**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 58‑37‑50, RELATING TO THE AUTHORIZATION FOR ELECTRIC COOPERATIVES AND MUNICIPAL ELECTRIC SYSTEMS, TO IMPLEMENT FINANCING SYSTEMS FOR ENERGY EFFICIENCY IMPROVEMENTS, SO AS TO PROVIDE THAT THEY WILL HAVE THE AUTHORITY TO FINANCE THE PURCHASE PRICE AND INSTALLATION COST OF ENERGY CONSERVATION MEASURES; TO PROVIDE FOR THE RECOVERY OF SUCH FINANCING THROUGH CHARGES PAID FOR BY THE CUSTOMERS BENEFITTING FROM THE INSTALLATION OF THE ENERGY CONSERVATION MEASURES; TO PROTECT THE ENTITIES FROM LIABILITY FOR THE INSTALLATION, OPERATION, AND MAINTENANCE OF SUCH MEASURES; TO PROVIDE FOR THE INSTALLATION OF ENERGY EFFICIENCY AND CONSERVATION MEASURES IN RENTAL PROPERTIES; AND TO PROVIDE A MECHANISM FOR RECOVERY OF THE COSTS OF SUCH MEASURES INSTALLED IN RENTAL PROPERTIES; AND TO AMEND SECTION 8‑21‑310 TO ALLOW CLERKS OF COURT AND REGISTERS OF DEEDS TO CHARGE A FEE FOR FILING A NOTICE OF UTILITY METER CHARGE.

WHEREAS, there are various factors putting upward pressure on the price of electricity, and those factors are likely to increase in the foreseeable future; and

WHEREAS, improvement of residential energy efficiency and conservation can protect South Carolina electricity consumers from these price increases; and

WHEREAS, the implementation of energy efficiency and conservation measures in South Carolina residences will benefit not only the residents of the homes in which such measures are installed, but will benefit all residents of South Carolina by reducing the need for new and expensive sources of electricity generation; and

WHEREAS, the cost of energy efficiency and conservation measures and the availability of financing for those costs is now, and has been, a major impediment to the widespread adoption of energy efficiency and conservation measures; and

WHEREAS, South Carolina electric cooperatives and Municipal Electric Systems are in a position to assist their customers with the installation and financing of energy efficiency and conservation measures, provided that appropriate procedures are followed providing for the installation of such measures and the recovery of the cost of such measures;

WHEREAS, in order to make energy efficiency and conservation measures available to rental properties, it is appropriate to require the landlords who will benefit from the measures and who voluntarily agree to participate to give notice to tenants who will be living in the rental units in which the energy efficiency and conservation measures are installed.

Now therefore,

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

SECTION 1. Chapter 37, Title 58 of the 1976 Code is amended by adding:

“Section 58‑37‑50. Agreements to finance and install energy efficiency and conservation measures, cost recovery, liability, and limitations thereof.

(A) As used in this section, ‘Utility Meter Charge’ is the charge placed on a customer’s bill by which electric cooperatives and municipal electric systems recover the costs, including financing costs, of energy efficiency and conservation measures. As used in this section, ‘Notice of Utility Meter Charge’ is the written notice by which subsequent purchasers or tenants will be given notice that they will be required to pay a Utility Meter Charge. As used in this section, ‘Municipal Electric Systems’ means municipalities and municipal boards or commissions of public works that own and operate electric utility systems.

(B) Electric cooperatives and Municipal Electric Systems may enter into written agreements with customers and landlords of customers for the financing of the purchase price and installation cost of energy efficiency and conservation measures. Those agreements may provide that such costs shall be recovered by a Utility Meter Charge on the customer’s electricity bill, provided that the electric cooperative or Municipal Electric System complies with the provisions of this section. A failure to pay the Utility Meter Charge may be treated by the electric cooperative as a failure to pay the electricity bill, and the electric cooperative may disconnect electricity service for nonpayment of the Utility Meter Charge, provided the electric cooperative complies with the provisions of Article 17, Chapter 49, Title 33 and any applicable rules and regulations of the cooperative relating to disconnections. A failure to pay the Utility Meter Charge may be treated by the Municipal Electric System as a failure to pay the electricity bill, and the Municipal Electric System may disconnect electricity service for nonpayment of the Utility Meter Charge, provided the Municipal Electric System complies with the provisions of Article 25, Chapter 31, Title 5 and any applicable rules and regulations of the Municipal Electric System relating to disconnections.

(C) Any agreement permitted by subsection (B) shall plainly state the interest rate to be charged to finance the costs of the energy efficiency and conservation measures. The interest rate must be a fixed rate over the term of the agreement and it must not exceed four percent above the stated yield for one‑year treasury bills as published by the Federal Reserve at the time the agreement is entered.

(D) Upon approval of its governing body, an electric cooperative or Municipal Electric System may recover the costs, including financing costs, of such measures from its members or customers directly benefiting from the installation of the energy efficiency and conservation measures. Such recovery will be through a Utility Meter Charge on the regular monthly electricity bill of the member or customer and will be shown by a separate line item on such bill.

(E) Except as otherwise required by its governing body, an electric cooperative or Municipal Electric System shall assume no liability for the installation, operation, or maintenance of such energy efficiency and conservation measures when such measures are performed by a third party, and shall not provide any warranty as to the merchantability of the measures or the fitness for a particular purpose of such measures, and no action shall be maintained against any such electric cooperative or Municipal Electric System relating to the failure of such measures. Nothing in this section shall be construed to limit any rights or remedies of utility customers and landlords of utility customers against other parties to a transaction involving the purchase and installation of energy conservation measures.

(F) Prior to entering into any contract contemplated by this section, the electric cooperative or Municipal Electric System shall perform an energy audit for the customer with whom the electric cooperative or Municipal Electric System proposes to contract. The energy audit will provide the member or customer with an estimate of the costs associated with the proposed energy efficiency and conservation measures and the estimated savings associated with such measures.

(G) An electric cooperative or Municipal Electric System that enters into an arrangement as provided in this section may recover the costs, including financing costs, of energy efficiency and conservation measures from subsequent purchasers of the residence in which the measures are installed, provided the electric cooperative or Municipal Electric System gives record notice that the residence is subject to such an arrangement. Notice shall be given by filing a Notice of Utility Meter Charge with the appropriate office for the county in which the residence is located, pursuant to Section 30‑5‑10. The Notice of Utility Meter Charge does not constitute a lien on the property, but is intended to give a purchaser of the residence notice that the residence is subject to a Utility Meter Charge. Notice will be deemed to have been given if a search of the property records of the county would disclose the existence of the charge and inform a prospective purchaser how to ascertain the amount of the charge and the length of time it is expected to remain in effect.

(H) An electric cooperative or Municipal Electric System may enter into arrangements for the installation of energy efficiency and conservation measures and the recovery of the costs, including financing costs, of such measures with respect to rental properties by filing a Notice of Utility Meter Charge as provided in subsection (G) and by complying with the provisions of this subsection:

(1) The energy audit required by subsection (F) above shall be conducted and the results provided to both the landlord and any tenant living in the rental property at the time the arrangement is entered.

(2) Both the landlord and any current tenant must agree to the arrangement. Provided that both the landlord and tenant agree, the electric cooperative or Municipal Electric System may recover the cost of the energy efficiency and conservation measures, including financing cost, through a Utility Meter Charge on the tenant’s electricity bill.

(3) With respect to subsequent tenants occupying rental units benefiting from the installation of energy efficiency and conservation measures, the electric cooperative or Municipal Electric System may continue to recover the cost, including financing cost, of such measures through a Utility Meter Charge on the electricity bill of such subsequent tenant. With respect to such subsequent tenants, the landlord is required to give a written Notice of Utility Meter Charge in the same manner as required by Section 27‑40‑420. If the landlord fails to give the subsequent tenant the required Notice of Utility Meter Charge, such tenant may deduct from his rent the amount of the Utility Meter Charge paid to the electric cooperative or Municipal Electric System.

(I) Arrangements entered pursuant to the provisions of this section are exempt from the provisions of the South Carolina Consumer Protection Code, Sections 37‑2‑102, et seq.

(J) An electric cooperative or Municipal Electric System may contract with third parties to perform functions permitted under this section, including the financing of the costs of energy efficiency and conservation measures. Any such third party must comply with all applicable provisions of this section.

(K) The provisions of this section apply only to energy efficiency and conservation measures for residences already occupied at the time such measures are taken. The procedures allowed by this section may not be used with respect to new residences or residences under construction.”

SECTION 2. Section 8‑21‑310 of the 1976 Code is amended to read:

“Section 8‑21‑310. Schedule of fees and costs to be collected.

Except as otherwise expressly provided, the following fees and costs must be collected on a uniform basis in each county by clerks of court and registers of deeds or county treasurers as may be determined by the governing body of the county:

(1) for recording a deed to or a mortgage on real estate, ten dollars; and an additional one dollar a page for any deed or mortgage containing more than four pages; for entry of a deed or mortgage that covers both real estate and personal property in the indexes for both real and personal property conveyances or mortgages, one dollar additional;

(2) for recording a chattel mortgage, conditional sale contract, lease or contract of sale of personal property, and any other document required to be recorded under the Uniform Commercial Code (Title 36), the fees provided in Title 36;

(3) for recording an instrument which assigns, transfers, or affects a single real estate mortgage or other instrument affecting title to real property or lien for the payment of money, unless it is part of the original instrument when initially filed, six dollars; and if the instrument assigns, transfers, or affects more than one real estate mortgage, instrument, or lien, six dollars for each mortgage, instrument, or lien assigned, transferred, or affected and referred to in the instrument and an additional one dollar for each page for any instrument exceeding one page;

(4) for recording any lease, contract of sale, trust indenture, or other document affecting title or possession of real property not otherwise provided for in this section, ten dollars, and an additional one dollar a page for a document containing more than four pages;

(5) for recording satisfaction on the record of a mortgage of real estate or a chattel mortgage or other recorded lien, and certifying the entry on the original or a copy, five dollars;

(6) for recording separate probates, affidavits, or certificates which are not part of or attached to another document to be recorded, ten dollars;

(7) for recording a plat larger than eight and one‑half by fourteen inches, ten dollars; for plats of “legal size” dimensions, or smaller, five dollars;

(8) for recording decree of foreclosure or partition of real property in mortgage book or deed book, the same fee as for recording deed or mortgage of real estate;

(9) for recording any other paper affecting title or possession of real estate or personal property and required by law to be recorded, except judicial records, ten dollars, and an additional one dollar a page for a document containing more than four pages;

(10) for filing power of attorney, trustee qualification, or other appointment, fifteen dollars, and an additional one dollar a page for a document containing more than four pages;

(11)(a) Ffor filing first complaint or petition, including application for a remedial and prerogative writ and bond on attachment or other bond, in a civil action or proceeding, in a court of record, one hundred dollars. There is no further fee for filing an amended or supplemental complaint or petition nor for filing any other paper in the same action or proceeding. An original application for post conviction relief may be filed without fee upon permission of the court to which the application is addressed. There is no further fee for entering and filing a verdict, judgment, final decree, or order of dismissal, and enrolling a judgment thereon, for signing, sealing, and issuance of execution, or for entering satisfaction or partial satisfaction on a judgment:

(b) for filing, recording, and indexing lis pendens when not accompanied by summons and complaint, ten dollars;

(c) for receiving and enrolling transcripts of judgment from magistrate’s courts and federal district courts, ten dollars;

(d) for filing and enrolling a judgment by confession, ten dollars;

(12) no fee may be charged to a defendant or respondent for filing an answer, return, or other papers in any civil action or proceeding, in a court of record;

(13) for taking and filing an order for bail with or without bond, one dollar; with bond when surety must be justified, ten dollars;

(14) for taking and filing bond or security costs, one dollar; with bond when surety must be justified, ten dollars;

(15) for filing or recording any commission of notary public or other public office, license or permit to practice any profession or trade, notice of formation or dissolution of any partnership, five dollars;

(16) for filing the charter of any public or private corporation or association required by law to be recorded, ten dollars, and an additional one dollar a page for any such document containing more than four pages;

(17) for issuing an official certificate under seal of court not otherwise specified in this section, one dollar;

(18) for holding a hearing for condemnation proceedings, twenty‑five dollars a day;

(19) for filing notice of discharge in bankruptcy, fifteen dollars;

(20) for filing and enrolling and satisfaction of South Carolina and United States Government tax liens:

(a) for filing and enrolling and satisfying executions or warrants for distraint for the South Carolina Employment Security Commission, the South Carolina Department of Revenue, or any other state agency, where costs of the executions or warrants for distraint are chargeable to the persons against whom such executions or warrants for distraint are issued, ten dollars;

(b) for filing and enrolling and satisfying any tax lien of any agency of the United States Government, where the costs of the executions are chargeable to the persons against whom such executions are issued, ten dollars;

(21) for filing and processing an order for the Destruction of Arrest Records, thirty‑five dollars, which fee must be for each order regardless of the number of cases contained in the order. The fee under the provisions of this item does not apply to cases where the defendant is found not guilty or where the underlying charge is dismissed or nol prossed unless that dismissal or nol prosse is the result of successful completion of a pretrial intervention program;

(22) for filing, indexing, enrolling, and entering a foreign judgment and an affidavit pursuant to Article 11, Chapter 35, Title 15 of the 1976 Code, one hundred dollars.

The clerk shall mark “satisfied” upon receipt of the fees provided in this item any tax lien or warrant for distraint issued by any agency of this State or of the United States upon receipt of a certificate duly signed by an authorized officer of any agency of this State or the United States to the effect that the execution or warrant for distraint has been paid and satisfied.;

(23) for filing a Notice of Utility Meter Charge as permitted by Section 58‑37‑50, ten dollars.”

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

‑‑‑‑XX‑‑‑‑