13--RECALLED FROM COMMITTEE ON**

**WAYS AND MEANS**

On motion of Rep. LIMEHOUSE, with unanimous consent, the following Bill was ordered recalled from the Committee on Ways and Means:

S. 13 -- Senators Leatherman, Elliott and Campbell: A BILL TO AMEND SECTION 56-3-910 OF THE 1976 CODE, RELATING TO MOTOR VEHICLE FEES, TO PROVIDE THAT FEES BE PLACED IN THE STATE HIGHWAY ACCOUNT OF THE TRANSPORTATION INFRASTRUCTURE BANK INSTEAD OF THE DEPARTMENT OF TRANSPORTATION.

**OBJECTION TO RECALL**

Rep. KELLY asked unanimous consent to recall S. 512 from the Committee on Judiciary.

Rep. G. M. SMITH objected.

**OBJECTION TO RECALL**

Rep. KENNEDY asked unanimous consent to recall H. 3340 from the Committee on Education and Public Works.

Rep. WHITMIRE objected.

**H. 3987--RECALLED FROM COMMITTEE ON JUDICIARY**

On motion of Rep. LOWE, with unanimous consent, the following Bill was ordered recalled from the Committee on Judiciary:

H. 3987 -- Reps. Lowe and Crawford: A BILL TO PROVIDE THAT IN FLORENCE COUNTY A PERSON MUST OBTAIN PERMISSION FROM THE GOVERNING BODY OF A HOMEOWNER'S ASSOCIATION OR A RESIDENTIAL SUBDIVISION BEFORE HE MAY DISCHARGE A FIREARM ON ANY PROPERTY OWNED BY OR UNDER THE CONTROL OF THE HOMEOWNER'S ASSOCIATION OR THE RESIDENTIAL SUBDIVISION, TO PROVIDE A FINE FOR THE VIOLATION OF THE SECTION, AND TO PROVIDE THAT A FINE MAY NOT BE IMPOSED UPON A PERSON WHOSE DISCHARGE OF A FIREARM IS COVERED BY A LEGAL DEFENSE.

**OBJECTION TO RECALL**

Rep. BALLENTINE asked unanimous consent to recall H. 3066 from the Committee on Judiciary.

Rep. KENNEDY objected.

**MOTION PERIOD**

The motion period was dispensed with on motion of Rep. LOFTIS.

**H. 3442--RECOMMITTED**

The following Bill was taken up:

H. 3442 -- Reps. Bingham, Harrell, Duncan, Harrison, Owens, Toole, Merrill, Brady, E. H. Pitts, G. M. Smith, Daning, Haley, Huggins, Cato, Ballentine, D. C. Smith, J. R. Smith, Rice, T. R. Young, Horne, Wylie and Bedingfield: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 41-29-300 SO AS CREATE THE WORKFORCE DEPARTMENT APPELLATE PANEL WITHIN THE DEPARTMENT OF WORKFORCE, TO PROVIDE FOR THE FILLING OF A VACANCY, TO REQUIRE THE PRESENT MEMBERS OF THE SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION MUST CONSTITUTE THE INITIAL MEMBERSHIP OF THE NEW PANEL, TO PROVIDE THE PANEL SHALL DISSOLVE WHEN THE MEMBERS' TERMS EXPIRE IN 2012, AND TO PROVIDE RELATED APPELLATE PROCEDURES; BY ADDING SECTION 41-29-310 SO AS TO TRANSFER THE WORKFORCE INVESTMENT ACT PROGRAM FROM THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF WORKFORCE; TO AMEND SECTION 1-30-10, AS AMENDED, RELATING TO DEPARTMENTS WITHIN THE EXECUTIVE BRANCH OF STATE GOVERNMENT, SO AS TO CREATE THE SOUTH CAROLINA DEPARTMENT OF WORKFORCE WITHIN THE EXECUTIVE BRANCH; TO AMEND SECTION 41-29-10, RELATING TO THE EMPLOYMENT SECURITY COMMISSION, SO AS TO PROVIDE THAT CERTAIN CHAPTERS WITHIN TITLE 41 MUST BE ADMINISTERED BY THE DEPARTMENT OF WORKFORCE AND TO DELETE REFERENCES TO THE EMPLOYMENT SECURITY COMMISSION; TO AMEND SECTION 41-29-20, RELATING TO THE CHAIRMAN, QUORUM, AND FILLING OF A VACANCY ON THE EMPLOYMENT SECURITY COMMISSION, SO AS TO DELETE THE EXISTING LANGUAGE AND TO PROVIDE THE DEPARTMENT OF WORKFORCE MUST BE MANAGED AND OPERATED BY A DIRECTOR APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE, AND THAT THE DIRECTOR IS SUBJECT TO REMOVAL BY THE GOVERNOR AT HIS DISCRETION BY EXECUTIVE ORDER; TO AMEND SECTION 41-29-30, RELATING TO THE APPOINTMENT OF A SECRETARY OF THE EMPLOYMENT SECURITY COMMISSION, SO AS TO DELETE THE EXISTING LANGUAGE AND PROVIDE THE DIRECTOR OF THE DEPARTMENT OF WORKFORCE OR HIS DESIGNEE MUST RECEIVE ANNUAL COMPENSATION AS PROVIDED BY THE GENERAL ASSEMBLY AND OFFICIAL EXPENSES AS PROVIDED BY LAW FOR EXECUTING THE DUTIES AND FUNCTIONS OF THE DEPARTMENT; TO AMEND SECTION 8-17-370, AS AMENDED, RELATING TO EXEMPTIONS FROM THE STATE EMPLOYEE GRIEVANCE PROCESS, SO AS TO INCLUDE EMPLOYEES OF THE DEPARTMENT OF WORKFORCE AMONG THOSE EXEMPTED; TO AMEND SECTIONS 41-27-10, 41-27-30, 41-27-150, 41-27-160, 41-27-190, 41-27-210, AS AMENDED, 41-27-230, 41-27-235, AS AMENDED, 41-27-260, AS AMENDED, 41-27-360, 41-27-370, AS AMENDED, 41-27-380, 41-27-390, 41-27-510, 41-27-550, 41-27-560, 41-27-570, 41-27-580, 41-27-600, 41-27-610, 41-27-620, 41-27-630, 41-27-670, 41-29-40, 41-29-50, 41-29-60, 41-29-70, 41-29-80, 41-29-90, 41-29-100, 41-29-110, 41-29-120, AS AMENDED, 41-29-130, 41-29-140, 41-29-150, 41-29-170, AS AMENDED, 41-29-180, 41-29-190, 41-29-200, 41-29-210, 41-29-220, 41-29-230, 41-29-240, 41-29-250, 41-29-270, 41-29-280, 41-29-290, 41-33-10, 41-33-20, 41-33-30, 41-33-40, 41-33-45, 41-33-80, AS AMENDED, 41-33-90, 41-33-100, 41-33-110, 41-33-120, 41-33-130, 41-33-170, 41-33-180, 41-33-190, 41-33-200, 41-33-210, 41-33-430, 41-33-460, 41-33-470, 41-33-610, 41-33-710, 41-35-10, 41-35-30, 41-35-100, 41-35-110, AS AMENDED, 41-35-115, AS AMENDED, 41-35-120, AS AMENDED, 41-35-125, 41-35-126, 41-35-130, AS AMENDED, 41-35-140, 41-35-330, 41-35-340, 41-35-410, 41-35-420, AS AMENDED, 41-35-450, 41-35-610, 41-35-630, 41-35-640, AS AMENDED, 41-35-670, 41-35-680, AS AMENDED, 41-35-690, 41-35-700, 41-35-710, AS AMENDED, 41-35-720, 41-35-730, 41-35-740, 41-35-750, AS AMENDED, 41-37-20, 41-37-30, 41-39-30, 41-39-40, 41-41-20, AS AMENDED, 41-41-40, AS AMENDED, 41-41-50, 41-42-10, 41-42-20, 41-42-30, AND 41-42-40, ALL RELATING TO VARIOUS DEPARTMENT PROVISIONS, SO AS TO CONFORM THEM TO THE REPLACEMENT OF THE EMPLOYMENT SECURITY COMMISSION WITH THE DEPARTMENT OF WORKFORCE; AND TO REPEAL SECTION 41-29-260 RELATING TO THE ABILITY OF COMMISSIONERS OF THE EMPLOYMENT SECURITY COMMISSION TO FILE OPINIONS OR OFFICIAL MINUTES.

Rep. A. D. YOUNG moved to recommit the Bill to the Committee on Judiciary.

Rep. BINGHAM moved to table the motion.

Rep. E. H. PITTS demanded the yeas and nays which were taken, resulting as follows:

Yeas 61; Nays 51

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allison | Ballentine | Bannister |
| Barfield | Battle | Bedingfield |
| Bingham | Bowen | Brady |
| Brantley | Cato | Chalk |
| Clemmons | Cobb-Hunter | Cole |
| Crawford | Daning | Delleney |
| Edge | Forrester | Gunn |
| Haley | Hamilton | Harrell |
| Harrison | Hearn | Hiott |
| Horne | Huggins | Kelly |
| Limehouse | Littlejohn | Loftis |
| Long | Lowe | Miller |
| Millwood | Nanney | Owens |
| Parker | E. H. Pitts | Rice |
| Scott | Simrill | Skelton |
| D. C. Smith | G. M. Smith | G. R. Smith |
| J. E. Smith | J. R. Smith | Sottile |
| Spires | Stewart | Stringer |
| Thompson | Toole | Umphlett |
| Viers | Willis | Wylie |
| T. R. Young |  |  |

**Total--61**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Allen | Anderson | Anthony |
| Bales | Branham | G. A. Brown |
| H. B. Brown | R. L. Brown | Dillard |
| Duncan | Erickson | Frye |
| Gambrell | Gilliard | Govan |
| Gullick | Hardwick | Hart |
| Harvin | Hayes | Herbkersman |
| Hodges | Hosey | Hutto |
| Jefferson | Jennings | Kennedy |
| King | Knight | Lucas |
| Mack | McEachern | McLeod |
| Moss | J. H. Neal | J. M. Neal |
| Neilson | Ott | Parks |
| Pinson | M. A. Pitts | Rutherford |
| Sandifer | Sellers | Stavrinakis |
| Vick | Weeks | White |
| Whitmire | Williams | A. D. Young |

**Total--51**

So, the motion to recommit the Bill was tabled.

Rep. BINGHAM proposed the following Amendment No. 4 (COUNCIL\GGS\22313AB09), which was tabled:

Amend the bill, as and if amended, by striking SECTION 1 in its entirety and inserting:

/ SECTION 1. Chapter 29, Title 41 of the 1976 Code is amended by adding:

“Section 41‑29‑300. (A) There is created the Workforce Department Appellate Panel within the Department of Workforce, which is separate and distinct from the department’s divisions. The sole purpose of the panel is to hear and decide appeals from decisions of the department’s divisions.

(B)(1) The panel must consist of three hearing officers elected in the manner provided in this subsection. The initial hearing officers must be the members of the South Carolina Employment Security Commission serving at the effective date of this section.

(2) The hearing officers must be elected by the General Assembly, in joint session, for terms of four years and until their successors have been elected and qualified, commencing on the first day of July in each presidential election year.

(3) A vacancy must be filled by the Governor through a temporary appointment until the next session of the General Assembly, at which time a joint session of the General Assembly shall elect a panel member to fill the unexpired term.

(4) The hearing officers shall receive such compensation as may be established under the provisions of Section 8‑11‑160 and for which funds have been authorized in the general appropriations act.

(C)(1) A party may only appeal from a decision of the department directly to the panel. A party may only appeal a decision of the panel to in the court of common pleas, either in the county in which the employee resides or the county in which he was last employed in the manner provided in Section 41‑35‑750.

(D) A quorum must consist of all three panel members and is necessary to hear or decide an appeal under item (C)(1). A decision of the panel must be rendered in writing and is subject to disclosure under the Freedom of Information Act.

(E)(1) A person must be found qualified before he may be elected to serve as a hearing officer. The qualifications that each hearing officer must possess include, but are not limited to:

(a) a baccalaureate or more advanced degree from:

(i) a recognized institution of higher learning requiring face‑to‑face contact between its students and instructors prior to completion of the academic program;

(ii) an institution of higher learning that has been accredited by a regional or national accrediting body; or

(iii) an institution of higher learning chartered before 1962; or

(b) a background of at least five years in any combination of the following fields of expertise:

(i) general business administration;

(ii) finance;

(iii) law; or

(iv) management.

(2) A member of the General Assembly or member of his immediate family may not be:

(a) elected to be a hearing officer while the member is serving in the General Assembly;

(b) elected or appointed to be a hearing officer for a period of one year after the member either:

(i) ceases to be a member of the General Assembly; or

(ii) fails to file for election to the General Assembly in accordance with Section 7‑11‑15.

(3) The initial hearing officers do not have to meet the qualifications for election contained in this subsection during their continued tenure as a hearing officer.

(4) Nothing in this section prohibits an initial hearing officer from seeking reelection.

(F)(1) The hearing officers are bound by the Code of Judicial Conduct, as contained in Rule 501 of the South Carolina Appellate Court Rules, and the State Ethics Commission is responsible for enforcement and administration of Rule 501 pursuant to Section 8‑13‑320. Commissioners must also comply with the applicable requirements of Chapter 13 of Title 8.

(2) The hearing officers and their administrative assistants annually shall attend a workshop of at least three continuing education hours concerning ethics. /

Amend further by striking SECTION 5 in its entirety and inserting:

/ SECTION 5. Section 41‑29‑20 of the 1976 Code is amended to read:

“Section 41‑29‑20. ~~The Commission shall elect one of its members as chairman. Any two commissioners shall constitute a quorum and no vacancy shall impair the right of the remaining commissioners to exercise all of the powers of the Commission through action of a quorum.~~ There is hereby created the South Carolina Department of Workforce which must be managed and operated by an executive director appointed by the Governor upon the advice and consent of the Senate. The executive director shall appoint assistant directors and area directors as needed for the effective and efficient operation of the department. The director is subject to removal by the Governor as provided in Section 1‑3‑240(B). The director shall receive such compensation as may be established under the provisions of Section 8‑11‑160 and for which funds have been authorized in the general appropriations act. For the purposes of this chapter, ‘department’ means the South Carolina Department of Workforce.” /

Amend further page 6, by striking lines 4 ‑ 9 and inserting:

/ SECTION 7. Section 8‑17‑370 of the 1976 Code, as last amended by Act 353 of 2008, is further amended by adding a new item at the end appropriately numbered to read:

“( ) the executive director, assistant directors, and the area directors of the South Carolina Department of Workforce created pursuant to Section 1‑30‑10(A)(20).” /

Amend further by adding an appropriately numbered SECTIONS on page 6, after line 10 to read:

/ SECTION \_\_\_\_. Chapter 27, Title 41 is amended by adding:

“Section 41‑27‑650. The Department of Commerce, the Department of Workforce, and the South Carolina Technical Schools must work together to develop or procure computer hardware, software, and other equipment that are compatible with each other as needed to efficiently address the State’s policy goals as set forth in Section 41‑27‑20.”

SECTION \_\_\_. Section 41‑33‑45 of the 1976 Code is amended to read:

“Section 41‑33‑45. The commission shall report, by October first of each year, to the ~~Senate Finance Committee~~ General Assembly and to the ~~House Ways and Means Committee~~ the Governor the amount in the unemployment trust fund and make an assessment of its funding level.”

SECTION \_\_\_. Section 41‑31‑10(A) of the 1976 Code is amended to read:

“Section 41‑31‑10. (A) Each employer shall pay contributions equal to five and four‑tenths percent of wages paid by him during each year except as may be otherwise provided in Chapters 27 through 41 of this title. Employers may prepay their required contributions to the fund.”

SECTION \_\_\_. The commission shall file a report with the General Assembly and the Governor on or about January 1, 2010, making recommendations concerning restoration of the solvency of the unemployment trust fund. These recommendations must include an opinion on whether this restoration at least partially should depend on increasing an employer’s rate of contribution to the fund based on the relative frequency with which benefits are paid for claims by the employer’s former employees. /

Amend further by striking SECTION 75 in its entirety and inserting:

/ SECTION 75. Section 41‑35‑10 of the 1976 Code is amended to read:

“Section 41‑35‑10.(A) ~~Benefits shall become~~ Subject to the provisions in subsection (B), a benefit becomes payable from the fund to ~~any~~ an individual who is unemployed and eligible for ~~benefits~~ a benefit. Except as provided in Section 41‑35‑20, ~~benefits~~ a benefit based on service in employment defined in Section 41‑27‑230 (2) and (3) ~~shall be~~ is payable in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to Chapters 27 through 41 of this title. ~~All benefits shall~~ A benefit must be paid through an employment ~~offices~~ office~~, in accordance with such~~ pursuant to regulations ~~as the Commission may prescribe~~ prescribed by the department.

(B) Benefits otherwise payable to an eligible individual that is receiving or has received severance pay must be reduced by an amount equal to the amount of severance pay is receiving or has received. /

Renumber sections to conform.

Amend title to conform.

Rep. BINGHAM moved to table the amendment, which was agreed to.

Rep. LOFTIS proposed the following Amendment No. 9 (COUNCIL\SWB\5881MM09), which was tabled:

Amend the bill, as and if amended, by striking SECTION 75 in its entirety and inserting:

/ SECTION 75. Section 41‑35‑10 of the 1976 Code is amended to read:

“Section 41‑35‑10.(A) ~~Benefits shall become~~ Subject to the provisions in subsection (B), a benefit becomes payable from the fund to ~~any~~ an individual who is unemployed and eligible for ~~benefits~~ a benefit. Except as provided in Section 41‑35‑20, ~~benefits~~ a benefit based on service in employment defined in Section 41‑27‑230 (2) and (3) ~~shall be~~ is payable in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to Chapters 27 through 41 of this title. ~~All benefits shall~~ A benefit must be paid through an employment ~~offices~~ office~~, in accordance with such~~ pursuant to regulations ~~as the Commission may prescribe~~ prescribed by the department.

(B) Benefits otherwise payable to an eligible individual that is receiving severance pay must be reduced by an amount equal to the amount of severance pay he is receiving. /

Renumber sections to conform.

Amend title to conform.

Rep. LOFTIS moved to table the amendment, which was agreed to.

Rep. BINGHAM, proposed the following Amendment No. 10 (COUNCIL\GGS\22336AB09):

Amend the bill, as and if amended, by striking SECTION 1 in its entirety and inserting:

/ SECTION 1. Chapter 29, Title 41 of the 1976 Code is amended by adding:

“Section 41‑29‑300. (A) There is created the Workforce Department Appellate Panel within the Department of Workforce, which is separate and distinct from the department’s divisions. The sole purpose of the panel is to hear and decide appeals from decisions of the department’s divisions.

(B)(1) The panel must consist of three hearing officers elected in the manner provided in this subsection. The initial hearing officers must be the members of the South Carolina Employment Security Commission serving at the effective date of this section.

(2) The hearing officers must be elected by the General Assembly, in joint session, for terms of four years and until their successors have been elected and qualified, commencing on the first day of July in each presidential election year.

(3) A vacancy must be filled by the Governor through a temporary appointment until the next session of the General Assembly, at which time a joint session of the General Assembly shall elect a panel member to fill the unexpired term.

(4) The hearing officers shall receive such compensation as may be established under the provisions of Section 8‑11‑160 and for which funds have been authorized in the general appropriations act.

(C)(1) A party may only appeal from a decision of the department directly to the panel. A party may only appeal a decision of the panel to in the court of common pleas, either in the county in which the employee resides or the county in which he was last employed in the manner provided in Section 41‑35‑750.

(D) A quorum must consist of all three panel members and is necessary to hear or decide an appeal under item (C)(1). A decision of the panel must be rendered in writing and is subject to disclosure under the Freedom of Information Act.

(E)(1) A person must be found qualified before he may be elected to serve as a hearing officer. The qualifications that each hearing officer must possess include, but are not limited to:

(a) a baccalaureate or more advanced degree from:

(i) a recognized institution of higher learning requiring face‑to‑face contact between its students and instructors prior to completion of the academic program;

(ii) an institution of higher learning that has been accredited by a regional or national accrediting body; or

(iii) an institution of higher learning chartered before 1962; or

(b) a background of at least five years in any combination of the following fields of expertise:

(i) general business administration;

(ii) finance;

(iii) law; or

(iv) management.

(2) A member of the General Assembly or member of his immediate family may not be:

(a) elected to be a hearing officer while the member is serving in the General Assembly;

(b) elected or appointed to be a hearing officer for a period of one year after the member either:

(i) ceases to be a member of the General Assembly; or

(ii) fails to file for election to the General Assembly in accordance with Section 7‑11‑15.

(3) The initial hearing officers do not have to meet the qualifications for election contained in this subsection during their continued tenure as a hearing officer.

(4) Nothing in this section prohibits an initial hearing officer from seeking reelection.

(F)(1) The hearing officers are bound by the Code of Judicial Conduct, as contained in Rule 501 of the South Carolina Appellate Court Rules, and the State Ethics Commission is responsible for enforcement and administration of Rule 501 pursuant to Section 8‑13‑320. Commissioners must also comply with the applicable requirements of Chapter 13 of Title 8.

(2) The hearing officers and their administrative assistants annually shall attend a workshop of at least three continuing education hours concerning ethics. /

Amend further by striking SECTION 5 in its entirety and inserting:

/ SECTION 5. Section 41‑29‑20 of the 1976 Code is amended to read:

“Section 41‑29‑20. ~~The Commission shall elect one of its members as chairman. Any two commissioners shall constitute a quorum and no vacancy shall impair the right of the remaining commissioners to exercise all of the powers of the Commission through action of a quorum.~~ There is hereby created the South Carolina Department of Workforce consisting of the current Employment Security Commission and the current Workforce Investment Act program, including all regional or area associated boards and offices, which must be managed and operated by an executive director appointed by the Governor upon the advice and consent of the Senate. The executive director shall appoint assistant directors and area directors as needed for the effective and efficient operation of the department. The director is subject to removal by the Governor as provided in Section 1‑3‑240(B). The director shall receive such compensation as may be established under the provisions of Section 8‑11‑160 and for which funds have been authorized in the general appropriations act. For the purposes of this chapter, ‘department’ means the South Carolina Department of Workforce.” /

Amend further page 6, by striking lines 4‑9 and inserting:

/ SECTION 7. Section 8‑17‑370 of the 1976 Code, as last amended by Act 353 of 2008, is further amended by adding a new item at the end appropriately numbered to read:

“( ) the executive director, assistant directors, and the area directors of the South Carolina Department of Workforce created pursuant to Section 1‑30‑10(A)(20).” /

Amend further by adding appropriately numbered SECTIONS on page 6, after line 10 to read:

/ SECTION \_\_\_\_. Chapter 27, Title 41 is amended by adding:

“Section 41‑27‑650. The Department of Commerce, the Department of Workforce, and the South Carolina Technical Schools must work together to develop or procure computer hardware, software, and other equipment that are compatible with each other as needed to efficiently address the State’s policy goals as set forth in Section 41‑27‑20.”

SECTION \_\_\_. Section 41‑33‑45 of the 1976 Code is amended to read:

“Section 41‑33‑45. The commission shall report, by October first of each year, to the ~~Senate Finance Committee~~ General Assembly and to the ~~House Ways and Means Committee~~ the Governor the amount in the unemployment trust fund and make an assessment of its funding level.”

SECTION \_\_\_. Section 41‑31‑10(A) of the 1976 Code is amended to read:

“Section 41‑31‑10. (A) Each employer shall pay contributions equal to five and four‑tenths percent of wages paid by him during each year except as may be otherwise provided in Chapters 27 through 41 of this title. Employers may prepay their required contributions to the fund.”

SECTION \_\_\_. The commission shall file a report with the General Assembly and the Governor on or about January 1, 2010, making recommendations concerning restoration of the solvency of the unemployment trust fund. These recommendations must include an opinion on whether this restoration at least partially should depend on increasing an employer’s rate of contribution to the fund based on the relative frequency with which benefits are paid for claims by the employer’s former employees.

SECTION \_\_\_. Section 41-27-150 of the 1976 Code is amended to read:

“Section 41-27-150. ‘Base period’ means ~~the first four of~~ the last ~~five~~ four completed calendar quarters immediately preceding the first day of an individual’s benefit year; provided, that in the case of a combined wage claim filed by an individual in accord with an arrangement entered into by the commission under the provision of Section 41‑29‑140(2) the base period ~~shall~~ must be that applicable under the law of the paying state.”

SECTION \_\_\_. Section 41-35-330 of the 1976 Code is amended to read:

“Section 41-35-330. ~~(1)~~(A) There is a ‘state ‘on’ indicator’ for this State for a week if the ~~commission~~department determines, ~~in accordance with~~pursuant to the regulations of the U. S. Secretary of Labor, that for the period consisting of ~~such~~that week and the immediately preceding twelve weeks the rate of insured unemployment, ~~(~~not seasonally adjusted~~)~~, under Chapters 27 through 41 of this title:

~~(a)~~(1) equaled or exceeded one hundred twenty percent of the average of ~~such~~ those rates for the corresponding thirteen week period ending in each of the preceding two calendar years~~,~~; and

~~(b)~~(2) equaled or exceeded five percent. With respect to benefits for weeks of unemployment beginning after July 1, 1977, the determination of whether there has been a ‘state ‘on’ or ‘off’ indicator’ for this State beginning or ending ~~any~~ an extended benefit period must be made under this section as if:

~~(i)~~(a) ~~paragraph (1)~~subsection (A) did not contain ~~subparagraph (a)~~item (1); and

~~(ii)~~(b) the word ‘five’ contained in ~~subparagraph (b) thereof~~ item (2) of this subsection were ‘six’ except that, notwithstanding ~~any such~~ a provision of this section, ~~any~~ a week for which there would otherwise be a ‘state ‘on’ indicator’ for this State must continue to be such a week and ~~shall~~ must not be determined to be a week for which there is a ‘state ‘off’ indicator’ for this State. (B)(1) There is a ‘state ‘on’ indicator’ if with respect to weeks of unemployment beginning on or after February 1, 2009:

(a) the average rate of total unemployment, seasonally adjusted, as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of such week equals or exceeds six and one‑half percent; and

(b) the average rate of total unemployment in this State, seasonally adjusted, as determined by the United States Secretary of Labor, for the three‑month period referred to in subitem (a) of this item, equals or exceeds one hundred ten percent of the average for either or both of the corresponding three‑month periods ending in the two preceding calendar years.

(2) This subsection shall take effect on or after February 1, 2009, and cease to be in effect the week ending three weeks prior to the last week for which federal sharing is authorized by Section 2005(a) of Public Law 111‑5.

~~(2)~~(C) There is a ‘state ‘off’ indicator’ for this State for a week if, for the period consisting of ~~such~~ that week and the immediately preceding twelve weeks, either ~~subparagraph (a) or (b) of paragraph (1) was~~ items (1) or (2) of subsection (A) are not satisfied.

~~(3)~~(D) This section ~~is applicable for all~~ applies to weeks beginning after September 25, 1982.”

SECTION \_\_\_. Section 41-35-380 of the 1976 Code is amended to read:

“Section 41-35-380. ‘Eligibility period’ of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within ~~such~~ this extended benefit period, any weeks ~~thereafter which~~ after that begin in such period. For the purpose of extending benefits that are in effect on or after February 1, 2009, for which federal sharing is authorized by Section 2005(a) of Public Law 111-5, ‘eligibility period’ includes weeks within the extended section if the individual exhausts emergency unemployment compensation within the extended benefit period regardless of whether weeks in the individual’s benefit year are within the extended benefits period.”

SECTION \_\_\_. Section 41-36-440 of the 1976 Code is amended to read:

“Section 41-36-440. (1) The total extended benefit amount payable to ~~any~~ an eligible individual with respect to his applicable benefit year is the least of the following amounts:

(a) fifty percent of the total amount of regular benefits which were payable to him under Chapters 27 through 41 of this title in his applicable benefit year~~.~~; or

(b) thirteen times his weekly benefit amount which was payable to him under Chapters 27 through 41 of this title for a week of total unemployment in the applicable benefit year.

(2) Notwithstanding ~~any other~~ another provision of Chapters 27 through 41 of this title, if the benefit year of ~~any~~ an individual ends within an extended benefit period, the remaining balance of extended benefits that ~~such~~ the individual would~~, but for this section,~~ be entitled to receive, except for this section in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, must be reduced, ~~(~~but not below zero~~)~~, by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual’s weekly benefit amount for extended benefits.

(3) Effective with respect to weeks beginning in a high‑unemployment period, the total extended benefit amount payable to an eligible individual with respect to the applicable benefit year must be the least of the following amounts:

(a) eighty percent of the total amount of regular benefits that were payable to the individual pursuant to this section in the individual’s applicable benefit year; or

(b) twenty times the individual’s average weekly benefit amount that was payable to the individual pursuant to this section for a week of total unemployment in the applicable benefit year.

(4) For purposes of item (3) of this subsection, ‘high‑unemployment period’ means a period during which an extended benefit period would be in effect if subitem (a) of subsection (B)(1) of Section 41‑35‑330 of this chapter were applied by substituting ‘eight percent’ for ‘six and one‑half percent’.

(5) Items (3) and (4) of this subsection take effect on or after February 1, 2009, and cease to be in effect the week ending three weeks prior to the last week for which federal sharing is authorized by Section 2005(a) of Public Law 111‑5.” /

Amend further on page 41, line 35, by striking SECTION 75 in its entirety and inserting:

/ SECTION 75. Section 41‑35‑10 of the 1976 Code is amended to read:

“Section 41‑35‑10.(A) ~~Benefits shall become~~ Subject to the provisions in subsection (B), a benefit becomes payable from the fund to ~~any~~ an individual who is unemployed and eligible for ~~benefits~~ a benefit. Except as provided in Section 41‑35‑20, ~~benefits~~ a benefit based on service in employment defined in Section 41‑27‑230 (2) and (3) ~~shall be~~ is payable in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to Chapters 27 through 41 of this title. ~~All benefits shall~~ A benefit must be paid through an employment ~~offices~~ office~~, in accordance with such~~ pursuant to regulations ~~as the Commission may prescribe~~ prescribed by the department.

(B) Benefits otherwise payable to an eligible individual that is receiving severance pay must be reduced by an amount equal to the amount of severance pay he is receiving. /

Amend the bill further, page 53, line 18, by striking SECTION 85 in its entirety.

Renumber sections to conform.

Amend title to conform.

Rep. BINGHAM explained the amendment.

Rep. BARFIELD moved to reconsider the vote whereby the House tabled the motion to recommit the Bill.

Rep. BINGHAM moved to table the motion.

Rep. HARVIN demanded the yeas and nays which were taken, resulting as follows:

Yeas 52; Nays 57

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allison | Ballentine | Bannister |
| Bedingfield | Bingham | Bowen |
| Brady | Chalk | Clemmons |
| Cobb-Hunter | Cole | Crawford |
| Daning | Delleney | Duncan |
| Gunn | Haley | Hamilton |
| Harrell | Harrison | Hearn |
| Hiott | Horne | Huggins |
| Kelly | Littlejohn | Loftis |
| Long | Lowe | Millwood |
| Moss | Owens | E. H. Pitts |
| Rice | Scott | Skelton |
| D. C. Smith | G. M. Smith | G. R. Smith |
| J. E. Smith | J. R. Smith | Sottile |
| Spires | Stewart | Stringer |
| Thompson | Toole | Umphlett |
| Viers | Willis | Wylie |
| T. R. Young |  |  |

**Total--52**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Allen | Anderson | Anthony |
| Bales | Barfield | Battle |
| Branham | Brantley | G. A. Brown |
| H. B. Brown | R. L. Brown | Dillard |
| Erickson | Forrester | Frye |
| Gambrell | Gilliard | Govan |
| Gullick | Hardwick | Harvin |
| Hayes | Hodges | Hosey |
| Hutto | Jefferson | Jennings |
| Kennedy | King | Kirsh |
| Knight | Limehouse | Lucas |
| Mack | McEachern | McLeod |
| Merrill | Miller | Mitchell |
| J. H. Neal | J. M. Neal | Neilson |
| Ott | Parker | Pinson |
| M. A. Pitts | Rutherford | Sandifer |
| Sellers | Simrill | Stavrinakis |
| Vick | Weeks | White |
| Whitmire | Williams | A. D. Young |

**Total--57**

So, the House refused to table the motion to reconsider.

The question then recurred to the motion to reconsider.

Rep. BINGHAM demanded the yeas and nays which were taken, resulting as follows:

Yeas 56; Nays 54

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allen | Anderson | Anthony |
| Bales | Barfield | Battle |
| Branham | Brantley | G. A. Brown |
| H. B. Brown | R. L. Brown | Clemmons |
| Dillard | Edge | Gambrell |
| Gilliard | Govan | Gullick |
| Hardwick | Harvin | Hayes |
| Hodges | Hosey | Hutto |
| Jefferson | Jennings | Kennedy |
| King | Kirsh | Knight |
| Lucas | Mack | McEachern |
| McLeod | Merrill | Miller |
| Mitchell | Moss | J. H. Neal |
| J. M. Neal | Neilson | Ott |
| Pinson | M. A. Pitts | Rutherford |
| Sandifer | Sellers | Simrill |
| J. E. Smith | Stavrinakis | Vick |
| Weeks | White | Whitmire |
| Williams | A. D. Young |  |

**Total--56**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Allison | Ballentine | Bannister |
| Bedingfield | Bingham | Bowen |
| Brady | Cato | Chalk |
| Cobb-Hunter | Cole | Crawford |
| Daning | Delleney | Duncan |
| Erickson | Forrester | Frye |
| Gunn | Haley | Hamilton |
| Harrell | Harrison | Hiott |
| Horne | Huggins | Kelly |
| Limehouse | Littlejohn | Loftis |
| Long | Lowe | Millwood |
| Owens | Parker | E. H. Pitts |
| Rice | Scott | Skelton |
| D. C. Smith | G. M. Smith | G. R. Smith |
| J. R. Smith | Sottile | Spires |
| Stewart | Stringer | Thompson |
| Toole | Umphlett | Viers |
| Willis | Wylie | T. R. Young |

**Total--54**

The motion to reconsider was agreed to.

The question then recurred to the motion to recommit the Bill, which was agreed to.

**RECORD FOR VOTING**

I am refraining from participation in the debate of H. 3442, due to the potential of a perceived conflict of interest.

Rep. Laurie Funderburk

**S. 12--AMENDED AND DEBATE ADJOURNED**

The following Bill was taken up:

S. 12 -- Senators Leatherman, Alexander, O'Dell, Cleary, Leventis, Elliott, Ford, Rankin, Lourie, Malloy and Setzler: A BILL TO ESTABLISH THE SOUTH CAROLINA TAXATION REALIGNMENT COMMISSION, TO PROVIDE FOR THE COMMISSION'S MEMBERSHIP, POWERS, DUTIES, AND RESPONSIBILITIES, TO PROVIDE THAT THE COMMISSION MUST CONDUCT A COMPREHENSIVE STUDY OF THE STATE'S TAX SYSTEM AND SUBMIT A REPORT OF ITS RECOMMENDED CHANGES TO FURTHER THE GOAL OF MAINTAINING AND ENHANCING THE STATE AS AN OPTIMUM COMPETITOR IN THE EFFORT TO ATTRACT BUSINESSES AND INDIVIDUALS TO LOCATE, LIVE, WORK, AND INVEST IN THE STATE, AND TO PROVIDE FOR PROCEDURES GOVERNING THE CONSIDERATION OF LEGISLATION RESULTING FROM THE COMMISSION'S RECOMMENDATIONS.

Rep. COBB-HUNTER proposed the following Amendment No. 2 (COUNCIL\GJK\20249SD09):

Amend the bill, as and if amended, by striking subsection (A) of SECTION 1 and inserting:

/ (A) There is created the South Carolina Taxation Realignment Commission to be comprised of eleven members appointed as follows:

(1) one member each appointed by the President *Pro Tempore* of the Senate, the Senate Finance Committee Chairman, the Senate Majority Leader, and the Senate Minority Leader;

(2) one member each appointed by the Speaker of the House, the House Ways and Means Committee Chairman, the House Majority Leader, and the House Minority Leader;

(3) two members appointed by the Governor; and

(4) the Director of the Department of Revenue, to serve ex officio.

Members of the General Assembly may not be appointed to the commission. Members of the commission must have substantial academic or professional experience or specialization in one or more areas of public finance, government budgeting and administration, tax administration, economics, accounting, tax law, or business.

No member of the commission may enter upon his official responsibilities with the commission unless he has filed a statement of economic interests in accordance with the provisions of Article 11, Chapter 13, Title 8, with the State Ethics Commission. /

Renumber sections to conform.

Amend title to conform.

Rep. WHITE moved to adjourn debate on the amendment, which was agreed to.

Rep. RICE proposed the following Amendment No. 9 (COUNCIL\BBM\9361HTC09), which was adopted:

Amend the bill, as and if amended, in SECTION 1, page 12‑4, by adding a new subsection at the end appropriately lettered to read:

/( ) In addition to those duties of the commission provided pursuant to subsection (C) of this section, the commission shall study and make recommendations to the General Assembly of the advantages and drawbacks of a revenue neutral replacement of the state individual and corporate income tax, state imposed sales and use tax, estate tax, bank tax, savings and loan association tax, and taxes on beer, wine, and alcoholic beverages with a broadly based consumption tax modeled on the proposed federal Fair Tax as that form of tax would have to be adapted to apply on the state level. In its study, the commission shall specifically consider how such a tax swap would affect jobs creation, savings and investment, and tax compliance costs for South Carolina taxpayers. The result of the study and recommendations required pursuant to this subsection must be made on the schedule provided in subsection (C)(3) of this section./

Renumber sections to conform.

Amend title to conform.

Rep. RICE explained the amendment.

Rep. SKELTON moved to table the amendment.

Rep. RICE demanded the yeas and nays which were taken, resulting as follows:

Yeas 41; Nays 69

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Agnew | Alexander | Anderson |
| Anthony | Bales | Battle |
| Bowers | Branham | Brantley |
| H. B. Brown | R. L. Brown | Cobb-Hunter |
| Dillard | Funderburk | Govan |
| Gunn | Harvin | Hayes |
| Hodges | Hosey | Hutto |
| Jefferson | Jennings | Kennedy |
| King | Limehouse | Mack |
| McEachern | McLeod | Mitchell |
| J. H. Neal | J. M. Neal | Ott |
| Rutherford | Sellers | Skelton |
| J. E. Smith | Stavrinakis | Vick |
| Weeks | Williams |  |

**Total--41**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Allison | Ballentine | Bannister |
| Barfield | Bedingfield | Bingham |
| Bowen | Brady | Cato |
| Chalk | Clemmons | Cole |
| Crawford | Daning | Delleney |
| Duncan | Edge | Forrester |
| Frye | Gambrell | Gullick |
| Hamilton | Hardwick | Harrell |
| Harrison | Hearn | Herbkersman |
| Hiott | Horne | Huggins |
| Kelly | Kirsh | Knight |
| Littlejohn | Loftis | Long |
| Lowe | Lucas | Merrill |
| Millwood | Moss | Neilson |
| Owens | Parker | Pinson |
| E. H. Pitts | M. A. Pitts | Rice |
| Sandifer | Scott | Simrill |
| D. C. Smith | G. M. Smith | G. R. Smith |
| J. R. Smith | Sottile | Spires |
| Stewart | Stringer | Thompson |
| Toole | Umphlett | Viers |
| White | Whitmire | Willis |
| Wylie | A. D. Young | T. R. Young |

**Total--69**

So, the House refused to table the amendment.

Rep. OTT spoke against the amendment.

Rep. J. E. SMITH spoke against the amendment.

Rep. J. E. SMITH spoke against the amendment.

Rep. RICE spoke in favor of the amendment.

The question then recurred to the adoption of the amendment.

Rep. J. E. SMITH demanded the yeas and nays which were taken, resulting as follows:

Yeas 66; Nays 47

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allison | Ballentine | Bannister |
| Barfield | Bedingfield | Bingham |
| Bowen | Brady | Cato |
| Chalk | Clemmons | Cole |
| Daning | Delleney | Duncan |
| Edge | Erickson | Forrester |
| Frye | Gambrell | Gullick |
| Haley | Hamilton | Hardwick |
| Harrell | Harrison | Hearn |
| Herbkersman | Hiott | Huggins |
| Kelly | Kirsh | Limehouse |
| Littlejohn | Loftis | Long |
| Lowe | Lucas | Merrill |
| Millwood | Moss | Owens |
| Parker | Pinson | E. H. Pitts |
| M. A. Pitts | Rice | Scott |
| Simrill | D. C. Smith | G. M. Smith |
| G. R. Smith | J. R. Smith | Sottile |
| Spires | Stewart | Stringer |
| Thompson | Toole | Umphlett |
| Viers | White | Whitmire |
| Willis | Wylie | T. R. Young |

**Total--66**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Agnew | Alexander | Allen |
| Anderson | Anthony | Bales |
| Battle | Bowers | Branham |
| H. B. Brown | R. L. Brown | Cobb-Hunter |
| Dillard | Funderburk | Gilliard |
| Govan | Gunn | Hart |
| Harvin | Hayes | Hodges |
| Hosey | Howard | Hutto |
| Jefferson | Jennings | Kennedy |
| King | Knight | Mack |
| McEachern | McLeod | Miller |
| Mitchell | J. H. Neal | J. M. Neal |
| Neilson | Ott | Parks |
| Rutherford | Sellers | Skelton |
| J. E. Smith | Stavrinakis | Vick |
| Weeks | Williams |  |

**Total--47**

So, the amendment was adopted.

Rep. WHITE proposed the following Amendment No. 10 (COUNCIL\GJK\20317SD09):

Amend the bill, as and if amended, by striking subsection (A), as contained in SECTION 1, and inserting:

/ (A) There is created the South Carolina Taxation Realignment Commission to be comprised of seventeen members appointed as follows:

(1) two members appointed by the Governor;

(2) two members appointed by the President *Pro Tempore* of the Senate;

(3) two members appointed by the Speaker of the House of Representatives;

(4) two members appointed by the Chairman of the Senate Finance Committee;

(5) two members appointed by the Chairman of the House Ways and Means Committee;

(6) three members of the Senate to serve ex officio, to be appointed by the President *Pro Tempore* of the Senate;

(7) three members of the House to serve ex officio, to be appointed by the Speaker of the House of Representatives;

(8) the Director of the Department of Revenue to serve ex officio.

The members appointed pursuant to items (1) through (5) above must not be members of the General Assembly and must have substantial academic or professional experience or specialization in one or more areas of public finance, government budgeting and administration, tax administration, economics, accounting, or tax law.

The members appointed pursuant to items (1) through (7) above shall serve at the pleasure of their appointing authority.

All vacancies must be filled in the manner of original appointment. /

Amend the bill further, as and if amended, by striking subsection (B) of SECTION 1 and inserting:

/ (B) The members of the commission:

(1) must meet as soon as practicable after appointment and organize itself by electing one of its members as chairman and such other officers as the commission may consider necessary. Thereafter, the commission must meet as necessary to fulfill the duties required by this act at the call of the chairman or by a majority of the members. A quorum consists of a majority of its members;

(2) shall serve without compensation and are ineligible for the usual mileage, subsistence, and per diem allowed by law for member’s of boards, committees, and commissions. Staffs of the Senate Finance Committee and the House Ways and Means Committee shall be available to assist the commission in its work. Any expenses incurred by the commission shall be paid equally from each respective house’s approved accounts subject to the prior approval of the President *Pro Tempore* of the Senate and Speaker of the House of Representatives;

(3) unless authorized by a further or subsequent enactment, conclude the commission’s business by January 1, 2011, at which time the commission is dissolved. The General Assembly may extend the dates by which the commission shall submit reports required by this act. /

Amend the bill further, as and if amended, by striking the second paragraph of subsection (C)(2), as contained in SECTION 1, and inserting:

/ After reviewing the adequacy, equity, and efficiency of the state’s revenue structure, the commission’s report may recommend that no changes are necessary if it determines that such findings are warranted. Following the report and recommendation required by subsection (C)(2), the commission shall continue studying the subjects identified in subsection (C)(2). The commission may make further legislative recommendations by January 1, 2011, at which time it shall be dissolved as provided in subsection (B)(3). /

Amend the bill further, as and if amended, by striking subsection (F) of SECTION (1) and inserting:

/ (F) Commission members shall not receive information regarding the business of the commission from a lobbyist except through formal presentation to the commission at a meeting called in compliance with the Freedom of Information Act. Any lobbyist violating the provisions of this subsection is deemed guilty of a misdemeanor and, upon conviction, must be punished as provided in Section 2‑17‑130 of the 1976 Code. /

Renumber sections to conform.

Amend title to conform.

Rep. WHITE explained the amendment.

Rep. J. E. SMITH spoke against the amendment.

Rep. J. E. SMITH spoke against the amendment.

Rep. WHITE moved to adjourn debate on the Bill until Thursday, April 30, which was agreed to.

**H. 3707--ORDERED TO THIRD READING**

The following Bill was taken up:

H. 3707 -- Reps. T. R. Young, Cato, Cobb-Hunter, Toole, Ott, Cooper, Gambrell, Bowen, Agnew, McLeod, J. H. Neal, Gunn, Hayes, Stewart, Thompson, White, Duncan, Moss, H. B. Brown, Knight, Frye, Spires, Neilson, Vick, Hutto, Sellers and Rice: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 39-41-235 SO AS TO REQUIRE MOTOR FUEL TERMINALS TO OFFER FOR SALE PRODUCTS THAT ARE SUITABLE FOR SUBSEQUENT BLENDING EITHER WITH ETHANOL OR BIODIESEL; TO PROHIBIT A PERSON OR ENTITY FROM TAKING AN ACTION TO DENY A MOTOR FUEL DISTRIBUTOR OR RETAILER FROM BEING THE BLENDER OF RECORD; TO REQUIRE MOTOR FUEL DISTRIBUTORS, RETAILERS, AND REFINERS TO UTILIZE THE RENEWABLE IDENTIFICATION NUMBER; AND TO DECLARE VIOLATIONS AN UNFAIR TRADE PRACTICE.

Rep. FORRESTER proposed the following Amendment No. 1 (COUNCIL\SWB\5882MM09), which was tabled:

Amend the bill, as and if amended, by adding an appropriately numbered SECTION to read:

/ SECTION \_\_. “The provisions of this act do not impair the obligations of existing contracts, but do apply if the contract is modified, amended, or renewed after the effective date of this act.” /

Renumber sections to conform.

Amend title to conform.

Rep. FORRESTER explained the amendment.

Rep. HIOTT moved to table the amendment.

Rep. FORRESTER demanded the yeas and nays which were taken, resulting as follows:

Yeas 85; Nays 29

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Agnew | Alexander | Allen |
| Allison | Anderson | Anthony |
| Bales | Bannister | Barfield |
| Battle | Bingham | Bowen |
| Bowers | Brady | Branham |
| H. B. Brown | R. L. Brown | Cato |
| Clemmons | Cobb-Hunter | Dillard |
| Duncan | Edge | Frye |
| Funderburk | Gambrell | Gilliard |
| Govan | Gullick | Gunn |
| Haley | Harrison | Hart |
| Harvin | Hayes | Hiott |
| Horne | Hosey | Howard |
| Huggins | Hutto | Jefferson |
| Kennedy | King | Knight |
| Limehouse | Littlejohn | Long |
| Mack | McEachern | McLeod |
| Miller | Mitchell | Moss |
| J. H. Neal | J. M. Neal | Neilson |
| Ott | Owens | Parker |
| Parks | E. H. Pitts | M. A. Pitts |
| Rice | Rutherford | Sellers |
| Skelton | D. C. Smith | G. M. Smith |
| J. R. Smith | Sottile | Spires |
| Stavrinakis | Stewart | Thompson |
| Toole | Umphlett | Vick |
| Weeks | White | Whitmire |
| Williams | Willis | A. D. Young |
| T. R. Young |  |  |

**Total--85**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Ballentine | Bedingfield | Chalk |
| Cole | Crawford | Daning |
| Delleney | Erickson | Forrester |
| Hamilton | Harrell | Hearn |
| Herbkersman | Hodges | Jennings |
| Kelly | Kirsh | Lowe |
| Lucas | Merrill | Millwood |
| Pinson | Scott | Simrill |
| G. R. Smith | J. E. Smith | Stringer |
| Viers | Wylie |  |

**Total--29**

So, the amendment was tabled.

The question then recurred to the passage of the Bill.

Pursuant to Rule 7.7 the yeas and nays were taken resulting as follows:

Yeas 107; Nays 7

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Agnew | Alexander | Allen |
| Allison | Anderson | Anthony |
| Bales | Ballentine | Bannister |
| Barfield | Battle | Bingham |
| Bowen | Bowers | Brady |
| Branham | H. B. Brown | R. L. Brown |
| Cato | Chalk | Clemmons |
| Cobb-Hunter | Crawford | Daning |
| Delleney | Dillard | Duncan |
| Edge | Erickson | Frye |
| Funderburk | Gambrell | Gilliard |
| Govan | Gullick | Gunn |
| Haley | Harrell | Harrison |
| Hart | Harvin | Hayes |
| Hearn | Herbkersman | Hiott |
| Horne | Hosey | Howard |
| Huggins | Hutto | Jefferson |
| Jennings | Kennedy | King |
| Kirsh | Knight | Limehouse |
| Littlejohn | Loftis | Long |
| Lowe | Lucas | Mack |
| McEachern | McLeod | Merrill |
| Miller | Mitchell | Moss |
| J. H. Neal | J. M. Neal | Neilson |
| Ott | Owens | Parker |
| Parks | Pinson | E. H. Pitts |
| M. A. Pitts | Rice | Rutherford |
| Scott | Sellers | Simrill |
| Skelton | D. C. Smith | G. M. Smith |
| G. R. Smith | J. E. Smith | J. R. Smith |
| Sottile | Spires | Stavrinakis |
| Stewart | Thompson | Toole |
| Umphlett | Vick | Viers |
| Weeks | White | Whitmire |
| Williams | Willis | Wylie |
| A. D. Young | T. R. Young |  |

**Total--107**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Bedingfield | Cole | Forrester |
| Hamilton | Kelly | Millwood |
| Stringer |  |  |

**Total--7**

So, the Bill was read the second time and ordered to third reading.

STATEMENT FOR THE JOURNAL

I voted against H. 3707 because government should not interfere with private contracts.

Rep. Keith Kelly

Rep. SKELTON moved that the House do now adjourn, which was agreed to.

**ADJOURNMENT**

At 6:04 p.m. the House, in accordance with the motion of Rep. GILLIARD, adjourned in memory of Ogretta Whipper Hawkins, sister of Representative Whipper, to meet at 10:00 a.m. tomorrow.

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