

## **SOUTH CAROLINA STATE REGISTER DISCLAIMER**

While every attempt has been made to ensure the accuracy of this State Register, the printed version of the State Register and not the on-line version is the official version and the Legislative Council makes no warranties or representations regarding its accuracy or completeness, and each user of this product understands that the Legislative Council disclaims any liability for any damages in connection with its use. This information is not intended for commercial use and its dissemination by sale or other commercial transfer is not authorized, absent a written licensing agreement with the Legislative Council. For further information contact the Legislative Council at 803-212-4500.

# SOUTH CAROLINA STATE REGISTER

PUBLISHED BY  
THE LEGISLATIVE COUNCIL  
of the  
GENERAL ASSEMBLY

DEIRDRE BREVARD SMITH, EDITOR

P.O. BOX 11489  
COLUMBIA, SC 29211  
TELEPHONE (803) 212-4500

**Published March 23, 2018**

Volume 42 Issue No. 3

This issue contains notices, proposed regulations, emergency regulations, final form regulations, and other documents filed in the Office of the Legislative Council, pursuant to Article 1, Chapter 23, Title 1, Code of Laws of South Carolina, 1976.

# ***SOUTH CAROLINA STATE REGISTER***

An official state publication, the *South Carolina State Register* is a temporary update to South Carolina’s official compilation of agency regulations--the *South Carolina Code of Regulations*. Changes in regulations, whether by adoption, amendment, repeal or emergency action must be published in the *State Register* pursuant to the provisions of the Administrative Procedures Act. The *State Register* also publishes the Governor’s Executive Orders, notices or public hearings and meetings, and other documents issued by state agencies considered to be in the public interest. All documents published in the *State Register* are drafted by state agencies and are published as submitted. Publication of any material in the *State Register* is the official notice of such information.

## **STYLE AND FORMAT**

Documents are arranged within each issue of the *State Register* according to the type of document filed:

**Notices** are documents considered by the agency to have general public interest.

**Notices of Drafting Regulations** give interested persons the opportunity to comment during the initial drafting period before regulations are submitted as proposed.

**Proposed Regulations** are those regulations pending permanent adoption by an agency.

**Pending Regulations Submitted to the General Assembly** are regulations adopted by the agency pending approval by the General Assembly.

**Final Regulations** have been permanently adopted by the agency and approved by the General Assembly.

**Emergency Regulations** have been adopted on an emergency basis by the agency.

**Executive Orders** are actions issued and taken by the Governor.

## **2018 PUBLICATION SCHEDULE**

Documents will be accepted for filing on any normal business day from 8:30 A.M. until 5:00 P.M. All documents must be submitted in the format prescribed in the *Standards Manual for Drafting and Filing Regulations*.

To be included for publication in the next issue of the *State Register*, documents will be accepted no later than 5:00 P.M. on any closing date. The modification or withdrawal of documents filed for publication must be made **by 5:00 P.M.** on the closing date for that issue.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Submission Deadline	1/12	2/9	3/9	4/13	5/11	6/8	7/13	8/10	9/14	10/12	11/9	12/14
Publishing Date	1/26	2/23	3/23	4/27	5/25	6/22	7/27	8/24	9/28	10/26	11/23	12/28

## **REPRODUCING OFFICIAL DOCUMENTS**

Documents appearing in the *State Register* are prepared and printed at public expense. Media services are encouraged to give wide publicity to documents printed in the *State Register*.

## **PUBLIC INSPECTION OF DOCUMENTS**

Documents filed with the Office of the State Register are available for public inspection during normal office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday. The Office of the State Register is in the Legislative Council, Fourth Floor, Rembert C. Dennis Building, 1000 Assembly Street, in Columbia. Telephone inquiries concerning material in the *State Register* or the *South Carolina Code of Regulations* may be made by calling (803) 212-4500.

## **ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS**

To adopt, amend or repeal a regulation, an agency must publish in the *State Register* a Notice of Drafting; a Notice of the Proposed Regulation that contains an estimate of the proposed action's economic impact; and, a notice that gives the public an opportunity to comment on the proposal. If requested by twenty-five persons, a public hearing must be held at least thirty days after the date of publication of the notice in the *State Register*.

After the date of hearing, the regulation must be submitted to the General Assembly for approval. The General Assembly has one hundred twenty days to consider the regulation. If no legislation is introduced to disapprove or enacted to approve before the expiration of the one-hundred-twenty-day review period, the regulation is approved on the one hundred twentieth day and is effective upon publication in the *State Register*.

## **EMERGENCY REGULATIONS**

An emergency regulation may be promulgated by an agency if the agency finds imminent peril to public health, safety or welfare. Emergency regulations are effective upon filing for a ninety-day period. If the original filing began and expired during the legislative interim, the regulation can be renewed once.

## **REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW**

Regulations promulgated to comply with federal law are exempt from General Assembly review. Following the notice of proposed regulation and hearing, regulations are submitted to the *State Register* and are effective upon publication.

## **EFFECTIVE DATE OF REGULATIONS**

**Final Regulations** take effect on the date of publication in the *State Register* unless otherwise noted within the text of the regulation.

**Emergency Regulations** take effect upon filing with the Legislative Council and remain effective for ninety days. If the original ninety-day period begins and expires during legislative interim, the regulation may be refiled for one additional ninety-day period.

## SUBSCRIPTIONS

The *South Carolina State Register* is available electronically through the South Carolina Legislature Online website at [www.scstatehouse.gov](http://www.scstatehouse.gov), or in a printed format. Subscriptions run concurrent with the State of South Carolina's fiscal year (July through June). The annual subscription fee for the printed format is \$90.00 plus applicable sales tax. Payment must be made by check payable to the Legislative Council. To subscribe, complete the form below and mail with payment.

C-----C-----C

### *South Carolina State Register* Subscription Order Form

Name	Title
Firm	
Mailing Address	
Billing Address (if different from mailing address)	
Contact Person(s)	E-mail Address
Phone Number	Fax Number
Number of subscriptions: (Cost is \$90.00 plus applicable sales tax per subscription. Checks payable to: Legislative Council)	
	Printed

Mail this form to:  
***South Carolina State Register***  
**Deirdre Brevard Smith, Editor**  
**P.O. Box 11489**  
**Columbia, SC 29211**  
**Telephone: (803) 212-4500**  
**Fax: (803) 212-4501**

**REGULATIONS SUBMITTED TO GENERAL ASSEMBLY**

Status and Legislative Review Expiration Dates .....1  
 Committee List of Regulations Submitted to General Assembly .....3

**EXECUTIVE ORDERS**

Executive Order No. 2018-09 Appointing Charles J. Mock, Jr. to Serve as Clarendon County Coroner .....4  
 Executive Order No. 2018-10 Ordering SC State Guard to Assist Correctional Facilities.....4  
 Executive Order No. 2018-11 Lowering the Flags Atop the Capitol on March 2, 2018, in Honor of  
 Rev. Billy Graham .....6

**NOTICES**

**CONSUMER AFFAIRS, DEPARTMENT OF**  
 Dollar Amount Adjustments ..... 7

**HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF**  
 Certificate of Need .....8  
 Notice of Voluntary Cleanup Contract, Contribution Protection, and Comment Period - BASF/Shaw  
 Industries Site .....10  
 South Carolina Health Planning Committee - Public Hearings .....11  
 Underground Storage Tanks .....12

**DRAFTING NOTICES**

**CRIMINAL JUSTICE ACADEMY, SOUTH CAROLINA**  
 Denial of Certification for Misconduct .....13  
 Withdrawal of Certification of Law Enforcement Officers .....13

**HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF**  
 Air Pollution Control Regulations and Standards .....13

**PROPOSED REGULATIONS**

**CONSUMER AFFAIRS, DEPARTMENT OF**  
 Document No. 4811 Employee’s Revocable Authorization of a Deduction of Earnings .....15

**FINAL REGULATIONS**

**HIGHER EDUCATION, COMMISSION ON**  
 Document No. 4729 Determination of Rates of Tuition and Fees .....17

# REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

In order by General Assembly review expiration date  
 The history, status, and full text of these regulations are available on the  
 South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php0>

DOC. NO.	RAT. NO.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY
4735	SR42-2		Chapter Revisions	1/15/18	Workers' Compensation Commission
4678	SR42-2		Investigation Procedures	1/18/18	South Carolina Human Affairs Commission
4665	SR42-2		Examples of the Application of Tax to Various Charges Imposed by Hotels, Motels, and Other Facilities	1/19/18	Department of Revenue
4729	SR42-3		Determination of Rates of Tuition and Fees	2/13/18	Commission on Higher Education
4746			Articles 4, 5, 7 and 8 of Chapter 126	5/02/18	Department of Health and Human Services
4740			Minimum Standards for Licensing Hospitals and Institutional General Infirmaries	5/09/18	Department of Health and Envir Control
4732			Method of Operations; Application of Federal Truth in Lending Act; Other Cases - Summary Procedure; Delinquent Notification Filing and Fee Payment; and Filing and Posting Maximum Rate Schedules	5/09/18	Department of Consumer Affairs
4758			Investigation and Production of Evidence	5/09/18	South Carolina Human Affairs Commission
4757			Complaint	5/09/18	South Carolina Human Affairs Commission
4759			Investigation Procedures	5/09/18	South Carolina Human Affairs Commission
4775			South Carolina Anti-Money Laundering Act	5/09/18	Office of the Attorney General
4754			Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)	5/09/18	State Board of Education
4755			Operation of Public Pupil Transportation Services	5/09/18	State Board of Education
4752			Employability Credential for Students with Disabilities	5/09/18	State Board of Education
4786			Free Textbooks	5/09/18	State Board of Education
4785			Disposition of Instructional Materials Samples after State Adoption Process	5/09/18	State Board of Education
4787			Textbook Adoption Regulation	5/09/18	State Board of Education
4783			Defined Program 6-8	5/09/18	State Board of Education
4788			Credential Classification	5/09/18	State Board of Education
4789			Application for Teaching Credential	5/09/18	State Board of Education
4790			Certification Requirements; approval of alternative certification; authorization for the SBE to approve additional alternative certification programs	5/09/18	State Board of Education
4782			Defined Program, Grades 9-12 and Graduation Requirements	5/09/18	State Board of Education
4781			Transfers and Withdrawals	5/09/18	State Board of Education
4764			Auctioneers' Commission (Late Fees)	5/09/18	LLR
4777			Residential Specialty Contractors License	5/09/18	LLR-Residential Builders Commission
4778			Classification of Residential Specialty Contractors	5/09/18	LLR-Residential Builders Commission
4793			Fee Schedules	5/09/18	LLR-Office of Elevators and Amusement Rides
4776			Real Estate Commission	5/09/18	LLR
4794			Fee Schedule	5/09/18	LLR-Office of Elevators and Amusement Rides
4796			Mechanical Contractors-Air conditioning, Heating and Packaged Equipment	5/09/18	LLR-Contractor's Licensing Board
4768			Definitions	5/09/18	LLR-Perpetual Care Cemetery Board
4779			Nurse Licensure Compact	5/09/18	LLR-Board of Nursing
4798			License Renewal	5/09/18	LLR-Manufactured Housing Board
4770			Audit Program	5/09/18	LLR-Office of Immigrant Worker Compliance
4769			Licensure Fees	5/09/18	LLR-Board of Registration for Foresters
4765			Auctioneers' Commission (Exam Fee)	5/09/18	LLR
4761			Board of Registration for Professional Engineers and Surveyors	5/09/18	LLR
4767			Barber Students, Applications, Permits, Training, Progress Reports, and Examinations	5/09/18	LLR-Board of Barber Examiners
4766			Real Estate Appraisers Board	5/09/18	LLR-Real Estate Appraisers Board
4795			Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists and Psycho-Educational Specialists	5/09/18	LLR-Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists and Psycho-Educational Specialists
4763			Real Estate Appraisers Board	5/09/18	LLR
4802			Recording and Reporting Occupational Injuries and Illnesses	5/09/18	LLR-OSHA
4799			Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	5/09/18	Department of Natural Resources
4803			Adjustment of Claims Under Unusual Circumstances	5/09/18	Department of Insurance

## 2 REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

4801	Board of Examiners in Speech-Language Pathology and Audiology	5/09/18	LLR
4760	South Carolina Stroke Care System	5/09/18	Department of Health and Envir Control
4792	Credit for Reinsurance	5/09/18	Department of Insurance
4771	Wilderness Therapeutic Camps for Children	5/09/18	Department of Social Services
4747	Regulations for the Licensing of Child Care Centers	1/23/19	Department of Social Services
4807	Benghal Dayflower Quarantine; and Emerald Ash Borer Quarantine	2/05/19	Clemson University-State Crop Pest Comm
4800	Standards for Licensing Hospices	2/11/19	Department of Health and Envir Control



## COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 3

In order by General Assembly review expiration date  
The history, status, and full text of these regulations are available on the  
South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>

DOC. No.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
4735	Chapter Revisions	Regulations and Admin. Procedures	Judiciary
4678	Investigation Procedures	Regulations and Admin. Procedures	Judiciary
4665	Examples of the Application of Tax to Various Charges Imposed by Hotels, Motels, and Other Facilities	Regulations and Admin. Procedures	Finance
4729	Determination of Rates of Tuition and Fees	Regulations and Admin. Procedures	Education
4746	Articles 4, 5, 7 and 8 of Chapter 126	Regulations and Admin. Procedures	Medical Affairs
4740	Minimum Standards for Licensing Hospitals and Institutional General Infirmaries	Regulations and Admin. Procedures	Medical Affairs
4732	Method of Operations; Application of Federal Truth in Lending Act; Other Cases - Summary Procedure; Delinquent Notification Filing and Fee Payment; and Filing and Posting Maximum Rate Schedules	Regulations and Admin. Procedures	Banking and Insurance
4758	Investigation and Production of Evidence	Regulations and Admin. Procedures	Judiciary
4757	Complaint	Regulations and Admin. Procedures	Judiciary
4759	Investigation Procedures	Regulations and Admin. Procedures	Judiciary
4775	South Carolina Anti-Money Laundering Act	Regulations and Admin. Procedures	Banking and Insurance
4754	Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)	Regulations and Admin. Procedures	Education
4755	Operation of Public Pupil Transportation Services	Regulations and Admin. Procedures	Education
4752	Employability Credential for Students with Disabilities	Regulations and Admin. Procedures	Education
4786	Free Textbooks	Regulations and Admin. Procedures	Education
4785	Disposition of Instructional Materials Samples after State Adoption Process	Regulations and Admin. Procedures	Education
4787	Textbook Adoption Regulation	Regulations and Admin. Procedures	Education
4783	Defined Program 6-8	Regulations and Admin. Procedures	Education
4788	Credential Classification	Regulations and Admin. Procedures	Education
4789	Application for Teaching Credential	Regulations and Admin. Procedures	Education
4790	Certification Requirements; approval of alternative certification; authorization for the SBE to approve additional alternative certification programs	Regulations and Admin. Procedures	Education
4782	Defined Program, Grades 9-12 and Graduation Requirements	Regulations and Admin. Procedures	Education
4781	Transfers and Withdrawals	Regulations and Admin. Procedures	Education
4764	Auctioneers' Commission (Late Fees)	Regulations and Admin. Procedures	Labor, Commerce and Industry
4777	Residential Specialty Contractors License	Regulations and Admin. Procedures	Labor, Commerce and Industry
4778	Classification of Residential Specialty Contractors	Regulations and Admin. Procedures	Labor, Commerce and Industry
4793	Fee Schedules	Regulations and Admin. Procedures	Labor, Commerce and Industry
4776	Real Estate Commission	Regulations and Admin. Procedures	Labor, Commerce and Industry
4794	Fee Schedule	Regulations and Admin. Procedures	Labor, Commerce and Industry
4796	Mechanical Contractors-Air conditioning, Heating and Packaged Equipment	Regulations and Admin. Procedures	Labor, Commerce and Industry
4768	Definitions	Regulations and Admin. Procedures	Labor, Commerce and Industry
4779	Nurse Licensure Compact	Regulations and Admin. Procedures	Medical Affairs
4798	License Renewal	Regulations and Admin. Procedures	Labor, Commerce and Industry
4770	Audit Program	Regulations and Admin. Procedures	Labor, Commerce and Industry
4769	Licensure Fees	Regulations and Admin. Procedures	Fish, Game and Forestry
4765	Auctioneers' Commission (Exam Fee)	Regulations and Admin. Procedures	Labor, Commerce and Industry
4761	Board of Registration for Professional Engineers and Surveyors	Regulations and Admin. Procedures	Labor, Commerce and Industry
4767	Barber Students, Applications, Permits, Training, Progress Reports, and Examinations	Regulations and Admin. Procedures	Labor, Commerce and Industry
4766	Real Estate Appraisers Board	Regulations and Admin. Procedures	Labor, Commerce and Industry
4795	Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists and Psycho-Educational Specialists	Regulations and Admin. Procedures	Labor, Commerce and Industry
4763	Real Estate Appraisers Board	Regulations and Admin. Procedures	Labor, Commerce and Industry
4802	Recording and Reporting Occupational Injuries and Illnesses	Regulations and Admin. Procedures	Labor, Commerce and Industry
4799	Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	Regulations and Admin. Procedures	Fish, Game and Forestry
4803	Adjustment of Claims Under Unusual Circumstances	Regulations and Admin. Procedures	Banking and Insurance
4801	Board of Examiners in Speech-Language Pathology and Audiology	Regulations and Admin. Procedures	Medical Affairs
4760	South Carolina Stroke Care System	Regulations and Admin. Procedures	Medical Affairs
4792	Credit for Reinsurance	Regulations and Admin. Procedures	Banking and Insurance
4771	Wilderness Therapeutic Camps for Children	Regulations and Admin. Procedures	General
4747	Regulations for the Licensing of Child Care Centers	Regulations and Admin. Procedures	General
4807	Benghal Dayflower Quarantine; and Emerald Ash Borer Quarantine	Regulations and Admin. Procedures	Agriculture and Natural Resources
4800	Standards for Licensing Hospices	Regulations and Admin. Procedures	Medical Affairs

## **4 EXECUTIVE ORDERS**

### **Executive Order No. 2018-09**

**WHEREAS**, there presently exists a vacancy in the office of Coroner of Clarendon County due to the recent death of Hayes F. Samuels, Jr.; and

**WHEREAS**, in the event of a vacancy in the office of coroner, the undersigned is authorized to appoint a qualified replacement to serve in such office pursuant to sections 17-5-50 and 4-11-20 of the South Carolina Code of Laws, as amended; and

**WHEREAS**, Charles J. Mock, Jr., residing at 1245 Striper Drive, Manning, South Carolina 29102, is a fit and proper person to serve as Coroner of Clarendon County.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby appoint Charles J. Mock, Jr. to serve as Coroner of Clarendon County, effective immediately, until the next general election in accordance with section 17-5-50(A) of the South Carolina Code of Laws, as amended, and until his successor shall qualify as provided by law.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 21st DAY OF FEBRUARY, 2018.**

**HENRY MCMASTER**  
**Governor**

### **Executive Order No. 2018-10**

**WHEREAS**, the South Carolina Department of Corrections (“SCDC”) must prevent contraband, such as drugs and cell phones, from entering correctional facilities; and

**WHEREAS**, persons throw and drop by drone contraband packages over outside, exterior correctional facility walls and fences into the interior yards of correctional facilities; and

**WHEREAS**, contraband in correctional facilities is a significant public safety issue, allowing incarcerated individuals to continue criminal activities from behind bars; and

**WHEREAS**, specifically, inmate access to contraband cell phones is one of the most serious correctional security concerns and public safety problems facing corrections officials across the country, with illegal cell phones now posing the single greatest threat to the safety of correctional officers and staff both at work and at home; and

**WHEREAS**, the use of cell phones by incarcerated individuals is not just a correctional security concern and public safety problem, but also a growing criminal justice crisis that often leads to violent situations both inside and outside of correctional facilities, and thus endangers SCDC officers and staff, other inmates, and the public at large; and

**WHEREAS**, incarcerated persons continue criminal activities using cell phones in correctional facilities, to include: continuing drug trafficking or other unlawful enterprises; threatening witnesses and victims; arranging escapes; extorting money from other inmates’ families; and arranging murders; and

**WHEREAS**, SCDC confiscated approximately 3,037 cell phones and cell phone accessories in 2014, and this number has since increased to approximately 7,240 in 2016 and to approximately 6,272 in 2017; and

**WHEREAS**, although contraband cell phones represent an increasing problem in South Carolina’s correctional facilities, federal law, as interpreted and applied by the Federal Communications Commission (“FCC”), currently prevents state officials from using existing technology to effectively combat this dangerous threat; and

**WHEREAS**, SCDC Director Bryan Stirling has asked the FCC and the U.S. Department of Justice to allow the jamming of wireless signals in correctional facilities, prompting the FCC Chairman Ajit Pai to acknowledge in a public statement that “[t]he illegal use of wireless devices in prisons is a major threat to the safety and welfare of correctional facility employees, other inmates and the public. This must change and fast.”; and

**WHEREAS**, SCDC officers search inmate cells every day for contraband and SCDC has increased its number of officers, but SCDC does not have enough officers to patrol the perimeter of correctional facilities to deter members of the public from throwing or dropping contraband over correctional facility walls and fences; and

**WHEREAS**, pursuant to sections 1-3-410 *et seq.* of the South Carolina Code of Laws, the Governor may take all measures he deems necessary to prevent violence or threats of violence to the person or property of South Carolina and may proclaim that an emergency exists due to such threats and effect any orders or directions to address or minimize imminent danger or prevent a breach of the peace; and

**WHEREAS**, in accordance with the aforementioned authority, the Governor may call out the military forces of the State, or any unit or units thereof, such as the all-volunteer South Carolina State Guard, and order them to take actions as needed to stop violence or threats of violence; and

**WHEREAS**, pursuant to Article XIII of the Constitution of this State, the Governor may call out the volunteer and militia forces to execute the laws of this State or to preserve the public peace.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby proclaim that an emergency exists due to contraband entering correctional facilities over exterior correctional facility walls and fences and for the limited purpose of addressing the same. *See* S.C. Code Ann. §§ 1-3-420, -430. Accordingly, I hereby order the South Carolina State Guard to assist SCDC by staffing the exterior of correctional facilities and manning and monitoring from fence towers to prevent such contraband from being thrown or delivered by drones over perimeter walls and fences, as well as performing all other related activities memorialized and prescribed in a Memorandum of Understanding (“MOU”), as set forth more fully below. S.C. Code Ann. § 25-1-440(a)(4); S.C. Code Ann. § 1-3-410. Because said conduct can constitute a breach of the peace or an imminent danger thereof, the South Carolina State Guard members who actively serve this mission shall be, for the limited purposes set forth herein and under the MOU, invested with all the authority of sheriffs and deputy sheriffs in enforcing the laws of this State. S.C. Code Ann. § 25-3-130.

Further, SCDC Director Bryan Stirling; Major General Robert E. Livingston, Jr., Adjutant General; and Major General Thomas S. Mullikin, Commander of the South Carolina State Guard, shall enter into a MOU on behalf of their respective organizations within twenty (20) days of entry of this Order. The MOU shall set forth how many South Carolina State Guard personnel will be needed, the correctional facilities where they will be utilized, the duties required, costs and liabilities to be borne by the respective agencies, and other workplace parameters that will govern State Guard operations. This MOU may be modified by agreement and signature of all three organizations to accommodate additional needs. This Order is effective immediately and shall remain in effect until such time as emergency conditions no longer exist as declared in an Order or until otherwise modified, amended, or rescinded by subsequent Order.

## 6 EXECUTIVE ORDERS

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 27th DAY OF FEBRUARY, 2018.**

**HENRY MCMASTER  
Governor**

### **Executive Order No. 2018-11**

**WHEREAS**, I have been notified of the passing of Reverend Billy Graham, affectionately known as “America’s pastor,” who dedicated his life to preaching the Gospel, counseling our Nation’s leaders, and ministering to millions of people around the world; and

**WHEREAS**, as a mark of respect for the memory of Reverend Graham, the President of the United States of America has issued a Proclamation ordering that, on the day of Reverend Graham’s internment, the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset on such day; and

**WHEREAS**, the passing of Reverend Graham warrants the people of this State further recognizing the day of his internment and appropriately honoring his legacy and lifetime of extraordinary service; and

**WHEREAS**, section 10-1-161 of the South Carolina Code of Laws, as amended, authorizes the Governor to order that the flags atop the State Capitol Building be lowered to half-staff upon the death of a person of extraordinary stature or for the same designated time when an act of the United States Congress or a presidential order is issued to lower flags to half-staff over federal buildings.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and of these United States and the powers conferred upon me therein, I hereby Order that the flags atop the State Capitol Building be lowered to half-staff from sunrise until sunset on Friday, March 2, 2018, in honor of Reverend Graham and in recognition of his legacy and lifetime of extraordinary service. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE  
GREAT SEAL OF THE STATE OF  
SOUTH CAROLINA, THIS 28th DAY OF  
FEBRUARY, 2018.**

**HENRY MCMASTER  
Governor**

**DEPARTMENT OF CONSUMER AFFAIRS**  
**NOTICE OF GENERAL PUBLIC INTEREST**  
**CHANGES IN DOLLAR AMOUNTS**

The Administrator of the Department of Consumer Affairs announces changes in dollar amounts pursuant to Sections 37-1-109 and 37-6-104(1)(e). Designated dollar amounts in the Consumer Protection Code are subject to change on July 1 of every even-numbered year based on the changes in the Consumer Price Index for December of the preceding year. The designated dollar amounts will increase by 10% of the original amount, with the exception of Sections 37-2-203(2) and 37-3-203(2) which have a self-executing formula of 40% of the amount in Sections 37-2-203(1) and 37-3-203(1), respectively. The designated dollar amounts are found in Sections 37-2-104(1)(e), 37-2-106(1)(b), 37-2-203(1), 37-2-407(1), 37-2-705(1)(a), 37-2-705(1)(b), 37-3-104(d), 37-3-203(1), 37-3-510, 37-3-511, 37-3-514, 37-5-103(2), (3) and (4), 37-10-103, and 37-23-80. Pursuant to Section 37-1-109(4), the Administrator is required to announce these changes by publication in the State Register by April 30 of each even numbered year.

Section		Change Dollar Amount	
		From 7/1/2016 to 6/30/2018	To 7/1/2018 to 6/30/2020
2.104(1)(e)	Consumer Credit Sale	90,000.00	92,500.00
2.106(1)(b)	Consumer Lease	90,000.00	92,500.00
2.203(1)	Delinquency Charge – Sales	18.00	18.50
2.203(2)	Minimum Delinquency Charge	7.20	7.40
2.407(1)	Security Interest – Sales	3,600.00	3,700.00
		1,080.00	1,110.00
2.705(1)(a)	Delinquency Charge – Rental Purchase	10.40	11.60
2.705(1)(b)	Delinquency Charge – Rental Purchase	5.60	5.80
3.104(d)	Consumer Loans	90,000.00	92,500.00
3.203(1)	Delinquency Charge – Loans	18.00	18.50
3.203(2)	Minimum Delinquency	7.20	7.40
3.510	Land as Security – Supervised Loans	3,600.00	3,700.00
3.511	Maximum Loan Term	3,600.00	3,700.00
		1,080.00	1,110.00
3.514	Attorney’s Fees – Supervised Loans	3,600.00	3,700.00
5.103(2), (3) & (4)	Deficiency Judgment	5,450.00	5,550.00
10.103	Prepayment Penalty	255,000.00	270,000.00
23.80	Prepayment Penalty	255,000.00	270,000.00

## 8 NOTICES

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### NOTICE OF GENERAL PUBLIC INTEREST

March 23, 2018

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication March 23, 2018 for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Nic Gerrald, Certificate of Need Program, 2600 Bull Street, Columbia, SC 29201 at (803) 545-3495.

#### **Affecting Charleston County**

##### **Medical University Hospital Authority d/b/a MUHA Ashley River Tower**

Renovation of existing space in the Ashley River Tower to add a hybrid operating room at a total project cost of \$4,269,096.

#### **Affecting Dorchester County**

##### **Trident Medical Center, LLC d/b/a Summerville Medical Center**

Addition of a 2nd robotic surgical system, the da Vinci Xi System, at a total project cost of \$2,474,384.

#### **Affecting Greenville County**

##### **St. Francis Hospital, Inc. d/b/a Bon Secours St. Francis Downtown**

Relocation and expansion of the emergency department with no increase in licensed bed capacity or services at a total project cost of \$37,583,218.

##### **UHS of Greenville, LLC d/b/a The Carolina Center for Behavioral Health**

Addition of 10 substance abuse beds for a total of 39 substance abuse beds at a total project cost of \$2,364,837.

#### **Affecting Laurens County**

##### **Well Care Home Health of the Upstate, Inc.**

Establishment of a Home Health Agency in Laurens County at a total project cost of \$29,000.

#### **Affecting Oconee County**

##### **Well Care Home Health of the Upstate, Inc.**

Establishment of a Home Health Agency in Oconee County at a total project cost of \$29,000.

#### **Affecting Pickens County**

##### **Well Care Home Health of the Upstate, Inc.**

Establishment of a Home Health Agency in Pickens County at a total project cost of \$29,000.

#### **Affecting Union County**

##### **Well Care Home Health of the Upstate, Inc.**

Establishment of a Home Health Agency in Union County at a total project cost of \$29,000.

**Affecting York County****Amisub of South Carolina, Inc. d/b/a Piedmont Medical Center**

Addition of an Electrophysiology lab and a biplane lab as well as the purchase of a CT equipment at a total project cost of \$7,062,274.

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from March 23, 2017. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Nic Gerrald, Certificate of Need Program, 2600 Bull Street, Columbia, S.C. 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-3495.

**Affecting Beaufort County****South of Broad Healthcare d/b/a South of Broad Hospital**

Construction of a 20-bed acute care microhospital in Beaufort County at a total project cost of \$39,334,924.

**Affecting Berkeley County****Medical University Hospital Authority d/b/a MUHA Community Hospital**

Construction of a 128-bed general acute hospital in Berkeley County at a total project cost of \$325,000,000.

**Palmetto Lowcountry Behavioral Health**

The transfer of 44 psychiatric beds and 16 substance abuse beds and the addition of 48 psychiatric beds for a total of 108 beds in a newly constructed facility at a total project cost of \$35,529,725.

**Affecting Cherokee County****Well Care Home Health of the Upstate, Inc.**

Establishment of a Home Health Agency in Cherokee County at a total project cost of \$29,000.

**Affecting Chester County****Well Care Home Health of the Upstate, Inc.**

Establishment of a Home Health Agency in Chester County at a total project cost of \$29,000.

**Affecting Dorchester County****Trident Medical Center, LLC d/b/a Summerville Medical Center**

Addition of a 2nd robotic surgical system, the da Vinci Xi System, at a total project cost of \$2,474,384.

**Affecting Greenville County****UHS of Greenville, LLC d/b/a The Carolina Center for Behavioral Health**

Addition of 10 substance abuse beds for a total of 39 substance abuse beds at a total project cost of \$2,364,837.

**Affecting Lancaster County****Rebound Behavioral Health, LLC d/b/a Rebound Behavioral Health**

Addition of 21 inpatient psychiatric beds for a total of 45 inpatient psychiatric beds at a total project cost of \$50,000.

## 10 NOTICES

### **Well Care Home Health of the Upstate, Inc.**

Establishment of a Home Health Agency in Lancaster County at a total project cost of \$29,000.

### **Affecting Laurens County**

### **Well Care Home Health of the Upstate, Inc.**

Establishment of a Home Health Agency in Laurens County at a total project cost of \$29,000.

### **Affecting Oconee County**

### **Well Care Home Health of the Upstate, Inc.**

Establishment of a Home Health Agency in Oconee County at a total project cost of \$29,000.

### **Affecting Pickens County**

### **Well Care Home Health of the Upstate, Inc.**

Establishment of a Home Health Agency in Pickens County at a total project cost of \$29,000.

### **Affecting Union County**

### **Well Care Home Health of the Upstate, Inc.**

Establishment of a Home Health Agency in Union County at a total project cost of \$29,000.

### **Affecting York County**

### **Well Care Home Health of the Upstate, Inc.**

Establishment of a Home Health Agency in York County at a total project cost of \$36,500.

## **DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

### **NOTICE OF GENERAL PUBLIC INTEREST**

DHEC-Bureau of Land and Waste Management, File # 51084  
BASF/Shaw Industries Site

### **NOTICE OF VOLUNTARY CLEANUP CONTRACT, CONTRIBUTION PROTECTION, AND COMMENT PERIOD**

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control (the Department) intends to enter into a Voluntary Cleanup Contract (VCC) with BASF Corporation (Responsible Party). The VCC provides that the Responsible Party, with DHEC's oversight, will fund and perform future response actions at the BASF/Shaw Industries facility located in Anderson County, at 441 Masters Boulevard, Anderson, South Carolina (Site).

Future response actions addressed in the VCC include, but may not be limited to, the Responsible Party funding and performing: an assessment to determine the extent of volatile organic compounds within groundwater and assessment of surface water in Richland Creek; submit to the Department an Assessment Report (to include a Baseline Risk Assessment or other evaluation of risk to human health and the environment) in accordance with the schedule in the approved Work Plan; and, if necessary, a Feasibility Study to evaluate alternatives to clean-up the Site. Further, the Responsible Party will reimburse the Department's past response costs of \$10,921.13 and the Department's future costs of overseeing the work performed by the Responsible Party and other Department response costs pursuant to the VCC.



The VCC is subject to a thirty-day public comment period consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. Section 9613, and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. Section 44-56-200 (as amended). Notice of Contribution Protection and Comment Period will be provided to known potentially responsible parties. The VCC is available:

- (1) On-line at <http://www.scdhec.gov/PublicNotices>; or
- (2) By contacting David Wilkie at 803-898-0882 or [wilkietd@dhec.sc.gov](mailto:wilkietd@dhec.sc.gov).

Any comments to the proposed VCC must be submitted in writing, postmarked no April 23, 2018 and addressed to: David Wilkie, DHEC-BLWM-SARR, 2600 Bull Street, Columbia, SC 29201.

Upon the successful completion of the VCC, the Responsible Party will receive a covenant not to sue for the work done in completing the response actions specifically covered in the VCC and completed in accordance with the approved work plans and reports. Upon execution of the VCC, the Responsible Party shall be deemed to have resolved its liability to the State in an administrative settlement for purposes of, and to the extent authorized under CERCLA, 42 U.S.C. Sections 9613(f)(2) and 9613(f)(3)(B), and under HWMA, S.C. Code Ann. Section 44-56-200, for the matters addressed in the VCC. Further, to the extent authorized under 42 U.S.C. Section 9613(f)(3)(B), S.C. Code Ann. Section 44-56-200, the Responsible Party may seek contribution from any person who is not a party to this administrative settlement.

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

### NOTICE OF GENERAL PUBLIC INTEREST

The South Carolina Health Planning Committee has scheduled regional public hearings regarding the Draft 2018-2019 South Carolina Health Plan. These hearings will take place at the following times and locations:

#### **Upstate**

Thursday, May 3, 2018, 10:00 a.m., Greenville Health Department, 200 University Ridge, Greenville, SC 29601;

#### **Midlands**

Wednesday, May 2, 2018, 10:00 a.m., Department of Health and Environmental Control Headquarters, People's Auditorium, 2600 Bull Street, Columbia, SC 29201;

#### **Pee Dee**

Tuesday, May 1, 2018, 10:00 a.m., Florence Health Department, 145 East Cheves Street, Florence, SC 29506;

#### **Lowcountry**

Friday, May 4, 2018, 10:00 a.m., Charleston County Library, 68 Calhoun Street, Charleston, SC 29401 – Main Auditorium.

The South Carolina Health Planning Committee invites public comment on the Draft 2018-2019 South Carolina Health Plan from April 27, 2018 until 5:00 PM on May 25, 2018. Comments may be submitted in writing via e-mail to [coninfo@dhec.sc.gov](mailto:coninfo@dhec.sc.gov) or mail to Certificate of Need Program, 2600 Bull Street, Columbia, SC 29201. Alternatively, comments may be presented in person at one of the regional hearings noted above.

The Draft 2018-2019 South Carolina Health Plan shall be accessible beginning April 27, 2018 via the following link:

<http://www.scdhec.gov/Health/FHPF/HealthFacilityRegulationsLicensing/CertificateOfNeed/>.

## 12 NOTICES

For further information, call (803) 545-4200.

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### NOTICE OF GENERAL PUBLIC INTEREST

Section IV of R.61-98, the State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation, requires that the Department of Health and Environmental Control evaluate and certify site rehabilitation contractors to perform site rehabilitation of releases from underground storage tanks under the State Underground Petroleum Environmental Response Bank (SUPERB) Act.

Class I Contractors perform work involving the collection and interpretation of investigative data; the evaluation of risk; and/or the design and implementation of corrective action plans. Class I applicants must satisfy registration requirements for a Professional Engineer or Geologist in South Carolina. Class II Contractors perform work involving routine investigative activities (e.g., soil or ground water sampling, well installation, aquifer testing) where said activities do not require interpretation of the data and are performed in accordance with established regulatory or industry standards.

Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and/or individuals listed below, please submit your comments in writing, no later than April 23, 2018 to:

Contractor Certification Program  
South Carolina Department of Health and Environmental Control  
Bureau of Land and Waste Management - Underground Storage Tank Program  
Attn: Michelle Dennison  
2600 Bull Street  
Columbia, SC 29201

The following company has applied for certification as Underground Storage Tank Site Rehabilitation Contractor:

#### **Class I**

#### **Civil & Engineering Consultants, Inc. (CEC)**

Attn: Scott L. Brown, PE  
530 Howell Rd, Ste 203  
Greenville, SC 29615

**SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY  
CHAPTER 37**

Statutory Authority: 1976 Code Sections 23-23-10 et seq.

**Notice of Drafting:**

The South Carolina Criminal Justice Academy proposes to draft a regulation that addresses R.37-025, Denial of Certification for Misconduct. Interested persons may submit comments to James M. Fennell, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, S.C. 29210. To be considered, comments must be received no later than 5:00 p.m. on May 4, 2018, the close of the drafting period.

**Synopsis:**

S.C. Code Section 23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code Sections 23-23-10 et seq. The proposed regulation will define misconduct for the denial of certification for misconduct.

Legislative review of this proposal will be required.

**SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY  
CHAPTER 37**

Statutory Authority: 1976 Code Sections 23-23-10 et seq.

**Notice of Drafting:**

The South Carolina Criminal Justice Academy proposes to draft a regulation that addresses R.37-026, Withdrawal of Certification of Law Enforcement Officers. Interested persons may submit comments to James M. Fennell, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, S.C. 29210. To be considered, comments must be received no later than 5:00 p.m. on May 4, 2018, the close of the drafting period.

**Synopsis:**

S.C. Code Section 23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code Sections 23-23-10 et seq. The proposed regulation will define misconduct for the withdrawal of certification of law enforcement officers.

Legislative review of this proposal will be required.

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
CHAPTER 61**

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

**Notice of Drafting:**

The Department of Health and Environmental Control (“Department”) is proposing to amend Regulation 61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality Implementation Plan (“State Implementation Plan” or “SIP”). Interested persons are invited to present their views concerning these amendments in writing to Roger Jerry, Air Regulation and SIP Management Section, Bureau of Air Quality, 2600 Bull Street, Columbia, S.C. 29201, or via email at [jerryre@dhec.sc.gov](mailto:jerryre@dhec.sc.gov). To be considered, the Department must receive comments by 5:00 p.m. on April 23, 2018, the close of the drafting comment period.

## 14 DRAFTING NOTICES

### Synopsis:

The United States Environmental Protection Agency (“EPA”) promulgates amendments to the Code of Federal Regulations throughout each calendar year. Recent federal amendments to 40 CFR Parts 60, 61, and 63 include technical amendments regarding New Source Performance Standards, National Emission Standards for Hazardous Air Pollutants (NESHAP), and National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories.

The Department proposes amending: R.61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards; R.61-62.61, National Emission Standards for Hazardous Air Pollutants; and R. 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, to incorporate by reference recent federal amendments promulgated from January 1, 2017, through December 31, 2017. The Department also proposes changes to R. 61-62.68, Chemical Accident Prevention Provisions, to include corrections for internal consistency, clarification, chemical nomenclature, codification, and spelling to improve the overall text as necessary. Additionally, the Department proposes striking paragraph (a)(6) of Section 70.3, Applicability, in R.61-62.70, Title V Operating Permit Program, to maintain state compliance with federal regulations.

The Department also proposes the repeal of R.61-62.96, the Nitrogen Oxides (NO<sub>x</sub>) and Sulfur Dioxide (SO<sub>2</sub>) Budget Trading Program, in its entirety. The Department adopted R.61-62.97, the Cross-State Air Pollution Rule (CSAPR) Trading Program, on August 25, 2017. R.61-62.96 is based on the federal Clean Air Interstate Rule (“CAIR”), which EPA has since replaced with federal CSAPR requirements implemented by R.61-62.97. As a result, federal CAIR requirements implemented by R.61-62.96 are no longer in effect.

The Department may also propose federal law related changes to Regulation 61-62, Air Pollution Control Regulations and Standards, to include corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62 as necessary.

In accordance with 1976 Code Section 1-23-120(H), legislative review is not required because the Department proposes promulgating the amendments to maintain compliance with federal law.

Document No. 4811

**DEPARTMENT OF CONSUMER AFFAIRS**

**CHAPTER 28**

Statutory Authority: 1976 Code Sections 37-2-410, 37-2-710, 37-3-403, 37-6-104, 37-6-402, 37-6-403, and 37-6-506

**Preamble:**

The South Carolina Department of Consumer Affairs proposes to promulgate R.28-55 addressing wage assignment and an employee's revocable authorization of a deduction of earnings.

Sections 37-2-410, 37-2-710 and 37-3-403 prohibit the assignment of wages in consumer transactions, but permits an employee borrower to authorize a revocable deduction of earnings. Sections 37-6-104, 37-6-402, 37-6-403 and 37-6-506 allow the Department to promulgate regulations necessary to effectuate the purposes of Title 37.

Notice of Drafting for the proposed regulation was published in the *State Register* on January 26, 2018.

The proposed regulation will require legislative review.

**Section-by-Section Discussion**

28-55            Added to provide a framework for the provision of an employee's revocable authorization of a deduction of earnings, including required content of an authorization and disclosures.

**Notice of Public Hearing and Opportunity for Public Comment:**

Interested persons are invited to submit their views in writing to Kelly Rainsford, Deputy for Regulatory Enforcement, South Carolina Department of Consumer Affairs, P.O. Box 5757, Columbia, South Carolina 29250-5757. To be considered, comments must be received no later than April 23, 2018, the close of the comment period. Should a public hearing be requested, the hearing will be held at the Department on April 30, 2018, at 2:00 p.m. in the Conference Room, 2221 Devine Street, Suite 200, Columbia, S.C. 29204.

**Preliminary Fiscal Impact Statement:**

The Department of Consumer Affairs estimates the costs incurred by the State in complying with the proposed regulation will be approximately \$0.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION: Employee's Revocable Authorization of a Deduction of Earnings.

Purpose: The purpose of the regulation is to provide a framework for an employee's revocable authorization of a deduction of earnings, including required content of an authorization and consumer disclosures.

Legal Authority: 1976 Code Sections 37-2-410, 37-2-710, 37-3-403, 37-6-104, 37-6-402, 37-6-403 and 37-6-506.

Plan for Implementation: Administrative.

**DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:**

## 16 PROPOSED REGULATIONS

The regulation is needed to clarify when an employee's authorization for a deduction of earnings would be deemed revocable, thus compliant with the South Carolina Consumer Protection Code, Title 37 of the Code of Laws.

### DETERMINATION OF COSTS AND BENEFITS:

Implementation of this regulation will not require additional resources. There is no anticipated additional cost to the Department or state government due to any inherent requirements of the regulation. The framework provided by the regulation will provide guidance to consumers and businesses.

### UNCERTAINTIES OF ESTIMATES:

None.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

### DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

None.

### Statement of Rationale:

Sections 37-2-410, 37-2-710 and 37-3-403 prohibit an assignment of earnings in consumer transactions but permits an employee to request a revocable, authorized deduction of earnings. Sections 37-6-104, 37-6-402, 37-6-403 and 37-6-506 allow the department to promulgate regulations necessary for the implementation of the South Carolina Consumer Protection Code. It is necessary to promulgate a regulation to clarify when an employee's authorization would be deemed revocable, thus compliant with the South Carolina Consumer Protection Code.

### Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 4729  
**COMMISSION ON HIGHER EDUCATION**  
**CHAPTER 62**  
 Statutory Authority: 1976 Code Section 59-112-100

62-600 through 62-612. Determination of Rates of Tuition and Fees.

**Synopsis:**

R.62-600 through 62-612 of Chapter 62 is being amended. Revisions to the existing regulation for the SC Residency Regulation are being considered to clarify the policies and procedures for administering the program. In the proposed amendment, the definition of an independent is clarified to provide flexibility for the student and institution in determining if a student meets the definition. In addition, clarification is being given to the list of items that serve as indicia of intent for South Carolina Residency. There are also additional clarifications being proposed, such as correctly identifying the Federal Agency which issues permanent residency cards to new residents of the United States. The revisions seek to promote consistency among the State institutions and their residency classification processes.

A Notice of Drafting for the proposed regulation was published in the *South Carolina State Register* on July 22, 2016.

**Instructions:**

Amend and replace R.62-600 through 62-612 of Chapter 62 in its entirety.

**Text:**

ARTICLE V  
 DETERMINATION OF RATES OF TUITION AND FEES

Table of Contents:

- 62-600. Rates of Tuition and Fees.
- 62-601. Code of Laws Governing Residence.
- 62-602. Definitions.
- 62-603. Citizens and Permanent Residents.
- 62-604. Non-Resident Aliens, Non-Citizens, and Non-Permanent Residents.
- 62-605. Establishing the Requisite Intent to Become a South Carolina Domiciliary.
- 62-606. Maintaining Residence.
- 62-607. Effect of Change of Residency.
- 62-608. Effect of Marriage.
- 62-609. Exceptions.
- 62-610. Application for Change of Resident Status.
- 62-611. Incorrect Classification.
- 62-612. Inquiries and Appeals.

62-600. Rates of Tuition and Fees.

A. Resident classification is an essential part of tuition and fee determination, admission regulations, scholarship eligibility, and other relevant policies of the state. It is important that institutions have fair and equitable regulations that can be administered consistently and are sensitive to the interests of both students and the state. The Commission on Higher Education hereby establishes regulations for the Statute Governing Residency for Tuition and Fee Purposes to be applied consistently by all South Carolina institutions of higher

## 18 FINAL REGULATIONS

education. These regulations do not address residency matters relating to in county categories used within the State's technical colleges.

B. Institutions of higher education are required by the Statute to determine the residence classification of applicants. The initial determination of one's resident status is made at the time of admission. The determination made at that time, and any determination made thereafter, prevails for each subsequent semester until information becomes available that would impact the existing residency status and the determination is successfully challenged. The burden of proof rests with the students to show evidence as deemed necessary to establish and maintain their residency status.

### 62-601. Code of Laws Governing Residence.

Rules regarding the establishment of legal residence for tuition and fee purposes for institutions of higher education are governed by Title 59, Chapter 112 of the 1976 South Carolina Code of Laws, as amended.

### 62-602. Definitions.

A. "Academic Session" is defined as a term or semester of enrollment. (62-607.B)

B. "Continue to be Enrolled" is defined as continuous enrollment without an interruption that would require the student to pursue a formal process of readmission to that institution. Formal petitions or applications for change of degree level shall be considered readmissions. (62-607.A)

C. "Dependent Person" is defined as one whose predominant source of income or support is from payments from a parent, spouse, or guardian, who claims the dependent person on his/her federal income tax return. In the case of those individuals who are supported by family members who do not earn enough reportable income for taxation purposes, a dependent person can be defined as one who qualifies as a dependent or exemption on the federal income tax return of the parent, spouse, or guardian. A dependent person is also one for whom payments are made, under court order, for child support and the cost of the dependent person's college education. A dependent person's residency is presumed to be that of the person upon whom they are dependent. (62-602.G) (62-602.N) (62-603.B) (62-605.C) (62-607.A)

D. "Domicile" is defined as the true, fixed, principal residence and place of habitation. It shall indicate the place where a person intends to remain, or to where one expects to return upon leaving without establishing a new domicile in another state. For purposes of this section, one may have only one legal domicile. One is presumed to abandon automatically an old domicile upon establishing a new one. Housing provided on an academic session basis for student at institutions shall be presumed not to be a place of principal residence, as residency in such housing is by its nature temporary. (62-602.E) (62-602.K) (62-602.M) (62-602.N) (62-603.A) (62-603.B) (62-605.B) (62-605.C) (62-607.A) (62-607.B) (62-608.A) (62-608.C) (62-608.D) (62-609.A.3) (62-609.A.4)

E. "Full time employment" is defined as employment that consists of at least thirty seven and one half hours a week on a single job in a full time status, with gross earnings of at least minimum wage. However, a person who works less than thirty seven and one half hours a week but receives or is entitled to receive full time employee benefits shall be considered to be employed full time if such status is verified by the employer. A person who meets the eligibility requirements of the Americans with Disabilities Act must present acceptable evidence that they satisfy their prescribed employment specifications in order to qualify as having full time employment. (62-605.C.1) (62-609.A.2) (62-609.A.3)

F. "Guardian" is defined as one legally responsible for the care and management of the person or property of a minor child based upon the five tests for dependency prescribed by the Internal Revenue Service; provided, however, that where circumstances indicate that such guardianship or custodianship was created primarily for the purpose of conferring South Carolina domicile for tuition and fee purposes on such child or dependent person, it shall not be given such effect. (62-602.C) (62-602.E) (62-602.I) (62-602.M) (62-603.B) (62-605.C)

G. "Immediately Prior" is defined as the period of time between the offer of admission and the first day of class of the term for which the offer was made, not to exceed one calendar year. (62-607.A)

H. "Independent Person" is defined as one in his/her majority (eighteen years of age or older) or an emancipated minor, whose predominant source of income is his/her own earnings or income from employment, investments, or payments from trusts, grants, scholarships, commercial loans, or payments made in accordance with court order and for the purposes of determining residency for tuition and fees, an independent person:



(1) must provide more than half of his or her support, which shall include the institutional cost of attendance as defined by Title IV, during the twelve months immediately prior to the date that classes begin for the semester for which resident status is requested ;

(2) cannot claim the domicile of another individual as their own for the purposes of establishing intent to become a South Carolina resident ;

(3) must have established his/her own domicile and provide documentation of establishing his/her own domicile for twelve months to include documentation of renting a domicile if applicable, prior to receiving in-state tuition and fees; and

(4) cannot be claimed as a dependent or exemption on the federal tax return of his or her parent, spouse, or guardian for the year in which resident status is requested. (62-602.N) (62-603.A) (62-605.C) (62-607.B) (62-608.B)

I. "Minor" is defined as a person who has not attained the age of eighteen years. An "emancipated minor" shall mean a minor whose parents have entirely surrendered the right to the care, custody and earnings of such minor and are no longer under any legal obligation to support or maintain such minor. (62-602.G)

J. "Non-resident Alien" is defined as a person who is not a citizen or permanent resident of the United States. By virtue of their non-resident status "non-resident aliens" generally do not have the capacity to establish domicile in South Carolina. (62-602.M) (62-604.A)

K. "Parent" is defined as the father, mother, stepfather, stepmother, foster parent or parent of a legally adopted child. (62-602.C) (62-602.E) (62-602.I) (62-602.J) (62-602.M) (62-603.B) (62-603.C) (62-605.C)

L. "Reside" is defined as continuous and permanent physical presence within the State, provided that absences for short periods of time shall not affect the establishment of residence. Excluded are absences associated with requirements to complete a degree, absences for military training service, and like absences, provided South Carolina domicile is maintained. (62-603.A) (62-606.B) (62-609.A) (62-609.A.3) (62-609.A.4) (62-609.B)

M. "Resident" for tuition and fee purposes is defined as an independent person who has abandoned all prior domiciles and has been domiciled in South Carolina continuously for at least twelve months immediately preceding the first day of class of the term for which resident classification is sought and for whom there is an absence of domiciliary evidence in other states or countries, notwithstanding other provisions of the Statute. (62-600.A) (62-600.B) (62-602.I) (62-602.K) (62-602.M) (62-603.A) (62-603.B) (62-603.C) (62-604.A) (62-605.A) (62-605.C) (62-605.C.7) (62-606.A) (62-606.A.5) (62-606.B) (62-607.A) (62-608.B) (62-609.A.3) (62-610.A) (62-610.B) (62-611.A) (62-611.B)

N. "Spouse" is defined as the husband or wife of a married person in accordance with Title 20, Chapter 1 of the 1976 South Carolina Code of Laws, as amended. (62-602.C) (62-602.E) (62-602.I) (62-602.M) (62-603.B) (62-605.C)

O. "Temporary Absence" is defined as a break in enrollment during a fall or spring semester (or its equivalent) during which a student is not registered for class. (62-606.A)

P. "Terminal Leave" is defined as a transition period following active employment and immediately preceding retirement (with a pension or annuity), during which the individual may use accumulated leave. (62-609.A.4)

Q. "United States Armed Forces" is defined as the United States Air Force, Army, Marine Corps, Navy, and Coast Guard. (62-606.B) (62-609.A(1))

R. "Trust" is defined as a legal entity created by a grantor for the benefit of designated beneficiaries under the laws of the state and the valid trust instrument. However, that where circumstances indicate that such trust was created primarily for the purpose of conferring South Carolina domicile for tuition and fee purposes on such child or independent person, it shall not be given such effect.

#### 62-603. Establishing Residency, Citizens and Permanent Residents.

A. Independent persons who have physically resided and been domiciled in South Carolina for twelve continuous months immediately preceding the date the classes begin for the semester for which resident status is claimed may qualify to pay in state tuition and fees. The twelve month residency period starts when the independent person establishes the intent to become a South Carolina resident per Section 62-605 entitled "Establishing the Requisite Intent to Become a South Carolina Domiciliary." The twelve month residency period

## 20 FINAL REGULATIONS

cannot start until the absence of indicia in other states is proven. Absences from the State during the twelve month period may affect the establishment of permanent residence for tuition and fee purposes.

B. The resident status of a dependent person is based on the resident status of the person who provides more than half of the dependent person's support and claims or, only in the case of those individuals who are supported by family members who do not earn enough reportable income for taxation purposes, qualifies to claim the dependent person as a dependent for federal income tax purposes. Thus, the residence and domicile of a dependent person shall be presumed to be that of their parent, spouse, or guardian.

C. In the case of divorced or separated parents, the resident status of the dependent person may be based on the resident status of the parent who claims the dependent person as a dependent for tax purposes; or based on the resident status of the parent who has legal custody or legal joint custody of the dependent person; or based on the resident status of the person who makes payments under a court order for child support and at least the cost of his/her college tuition and fees.

### 62-604. Non-Resident Aliens, Non-Citizens, and Non-Permanent Residents.

A. Except as otherwise specified in this section or as provided in Section 62-609 (1) & (2), independent non-citizens and non-permanent residents of the United States will be assessed tuition and fees at the non-resident, out of state rate. Independent non-resident aliens, including refugees, asylees, and parolees may be entitled to resident, in state classification once they have been awarded permanent resident status by the United States Citizenship and Immigration Services (USCIS) and meet all the statutory residency requirements provided that all other domiciliary requirements are met. Time spent living in South Carolina immediately prior to the awarding of permanent resident status does not count toward the twelve month residency period. Certain non resident aliens present in the United States in specified visa classifications are eligible to receive in state residency status for tuition and fee purposes as prescribed by the Commission on Higher Education. They are not, however, eligible to receive state sponsored tuition assistance/scholarships.

B. Title 8 of the Code of Federal Regulations (CFR) serves as the primary resource for defining visa categories.

### 62-605. Establishing the Requisite Intent to Become a South Carolina Domiciliary.

A. Resident status may not be acquired by an applicant or student while residing in South Carolina for the primary purpose of enrollment in an institution or for access to state supported programs designed to serve South Carolina residents. An applicant or student from another state who comes to South Carolina usually does so for the purpose of attending school. Therefore, an applicant or student who enrolls as a non-resident in an institution is presumed to remain a non-resident throughout his or her attendance and does not qualify under any of the residency provisions.

B. If a person asserts that his/her domicile has been established in this State, the individual has the burden of proof. Such persons must provide to the designated residency official of the institution to which they are applying any and all evidence the person believes satisfies the burden of proof. The residency official will consider any and all evidence provided concerning such claim of domicile, but will not necessarily regard any single item of evidence as conclusive evidence that domicile has been established.

C. For independent persons or the parent, spouse, or guardian of dependent persons, indicia showing intent to become a South Carolina resident may include, although any single indicator may not be conclusive, the following indicia:

- (1) Statement of full time employment;
- (2) Designating South Carolina as state of legal residence on military record;
- (3) Possession of a valid South Carolina driver's license, or if a non-driver, a South Carolina identification card. Failure to obtain this within 90 days of the establishment of the intent to become a South Carolina resident will delay the beginning date of residency eligibility until a valid South Carolina driver's license is obtained;
- (4) Possession of a valid South Carolina vehicle registration card for every vehicle the independent person is in sole or partial ownership. Failure to obtain this within 45 days of the establishment of the intent to become a South Carolina resident will delay the beginning date of residency eligibility until the applicant obtains a valid South Carolina vehicle registrations card(s);
- (5) Maintenance of an established and current domicile in South Carolina;

- (6) Paying South Carolina income taxes as a resident during the past tax year, including income earned outside of South Carolina from the date South Carolina domicile was claimed;
- (7) Ownership of principal residence in South Carolina;
- (8) Licensing for professional practice (if applicable) in South Carolina.

D. The individual seeking residency must ensure that no item from the list above or any other item, reflects residency or intent to be a resident in another state or country. Having any one item from the list above or any other item(s) reflecting residency in another state or country will delay the beginning date of residency. The absence of indicia in other states or countries is required before the student is eligible to pay in state rates.

62-606. Maintaining Residence.

A. A person's temporary absence from the State does not necessarily constitute loss of South Carolina residence unless the person has acted inconsistently with the claim of continued South Carolina residence during the person's absence from the State. The burden is on the person to show retention of South Carolina residence during the person's absence from the State. Steps a person should take to retain South Carolina resident status for tuition and fee purposes include:

- (1) Continuing to use a South Carolina permanent address on all records;
- (2) Maintaining South Carolina driver's license;
- (3) Maintaining South Carolina vehicle registration;
- (4) Satisfying South Carolina resident income tax obligation. Individuals claiming permanent residence in South Carolina are liable for payment of income taxes on their total income from the date that they established South Carolina residence. This includes income earned in another state or country.

B. Active duty members of the United States Armed Forces and their dependents who are permanently assigned to a state outside of South Carolina on active duty are eligible to pay in state tuition and fees as long as they continuously claim South Carolina as their state of legal residence during their military service. Documentation will be required in all cases to support this claim, including an official Leave and Earnings Statement (LES) demonstrating South Carolina as the member's state of legal residence. South Carolina residents who change their state of legal residence while in the military lose their South Carolina resident status for tuition and fee purposes.

62-607. Effect of Change of Residency.

A. Notwithstanding other provisions of this section, any dependent person of a legal resident of this state who has been domiciled with his/her family in South Carolina for a period of not less than three years immediately prior to his/her enrollment may enroll at the in state rate and may continue to be enrolled at such rate even if the parent, spouse or guardian upon whom he is dependent moves his domicile from this State. The student must continue to be enrolled and registered for classes (excluding summers) in order to maintain eligibility to pay in state rates in subsequent semesters. Transfers within or between South Carolina colleges and universities of a student seeking a certificate, diploma, associate, baccalaureate, or graduate level degree does not constitute a break in enrollment.

B. If domicile of an independent person in South Carolina is lost after enrollment, and information becomes available that would impact the existing residency status, eligibility for in state rates shall end on the last day of the academic session during which domicile is lost. Application of this provision shall be at the discretion of the institution involved. However, a student must continue to be enrolled and registered for classes (excluding summers) in order to maintain eligibility to pay in state rates in subsequent semesters.

62-608. Effect of Marriage.

A. In ascertaining domicile of a married person, irrespective of gender, such a review shall be determined just as for an unmarried person by reference to all relevant evidence of domiciliary intent.

B. If a non-resident marries a South Carolina resident, the non-resident does not automatically acquire South Carolina resident status. The non-resident may acquire South Carolina resident status if the South Carolina resident is an independent person and the non-resident is a dependent of the South Carolina resident.

C. Marriage to a person domiciled outside South Carolina shall not be solely the reason for precluding a person from establishing or maintaining domicile in South Carolina and subsequently becoming eligible or continuing to be eligible for residency.

## 22 FINAL REGULATIONS

D. No person shall be deemed solely by reason of marriage to a person domiciled in South Carolina to have established or maintained domicile in South Carolina and consequently to be eligible for or to retain eligibility for South Carolina residency.

### 62-609. Exceptions.

A. Persons in the following categories qualify to pay in state tuition and fees without having to establish a permanent home in the state for twelve months. Persons who qualify under any of these categories must meet the conditions of the specific category on or before the first day of class of the term for which payment of in state tuition and fees is requested. The following categories apply only to in state tuition and do not apply to State supported scholarships and grants. Individuals who qualify for in state tuition and fees under the following exceptions do not automatically qualify for LIFE, SC HOPE or Palmetto Fellows Scholarships.

(1) "Military Personnel and their Dependents": Members of the United States Armed Forces who are permanently assigned in South Carolina on active duty and their dependents are eligible to pay in state tuition and fees. When such personnel are transferred from the State, their dependents may continue to pay in state tuition and fees as long as they are continuously enrolled or transfer to an eligible institution during the term or semester, excluding summer terms, immediately following their enrollment at the previous institution. In the event of a transfer, the receiving institution shall verify the decision made by the student's previous institution in order to certify the student's eligibility for in-state tuition rates. It is the responsibility of the transferring student to ensure that all documents required to verify both the previous and present residency decisions are provided to the institution. Members of the United States Armed Forces who are permanently assigned in South Carolina on active duty (and their dependents) may also be eligible to pay in state tuition and fees as long as they are continuously enrolled after their discharge from the military, provided they have demonstrated an intent to establish a permanent home in South Carolina and they have resided in South Carolina for a period of at least twelve months immediately preceding their discharge. Military personnel who are not stationed in South Carolina and/or former military personnel who intend to establish South Carolina residency must fulfill the twelve month "physical presence" requirement for them or their dependents to qualify to pay in state tuition and fees.

(2) "Faculty and Administrative Employees with Full Time Employment and their Dependents": Full time faculty and administrative employees of South Carolina state supported colleges and universities and their dependents are eligible to pay in state tuition and fees.

(3) "Residents with Full Time Employment and their Dependents:": Persons who reside, are domiciled, and are full time employed with an employer that is physically located in the State and who continue to work full time until they meet the twelve month requirement and their dependents are eligible to pay in state tuition and fees, provided that they have taken steps to establish a permanent home in the State. Steps an independent person must take to establish residency in South Carolina are listed in Section 62-605 entitled ("Establishing the Requisite Intent to Become a South Carolina Domiciliary").

(4) "Retired Persons and their Dependents:": Retired persons who are receiving a pension or annuity who reside in South Carolina and have been domiciled in South Carolina as prescribed in the Statute for less than a year may be eligible for in state rates if they maintain residence and domicile in this State. Persons on terminal leave who have established residency in South Carolina may be eligible for in state rates even if domiciled in the State for less than one year if they present documentary evidence from their employer showing they are on terminal leave. The evidence should show beginning and ending dates for the terminal leave period and that the person will receive a pension or annuity when he/she retires.

(5) "Covered Individuals Receiving Specific Education Benefits:": Covered individuals living in South Carolina, who are enrolled in a public institution of higher education and receiving educational assistance under Chapter 30 and Chapter 33, Title 38 of the United States Code, are entitled to pay in-state tuition and fees without regard to the length of time the covered individual has resided in this State. For purposes of this subsection, a covered individual is defined as:

(a) a veteran who served ninety days or longer on active duty in the Uniformed Service of the United States, their respective Reserve forces, or the National Guard and who enrolls within three years of discharge;

(b) a person who is entitled to and receiving assistance under Section 3319, Title 38 of the United States Code by virtue of the person's relationship to the veteran described in subitem (a) who enrolls within three years of the veteran's discharge;

(c) a person using transferred benefits under Section 3319, Title 38 of the United States Code while the transferor is on active duty in the Uniformed Service of the United States, their respective Reserve forces, or the National Guard; or

(d) a person who is entitled to and receiving assistance under Section 3311(b)(9), Title 38 of the United States Code.

At the conclusion of the applicable three-year period described in this section, a covered individual shall remain eligible for in-state rates as long as he remains continuously enrolled in an in-state institution or transfers to another in-state institution during the term or semester, excluding summer terms, immediately following his enrollment at the previous in-state institution. In the event of a transfer, the in-state institution receiving the covered individual shall verify the covered individual's eligibility for in-state rates with the covered individual's prior in-state institution. It is the responsibility of the transferring covered individual to ensure all documents required to verify both the previous and present residency decisions are provided to the in-state institution

B. South Carolina residents who wish to participate in the Regional Contract Program sponsored by the Southern Regional Education Board (SREB) must have continuously resided in the State for other than educational purposes for at least two years immediately preceding their submission of the residency status application and must meet all other residency requirements during this two year period. Individuals who qualify for in-state tuition and fees are not automatically classified as South Carolina residents. A determination of one's resident status made at the time of one's initial application to be certified as a South Carolina resident for purposes of participation in the Regional Contract Program does not prevail for each subsequent academic year. A South Carolina resident student who has been certified as a State resident for the purpose of participating in the Southern Regional Education Board Contract Program must be recertified prior to the beginning of each fall semester for each academic year for which benefits are requested.

C. South Carolina residents who wish to participate in the Academic Common Market program sponsored by the Southern Regional Education Board must be a resident for at least one year, or satisfy the conditions of an exception as provided in R.62-609A(1), R.62-609A(3) or R.62-609A(4), immediately preceding application for consideration and must meet all other residency requirements during this one year period.

#### 62-610. Application for Change of Resident Status.

A. Persons applying for a change of resident classification must complete a residency application/petition and provide supporting documentation prior to a reclassification deadline as established by the institution.

B. The burden of proof rests with those persons applying for a change of resident classification who must show required evidence to document the change in resident status.

#### 62-611. Incorrect classification.

A. Persons incorrectly classified as residents are subject to reclassification and to payment of all non-resident tuition and fees not paid. If incorrect classification results from false or concealed facts, such persons may be charged tuition and fees past due and unpaid at the out of state rate. The violator may also be subject to administrative, civil, and financial penalties. Until these charges are paid, such persons will not be allowed to receive transcripts or graduate from a South Carolina institution.

B. Residents whose resident status changes are responsible for notifying the Residency Official of the institution attended of such changes.

#### 62-612. Inquiries and Appeals.

A. Inquiries regarding residency requirements and determinations should be directed to the institutional residency official.

B. Each institution will develop an appeals process to accommodate persons wishing to appeal residency determinations made by the institution's residency official. Each institutions appeal process should be directed by that institutions primary residency officer, in conjunction with those individuals who practice the application of State residency regulations on a daily basis. The professional judgment of the residency officer and administrators will constitute the institutional appeal process. Neither the primary residency official nor appellate official(s) may waive the provisions of the Statute or regulation governing residency for tuition and fee purposes.

## **24 FINAL REGULATIONS**

### **Fiscal Impact Statement:**

There will be no increased administrative costs to the state or its political subdivisions.

### **Statement of Rationale:**

R.62-600 through 62-612 of Chapter 62 is being amended. Revisions to the existing regulation for the SC Residency Regulation are being considered to clarify the policies and procedures for administering the program. In the proposed amendment, the definition of an independent is clarified to provide flexibility for the student and institution in determining if a student meets the definition. In addition, clarification is being given to the list of items that serve as indicia of intent for South Carolina Residency. There are also additional clarifications being proposed, such as correctly identifying the Federal Agency which issues permanent residency cards to new residents of the United States. The revisions seek to promote consistency among the State institutions and their residency classification processes.