**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16‑17‑780 SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR SERVICE CONTRACT PROVIDERS TO CLASSIFY A DEFECT NOT DISCOVERED BEFORE THE EFFECTIVE DATE OF THE SERVICE CONTRACT AS A PREEXISTING CONDITION AND TO PROVIDE A PENALTY; AND BY ADDING SECTION 38‑78‑55 SO AS TO PROVIDE THAT A DEFECT NOT DISCOVERED THIRTY DAYS PRIOR TO THE EFFECTIVE PREEXISTING CONDITION ON PROPERTY COVERED UNDER A SERVICE CONTRACT MAY NOT BE CLASSIFIED AS A PREEXISTING CONDITION.

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

SECTION 1. Article 7, Chapter 17, Title 16 of the 1976 Code is amended by adding:

“Section 16‑17‑780. A service contract provider or an agent of a service contract provider operating within this State who attempts to establish that a defect not discovered before the effective date of the service contract is a preexisting condition pursuant to the provisions of Section 38‑78‑55 is guilty of a misdemeanor and, upon conviction, must be fined not more than:

(1) one thousand dollars for a first offense;

(2) two thousand dollars for a second offense; and

(3) three thousand dollars for a third or subsequent offense. For an offense to be a third or subsequent offense, only those offenses that occurred within a period of ten years preceding the date of the last offense constitute a prior offense within the meaning of this section.”

SECTION 2. Chapter 78, Title 38 of the 1976 Code is amended by adding:

“Section 38‑78‑55. (A) A provider who discovers a defect on the property covered under a service contract before the effective date of the contract must notify the contract holder of the preexisting condition. The contract holder may elect to cancel the service contract without penalty within thirty days of receipt of the notification. The service contract provider may not classify any other defects as preexisting conditions if the defects were not listed on the notice provided to the contract holder and must cover these defects in the manner provided for in the service contract.

(B) Nothing in this section may be construed to limit the ability of the contract holder to remedy a defect and have the preexisting condition exception to coverage removed with the agreement of the provider after a subsequent inspection of the defect.”

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

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