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2014 REGULAR SESSION

Acts and Joint Resolutions

of the

GENERAL ASSEMBLY
OF THE STATE OF SOUTH CAROLINA

(continued on inside cover)

Numbers in parenthesis to left of act numbers (numbers in bold face) refer as follows: number with R before it refers to ratification number, number with S before it refers to bill number in Senate, and number with H before it refers to bill number in House of Representatives.
James H. Harrison, Code Commissioner, P.O. Box 11489,
Columbia, S.C. 29211

No. 256

(R306, H4732)

AN ACT TO AMEND SECTIONS 7-11-20, 7-11-25, AND 7-13-15, ALL AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING, RESPECTIVELY, TO THE CONDUCT BY THE STATE ELECTION COMMISSION OF PARTY CONVENTIONS OR PARTY PRIMARY ELECTIONS, THE AUTHORITY OF POLITICAL PARTIES TO CONDUCT ADVISORY PRIMARY ELECTIONS AT PARTY EXPENSE, AND THE DATE PROVIDED BY LAW FOR HOLDING PRIMARY ELECTIONS AND THE PRIMARIES NOT SUBJECT TO THAT DATE, SO AS TO DELETE OBSOLETE DATE REFERENCES, TO CLARIFY THE AUTHORITY OF A POLITICAL PARTY TO CONDUCT AN ADVISORY PRIMARY AT PARTY EXPENSE, TO CLARIFY THAT THE DATE OF A PRESIDENTIAL PREFERENCE PRIMARY CONDUCTED BY THE STATE ELECTION COMMISSION MUST BE SET BY THE PARTY RATHER THAN THE GENERAL STATE LAW DATE FOR PRIMARIES AND TO ALLOW THE STATE ELECTION COMMISSION TO CARRY FORWARD ANY YEAR-END BALANCES IN ITS FILING FEE AND PRIMARY AND GENERAL ELECTION ACCOUNTS TO THE SUCCEEDING FISCAL YEAR, AND TO PROVIDE THAT THESE CARRIED FORWARD FUNDS MUST BE EXPENDED FOR THE SAME PURPOSE.

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

Presidential preference primaries

SECTION 1. Items (2) and (4) of Section 7-11-20(B) of the 1976 Code, as last amended by Act 81 of 2007, are further amended to read:

"(2) If the state committee of a certified political party which received at least five percent of the popular vote in South Carolina for the party's candidate for President of the United States decides to hold a presidential preference primary election, the State Election Commission must conduct the presidential preference primary in accordance with the provisions of this title and party rules provided that a registered elector may cast a ballot in only one presidential

preference primary. However, notwithstanding any other provision of this title, (a) the State Election Commission and the authorities responsible for conducting the elections in each county shall provide for cost-effective measures in conducting the presidential preference primaries including, but not limited to, combining polling places, while ensuring that voters have adequate notice and access to the polling places; and (b) the state committee of the party shall set the date and the filing requirements, including a certification fee. Political parties must verify the qualifications of candidates prior to certifying to the State Election Commission the names of candidates to be placed on primary ballots. The written certification required by this section must contain a statement that each certified candidate meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications in the United States Constitution, statutory law, and party rules to participate in the presidential preference primary for which he has filed. Political parties must not certify any candidate who does not or will not by the time of the general election meet the qualifications in the United States Constitution, statutory law, and party rules for the presidential preference primary for which the candidate desires to file, and such candidate's name must not be placed on a primary ballot. Political parties may charge a certification fee to persons seeking to be candidates in the presidential preference primary for the political party. A filing fee not to exceed twenty thousand dollars, as determined by the State Election Commission, for each candidate certified by a political party must be transmitted by the respective political party to the State Election Commission and must be used for conducting the presidential preference primaries.

(4) Nothing in this section prevents a political party from conducting a presidential preference primary pursuant to the provisions of Section 7-11-25."

Advisory primaries

SECTION 2. Section 7-11-25 of the 1976 Code, as last amended by Act 81 of 2007, is further amended to read:

"Section 7-11-25. Nothing in this chapter nor any other provision of law may be construed as either requiring or prohibiting a political party in this State from conducting advisory primaries according to the party's own rules and at the party's expense."

Primaries to be conducted by State Election Commission, retention of fees

SECTION 3. Section 7-13-15 of the 1976 Code, as last amended by Act 81 of 2007, is further amended to read:

"Section 7-13-15. (A) This section does not apply to municipal primaries.

(B) Except as provided in subsection (A) or unless otherwise specifically provided for by statute or ordinance, the following primaries must be conducted by the State Election Commission and the county election commissions on the second Tuesday in June of each general election year:

(1) primaries for federal offices, excluding a presidential preference primary for the Office of President of the United States as provided pursuant to Section 7-11-20(B); and

(2) primaries for:

(a) state offices;

(b) offices including more than one county;

(c) countywide and less than countywide offices, specifically including, but not limited to, all school boards and school trustees; and

(d) special purpose district offices, which include, but are not limited to, water, sewer, fire, soil conservation, and other similar district offices.

(C) Filing fees received from candidates filing to run in primary elections may be retained and expended by the State Election Commission to pay for the conduct of primary elections. Any balance in the filing fee accounts or in the primary and general election accounts as of each June thirtieth may be carried forward in these accounts to the succeeding fiscal year and must be expended for the same purposes."

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 257

(R307, H4788)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 53-3-65 SO AS TO DESIGNATE THE SECOND SUNDAY IN AUGUST AS "SPIRIT OF '45 DAY".

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

Spirit of '45 Day created

SECTION 1. Chapter 3, Title 53 of the 1976 Code is amended by adding:

"Section 53-3-65. The second Sunday in August is hereby designated as 'Spirit of '45 Day' to commemorate the anniversary of the end of World War II."

Time effective

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

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 258

(R267, S75)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40-57-115 SO AS TO REQUIRE THE SOUTH CAROLINA REAL ESTATE COMMISSION TO REQUIRE INITIAL LICENSURE APPLICANTS TO SUBMIT TO A NATIONAL AND A STATE CRIMINAL RECORDS CHECK; TO AMEND SECTION 40-57-150, RELATING TO INVESTIGATIONS, SO AS TO REQUIRE INVESTIGATORS TO COMPLETE ONE HUNDRED HOURS

OF TRAINING IN PROGRAMS APPROVED BY THE SOUTH CAROLINA REAL ESTATE COMMISSION, TO REQUIRE THE DEPARTMENT OF LABOR, LICENSING AND REGULATION TO CONCLUDE THE INVESTIGATION WITHIN ONE HUNDRED FIFTY DAYS OF RECEIPT OF THE COMPLAINT, AND TO PROVIDE REPORTING REQUIREMENTS; AND TO AMEND SECTION 40-57-145, RELATING TO GROUNDS FOR DISCIPLINE OR DENIAL OF LICENSURE, SO AS TO AUTHORIZE THE SOUTH CAROLINA REAL ESTATE COMMISSION TO DISCIPLINE OR DENY LICENSURE IF THE APPLICANT IS CONVICTED OF CERTAIN CRIMES.

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

Real Estate Commission to require criminal background check before issuing license

SECTION 1. Chapter 57, Title 40 of the 1976 Code is amended by adding:

"Section 40-57-115. In addition to other requirements established by law and for the purpose of determining an applicant's eligibility for licensure as a salesman, broker, broker-in-charge, property manager, and property manager-in-charge, the commission shall require initial applicants to submit to a state criminal records check, by a source approved by the commission, and a national criminal records check. Costs of conducting a criminal records check must be borne by the applicant. The commission shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as necessary to support the administrative action."

Investigations by Department of Labor, Licensing and Regulation

SECTION 2. Section 40-57-150 of the 1976 Code is amended to read:

"Section 40-57-150. (A) Investigations must be conducted in accordance with Section 40-1-80 and must be performed by investigators who have completed one hundred hours of training in programs that are approved by the commission and provide instruction

on real estate principles, state statutory and regulatory law, and investigative techniques.

(B) A restraining order must be obtained in accordance with Section 40-1-100.

(C)(1) Whenever the department has reason to believe that a violation of this chapter has occurred, an investigation must be initiated within thirty days.

(2) The department shall conclude its investigation within one hundred fifty days from receipt of the complaint or seek a waiver of this period from the commission upon a showing of due diligence and extenuating circumstances.

(3) A hearing on the charges must be at the time and place designated by the commission and must be conducted in accordance with the Administrative Procedures Act.

(4) The commission shall render a decision and shall serve, within ninety days, notice, in writing, of the commission's decision to the licensee charged. The commission also shall state in the notice the date upon which the ruling or decision becomes effective.

(5) The department shall maintain a public docket or other permanent record in which must be recorded all orders, consent orders, or stipulated settlements.

(D) A licensee may voluntarily surrender his license in accordance with Section 40-1-150.

(E)(1) The commission may impose disciplinary action in accordance with Section 40-1-120.

(2) Upon determination by the commission that one or more of the grounds for discipline exists, as provided for in Section 40-1-110 or Section 40-57-140, the commission may impose a fine of not less than one hundred or more than one thousand dollars for each violation. The commission may recover the costs of the investigation and the prosecution as provided for in Section 40-1-170.

(3) Nothing in this section prevents a licensee from voluntarily entering into a consent order with the commission wherein violations are not contested and sanctions are accepted.

(F) The department annually shall post a report that provides the data for the number of complaints received, the number of investigations initiated, the average length of investigations, and the number of investigations that exceeded one hundred fifty days."

Real Estate Commission may discipline or deny license upon conviction of certain crimes

SECTION 3. Section 40-57-145(A)(8) of the 1976 Code is amended to read:

"(8) is convicted of violating the federal and state fair housing laws, forgery, embezzlement, breach of trust, larceny, obtaining money or property under false pretense, extortion, fraud, conspiracy to defraud, or has been convicted of a violent crime as defined in Section 16-1-60, has been convicted during the previous five years of a felony directly related to the practice of the profession, or has been convicted during the previous seven years of a felony, an essential element of which is dishonesty, reasonably related to the practice of the profession, or pleading guilty or nolo contendere to any such offense in a court of competent jurisdiction of this State, any other state, or any federal court;"

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 259

(R269, S437)

AN ACT TO AMEND SECTION 12-43-220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO VALUATION AND CLASSIFICATION OF PROPERTY FOR PURPOSES OF THE PROPERTY TAX, SO AS TO PROVIDE THAT THE OWNER-OCCUPANT OF RESIDENTIAL PROPERTY QUALIFIES FOR THE FOUR PERCENT ASSESSMENT RATIO ALLOWED OWNER-OCCUPIED RESIDENTIAL PROPERTY, IF THE OWNER IS OTHERWISE QUALIFIED AND THE RESIDENCE IS NOT RENTED FOR MORE THAN SEVENTY-TWO DAYS A

YEAR, AND TO DELETE OTHER REFERENCES TO THE RENTAL OF THESE RESIDENCES; TO AMEND SECTION 12-54-240, AS AMENDED, RELATING TO DISCLOSURE OF RECORDS, REPORTS, AND RETURNS WITH THE DEPARTMENT OF REVENUE, SO AS TO PROVIDE VERIFICATION THAT THE FEDERAL SCHEDULE E CONFORMS WITH THE SAME DOCUMENT REQUIRED BY A COUNTY ASSESSOR IS NOT PROHIBITED; TO AMEND SECTION 12-36-920, AS AMENDED, RELATING TO THE SEVEN PERCENT STATE SALES TAX IMPOSED ON ACCOMMODATIONS, SO AS TO PROVIDE THAT THE TAX DOES NOT APPLY TO GROSS PROCEEDS FROM RENTALS RECEIVED BY PERSONS RENTING THEIR PERSONAL RESIDENCE FOR FEWER THAN FIFTEEN DAYS TOTAL IN A YEAR AND IF THE GROSS PROCEEDS OF THE RENTAL INCOME ARE EXCLUDED FROM FEDERAL TAXABLE INCOME PURSUANT TO THE PROVISIONS OF SECTION 280A(g) OF THE INTERNAL REVENUE CODE OF 1986; TO AMEND SECTION 12-37-220, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO INCLUDE CERTAIN RELIGIOUS TRUSTS IN EXEMPTING PROPERTY USED FOR THE HOLDING OF ITS MEETINGS WHEN NO PROFIT OR BENEFIT INURES TO THE BENEFIT OF ANY STOCKHOLDER OR INDIVIDUAL; TO AMEND SECTION 12-24-40, RELATING TO EXEMPTIONS FROM DEED RECORDING FEES, SO AS TO EXEMPT TRANSFERS FROM A TRUST ESTABLISHED FOR THE BENEFIT OF A RELIGIOUS ORGANIZATION TO THE RELIGIOUS ORGANIZATION; AND TO AMEND SECTION 12-43-220, AS AMENDED, RELATING TO THE FOUR PERCENT SPECIAL ASSESSMENT RATIO, SO AS TO PROVIDE THAT AN ELIGIBILITY PROVISION REQUIRING A CERTAIN OWNERSHIP PERCENTAGE DOES NOT APPLY IF THE PROPERTY IS HELD BY A TRUST, FAMILY LIMITED PARTNERSHIP, OR LIMITED LIABILITY COMPANY UNDER CERTAIN SITUATIONS, AND TO PROVIDE THAT IF A PERSON RESIDES IN A MOBILE HOME OR SINGLE FAMILY RESIDENCE AND ONLY RENTS A PORTION OF THE MOBILE HOME OR SINGLE FAMILY RESIDENCE TO ANOTHER INDIVIDUAL AS A RESIDENCE, THE PERSON MAY CLAIM THE FOUR PERCENT ASSESSMENT RATIO.

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

Eligibility of four percent assessment ratio, rental of residence

SECTION 1. A. Section 12-43-220(c)(2)(iv) of the 1976 Code is amended by adding a new paragraph before the last undesignated paragraph to read:

"If the owner or the owner's agent has made a proper certificate as required pursuant to this subitem and the owner is otherwise eligible, the owner is deemed to have met the burden of proof and is allowed the four percent assessment ratio allowed by this item, if the residence that is the subject of the application is not rented for more than seventy-two days in a calendar year. For purposes of determining eligibility, rental income, and residency, the assessor annually may require a copy of applicable portions of the owner's federal and state tax returns, as well as the Schedule E from the applicant's federal return for the applicable tax year."

B. Section 12-43-220(c) of the 1976 Code is amended by deleting subitem (7) which reads:

"(7) Notwithstanding any other provision of law, the owner-occupant of a legal residence is not disqualified from receiving the four percent assessment ratio allowed by this item, if the taxpayer's residence meets the requirements of Internal Revenue Code Section 280A(g) as defined in Section 12-6-40(A) and the taxpayer otherwise is eligible to receive the four percent assessment ratio."

C. This section takes effect upon approval by the Governor and applies to property tax years beginning after property tax year 2013.

Verification of federal Schedule E

SECTION 2. Section 12-54-240(B) of the 1976 Code, as last amended by Act 80 of 2013, is further amended by adding an appropriately numbered item at the end to read:

"( ) verification that the federal Schedule E filed with the department is the same as the Schedule E required by the assessor pursuant to Section 12-43-220(c)."

Disallowance of accommodations tax on certain residential rentals

SECTION 3. Section 12-36-920(A) of the 1976 Code, as last amended by Act 56 of 2005, is further amended to read:

"(A) A sales tax equal to seven percent is imposed on the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration. This tax does not apply:

(1) where the facilities consist of less than six sleeping rooms, contained on the same premises, which is used as the individual's place of abode; or

(2) to gross proceeds from rental income wholly excluded from the gross income of the taxpayer pursuant to Internal Revenue Code Section 280A(g) as that code is defined in Section 12-6-40(A).

The gross proceeds derived from the lease or rental of sleeping accommodations supplied to the same person for a period of ninety continuous days are not considered proceeds from transients. The tax imposed by this subsection does not apply to additional guest charges as defined in subsection (B)."

Property tax exemption and deed recording fee exemption for certain trusts benefitting a religious organization

SECTION 4. A. Section 12-37-220(B)(16) of the 1976 Code is amended to read:

"(16)(a) The property of any religious, charitable, eleemosynary, educational, or literary society, corporation, trust, or other association, when the property is used by it primarily for the holding of its meetings and the conduct of the business of the society, corporation, trust, or association and no profit or benefit there from inures to the benefit of any private stockholder or individual.

(b) The property of any religious, charitable, or eleemosynary society, corporation, trust, or other association when the property is acquired for the purpose of building or renovating residential structures on it for not-for-profit sale to economically disadvantaged persons. The total properties for which the religious, charitable, or eleemosynary society, corporation, trust, or other association may

claim this exemption in accordance with this paragraph may not exceed fifty acres per county within the State.

(c) The exemption allowed pursuant to subitem (a) of this item extends to real property owned by an organization described in subitem (a) and which qualifies as a tax exempt organization pursuant to Internal Revenue Code Section 501(c)(3), when the real property is held for a future use by the organization that would qualify for the exemption allowed pursuant to subitem (a) of this item or held for investment by the organization in sole pursuit of the organization's exempt purposes and while held this real property is not rented or leased for a purpose unrelated to the exempt purposes of the organization and the use of the real property does not inure to the benefit of any private stockholder or individual. Real property donated to the organization which receives the exemption allowed pursuant to this subitem is allowed the exemption for no more than three consecutive property tax years. If real property acquired by the organization by purchase receives the exemption allowed pursuant to this subitem and is subsequently sold without ever having been put to the exempt use, the exemption allowed pursuant to this subitem is deemed terminated as of December thirty-first preceding the year of sale and the property is subject to property tax for the year of sale to which must be added a recapture amount equal to the property tax that would have been due on the real property for not more than the four preceding years in which the real property received the exemption allowed pursuant to this subitem. The recapture amount is deemed property tax for all purposes for payment and collection.

(d) To qualify for the exemption allowed by this item, a trust must be a trust that is established solely for the benefit of a religious organization."

B. Section 12-24-40(8) of the 1976 Code is amended to read:

"(8) transferring realty to a corporation, a partnership, or a trust as a stockholder, partner, or trust beneficiary of the entity or so as to become a stockholder, partner, or trust beneficiary of the entity as long as no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in the stock or interest held by the grantor. However, except for transfers from one family trust to another family trust without consideration or transfers from a trust established for the benefit of a religious organization to the religious organization, the transfer of realty from a corporation, a partnership, or a trust to a

stockholder, partner, or trust beneficiary of the entity is subject to the fee, even if the realty is transferred to another corporation, a partnership, or trust;"

C. This section takes effect upon approval by the Governor and applies to property tax years beginning after 2013.

Ownership percentage not required for four percent assessment in certain circumstances

SECTION 5. A. Section 12-43-220(c)(8) of the 1976 Code is amended to read:

"(8)(i) For ownership interests in residential property created by deed if the interest in the property has not already transferred by operation of law, when the individual claiming the special four percent assessment ratio allowed by this item has an ownership interest in the residence that is less than fifty percent ownership in fee simple, then the value of the residence allowed the special four percent assessment ratio is a percentage of that value equal to the individual's ownership interest in the residence, but not less than the amount provided pursuant to subitem (4) of this item. This subitem (8) does not apply in the case of a residence otherwise eligible for the special four percent assessment ratio when occupied jointly by a married couple or which remains occupied by a spouse legally separated from a spouse who has abandoned the residence. If the special four percent assessment ratio allowed by this item applies to only a fraction of the value of residence, then the exemption allowed pursuant to Section 12-37-220(B)(47) applies only to value attributable to the taxpayer's ownership interest.

(ii) Notwithstanding subsubitem (i), for ownership interests in residential property created by deed if the interest in the property has not already transferred by operation of law, an applicant may qualify for the four percent assessment ratio on the entire value of the property if the applicant:

(A) owns at least a twenty-five percent interest in the subject property with immediate family members;

(B) is not a member of a household currently receiving the four percent assessment ratio on another property; and

(C) otherwise qualifies for the four percent assessment ratio.

(iii) This subitem (8) does not apply to property held exclusively by:

(A) an applicant, or the applicant and the applicant's spouse;

(B) a trust if the person claiming the special four percent assessment ratio is the grantor or settlor of the trust, and the only beneficiaries of the trust are the grantor or settlor and any parent, spouse, child, grandchild, or sibling of the grantor or settlor;

(C) a family limited partnership if the person claiming the special four percent assessment ratio transferred the subject property to the partnership, and the only members of the partnership are the person and the person's parents, spouse, children, grandchildren, or siblings;

(D) a limited liability company if the person claiming the special four percent assessment ratio transferred the subject property to the limited liability company, and the only members of the limited liability company are the person and the person's parents, spouse, children, grandchildren, or siblings; or

(E) any combination thereof.

The exception contained in this subsubitem (iii) does not apply if the applicant does not otherwise qualify for the four percent assessment ratio, including the requirement that the applicant, nor any member of the applicant's household, claims the four percent assessment ratio on another residence.

For purposes of this subitem (8), 'immediate family member' means a parent, child, or sibling."

B. This section takes effect upon approval by the Governor and applies to property tax years beginning after 2011. If the property tax assessor determines that a person denied the four percent special assessment ratio in property tax year 2012 or 2013 now qualifies pursuant to the provisions of this section, the person must be refunded any property taxes paid in excess of the amount owed.

Eligibility of four percent assessment ratio, rental of portion of residence

SECTION 6. Section 12-43-220(c)(1) of the 1976 Code is amended to read:

"(c)(1) The legal residence and not more than five acres contiguous thereto, when owned totally or in part in fee or by life estate and occupied by the owner of the interest, and additional dwellings located on the same property and occupied by immediate family members of the owner of the interest, are taxed on an assessment equal to four percent of the fair market value of the property. If residential real property is held in trust and the income beneficiary of the trust

occupies the property as a residence, then the assessment ratio allowed by this item applies if the trustee certifies to the assessor that the property is occupied as a residence by the income beneficiary of the trust. When the legal residence is located on leased or rented property and the residence is owned and occupied by the owner of a residence on leased property, even though at the end of the lease period the lessor becomes the owner of the residence, the assessment for the residence is at the same ratio as provided in this item. If the lessee of property upon which he has located his legal residence is liable for taxes on the leased property, then the property upon which he is liable for taxes, not to exceed five acres contiguous to his legal residence, must be assessed at the same ratio provided in this item. If this property has located on it any rented mobile homes or residences which are rented or any business for profit, this four percent value does not apply to those businesses or rental properties. However, if the person claiming the four percent assessment ratio resides in the mobile home or single family residence and only rents a portion of the mobile home or single family residence to another individual as a residence, the foregoing provision does not apply and the four percent assessment ratio must be applied to the entire mobile home or single family residence. For purposes of the assessment ratio allowed pursuant to this item, a residence does not qualify as a legal residence unless the residence is determined to be the domicile of the owner-applicant."

Time effective

SECTION 7. Except where otherwise provided, this act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 260

(R270, S459)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56-5-3890 SO AS TO DEFINE CERTAIN TERMS RELATED TO THE USE AND

OPERATION OF A WIRELESS ELECTRONIC COMMUNICATION DEVICE, TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON TO USE A WIRELESS ELECTRONIC COMMUNICATION DEVICE TO COMPOSE, SEND, OR READ A TEXT-BASED COMMUNICATION WHILE OPERATING A MOTOR VEHICLE ON THE PUBLIC HIGHWAYS OF THIS STATE, TO PROVIDE EXCEPTIONS TO THIS PROHIBITION, TO PROVIDE A PENALTY FOR A VIOLATION OF THIS SECTION, TO PROVIDE THAT A VIOLATION OF THIS SECTION MUST NOT BE INCLUDED IN THE OFFENDER'S MOTOR VEHICLE RECORD OR REPORTED TO HIS MOTOR VEHICLE INSURER, TO PROVIDE THAT LAW ENFORCEMENT OFFICERS SHALL ISSUE ONLY WARNINGS FOR VIOLATIONS OF THIS SECTION DURING THE FIRST ONE HUNDRED EIGHTY DAYS AFTER ITS EFFECTIVE DATE, TO PLACE CERTAIN RESTRICTIONS ON LAW ENFORCEMENT OFFICERS WHO ENFORCE THIS SECTION, TO REQUIRE THE DEPARTMENT OF PUBLIC SAFETY TO MAINTAIN STATISTICAL INFORMATION REGARDING CITATIONS ISSUED PURSUANT TO THIS SECTION, AND TO PROVIDE THAT THIS SECTION PREEMPTS ALL ORDINANCES, REGULATIONS, AND RESOLUTIONS ADOPTED BY LOCAL GOVERNMENTAL ENTITIES REGARDING PERSONS USING WIRELESS ELECTRONIC COMMUNICATION DEVICES WHILE OPERATING MOTOR VEHICLES ON THE PUBLIC HIGHWAYS OF THIS STATE.

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

Unlawful use of a wireless electronic communication device while operating a motor vehicle

SECTION 1. Article 31, Chapter 5, Title 56 of the 1976 Code is amended by adding:

"Section 56-5-3890. (A) For purposes of this section:

(1) 'Hands-free wireless electronic communication device' means an electronic device, including, but not limited to, a telephone, a personal digital assistant, a text-messaging device, or a computer, which allows a person to wirelessly communicate with another person without holding the device in either hand by utilizing an internal

feature or function of the device, an attachment, or an additional device. A hands-free wireless electronic communication device may require the use of either hand to activate or deactivate an internal feature or function of the device.

(2) 'Text-based communication' means a communication using text-based information, including, but not limited to, a text message, an SMS message, an instant message, or an electronic mail message.

(3) 'Wireless electronic communication device' means an electronic device, including, but not limited to, a telephone, a personal digital assistant, a text-messaging device, or a computer, which allows a person to wirelessly communicate with another person.

(B) It is unlawful for a person to use a wireless electronic communication device to compose, send, or read a text-based communication while operating a motor vehicle on the public streets and highways of this State.

(C) This section does not apply to a person who is:

(1) lawfully parked or stopped;

(2) using a hands-free wireless electronic communication device;

(3) summoning emergency assistance;

(4) transmitting or receiving data as part of a digital dispatch system;

(5) a public safety official while in the performance of the person's official duties; or

(6) using a global positioning system device or an internal global positioning system feature or function of a wireless electronic communication device for the purpose of navigation or obtaining related traffic and road condition information.

(D)(1) A person who is adjudicated to be in violation of the provisions of this section must be fined not more than twenty-five dollars, no part of which may be suspended. No court costs, assessments, or surcharges may be assessed against a person who violates a provision of this section. A person must not be fined more than fifty dollars for any one incident of one or more violations of the provisions of this section. A custodial arrest for a violation of this section must not be made, except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine. A violation of this section does not constitute a criminal offense. Notwithstanding Section 56-1-640, a violation of this section must not be:

(a) included in the offender's motor vehicle records maintained by the Department of Motor Vehicles or in the criminal records maintained by SLED; or

(b) reported to the offender's motor vehicle insurer.

(2) During the first one hundred eighty days after this section's effective date, law enforcement officers shall issue only warnings for violations of this section.

(E) A law enforcement officer shall not:

(1) stop a person for a violation of this section except when the officer has probable cause that a violation has occurred based on the officer's clear and unobstructed view of a person who is using a wireless electronic communication device to compose, send, or read a text-based communication while operating a motor vehicle on the public streets and highways of this State;

(2) seize, search, view, or require the forfeiture of a wireless electronic communication device because of a violation of this section;

(3) search or request to search a motor vehicle, driver, or passenger in a motor vehicle, solely because of a violation of this section; or

(4) make a custodial arrest for a violation of this section, except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine.

(F) The Department of Public Safety shall maintain statistical information regarding citations issued pursuant to this section.

(G) This section preempts local ordinances, regulations, and resolutions adopted by municipalities, counties, and other local governmental entities regarding persons using wireless electronic communication devices while operating motor vehicles on the public streets and highways of this State."

Time effective

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

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 261

(R280, S985)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 8 TO CHAPTER 1, TITLE 6, SO AS TO ENACT THE "FAIRNESS IN LODGING ACT", TO ALLOW MUNICIPALITIES AND COUNTIES BY ORDINANCE TO IMPLEMENT ADDITIONAL ENFORCEMENT PROVISIONS FOR THE LOCAL ACCOMMODATIONS TAX AS THOSE PROVISIONS APPLY TO THE OWNERS OF RESIDENTIAL REAL PROPERTY WHO RENT THE PROPERTY TO TOURISTS, INCLUDING DATA SHARING WITH THE SOUTH CAROLINA DEPARTMENT OF REVENUE, SPECIFIC NOTICE TO PROPERTY OWNERS INCLUDED IN PROPERTY TAX BILLS, AN ADDITIONAL PENALTY THAT MAY BE IMPOSED FOR NONCOMPLIANCE AFTER THE RECEIPT OF SUCH A NOTICE, AND DIRECTIONS TO THE SOUTH CAROLINA DEPARTMENT OF REVENUE TO IDENTIFY "RENTAL BY OWNER" WEBSITES ADVERTISING TOURISTS RENTALS AND REQUEST THEM TO POST ON THE WEBSITES A STATEMENT REGARDING THE LEGAL OBLIGATIONS OF THE OWNERS OF PROPERTY IN THIS STATE LISTED ON THE WEBSITE, TO PAY ALL APPLICABLE LOCAL AND STATE TAXES AND FEES WITH RESPECT TO SUCH RENTALS; AND TO AMEND SECTIONS 6-1-120, 12-54-240, AS AMENDED, AND 12-4-310, RELATING RESPECTIVELY TO THE CONFIDENTIALITY OF LOCAL AND STATE TAX DATA AND EXCEPTIONS THERETO, AND THE DUTIES OF THE SOUTH CAROLINA DEPARTMENT OF REVENUE, SO AS TO CONFORM THEM TO THE PROVISIONS OF THIS ACT.

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

Fairness in Lodging Act

SECTION 1. Chapter 1, Title 6 of the 1976 Code is amended by adding:

"Article 8

Fairness in Lodging Act

Section 6-1-810.(A) This article may be cited as the 'Fairness in Lodging Act'.

(B) The General Assembly finds that:

(1) providing lodging accommodations for tourists is a major business in this State;

(2) there are instances where individuals who rent residential accommodations to tourists are failing to collect and remit the local accommodations tax imposed pursuant to Article 5 of this chapter and the state sales tax on accommodations imposed pursuant to Section 12-36-920;

(3) those who fail to collect and remit local and state taxes on providing accommodations to transients are competing unfairly against those who dutifully meet these legal obligations;

(4) by the enactment of the Fairness in Lodging Act, municipalities and counties are provided the option to exercise additional enforcement authority with respect to these taxes and to engage in active cooperation with the South Carolina Department of Revenue in data sharing, to provide comprehensive enforcement of the applicable accommodations tax laws so as to promote a more equal competitive playing field for those engaged in this State in the business of renting accommodations to tourists.

Section 6-1-815. (A) The governing body of a municipality or county by ordinance may implement the provisions of this article if it imposes the local accommodations tax provided pursuant to Article 5 of this title. This article applies in the applicable jurisdiction when a certified copy of the implementation ordinance is provided to the Director of the South Carolina Department of Revenue.

(B) The provisions of this article do not apply to any residential real property lawfully assessed for property tax purposes pursuant to Section 12-43-220(c) when all rental income on the property is not included in gross income for federal income tax purposes pursuant to Internal Revenue Code Section 280A(g).

Section 6-1-820. (A) When the provisions of this article apply in an implementing jurisdiction, the South Carolina Department of Revenue, and the implementing jurisdiction using returns and copies of returns and other documents filed with or otherwise available to them shall

share data helpful to both the department and the implementing jurisdiction in determining possible instances of noncompliance.

(B) Implementing jurisdictions shall include or cause to be included notices in annual property tax notices for parcels of residential real property assessed for property tax purposes pursuant to Section 12-43-220(e) as the implementing jurisdiction determines appropriate. These notices must provide details of local accommodations tax and state sales tax on accommodations required to be paid by persons renting residential real property to tourists in the implementing jurisdiction and the intention of the implementing jurisdiction vigorously to enforce these requirements. Details must include specific information on obtaining additional information with respect to these requirements and the names, addresses, and telephone numbers of officials of implementing jurisdictions that are able to answer questions, provide forms, and assist in compliance. Counties must be reimbursed by implementing municipalities for extra expenses incurred by a county in providing these notices.

(C) In addition to other penalties and interest imposed by the ordinance of an implementing jurisdiction for failure to comply with local accommodations tax requirements imposed pursuant to Article 5 of this chapter required of owners in the business of renting residential accommodations to tourists, the jurisdiction may impose, with respect to a single rental property, a one-time civil penalty for noncompliance for failure to collect and remit local accommodations tax of not less than five hundred dollars nor more than two thousand dollars for each seven days the property was rented. This additional penalty may not be imposed unless the owner has received the notice provided pursuant to subsection (B). For purposes of enforcement and collection, this penalty is deemed property tax on the rental property.

Section 6-1-825. The South Carolina Department of Revenue shall identify websites containing ‘rent by owner’ vacation rental opportunities and request them to post a statement on the website that the owner of South Carolina rental properties is required to be licensed and to collect applicable local and state fees and taxes.”

Enforcement, sharing of data

SECTION 2. Section 6-1-120(B)(3) of the 1976 Code is amended to read:

"(3) sharing of data between public officials or employees in the performance of their duties, including the specific sharing of data as provided in Article 8 of this chapter, the Fairness in Lodging Act."

Data sharing allowed

SECTION 3. Section 12-54-240(B)(13) of the 1976 Code is amended to read:

"(13) disclosure and data sharing as provided pursuant to Article 8, Chapter 1, Title 6, the Fairness in Lodging Act;"

Duties of the Department of Revenue

SECTION 4. Section 12-4-310 of the 1976 Code is amended to read:

"Section 12-4-310. The department shall:

(1) hold meetings, as considered necessary. The department may hold meetings, transact business, or conduct investigations at any place necessary; however, its primary office is in Columbia;

(2) formulate and recommend legislation to enhance uniformity, enforcement, and administration of the tax laws, and secure just taxation and improvements in the system of taxation;

(3) consult and confer with the Governor upon the subject of taxation, the administration of the laws, and the progress of the work of the department, and furnish the Governor reports, assistance, and information he may require;

(4) prepare and publish, annually, statistics reasonably available with respect to the operation of the department, including amounts collected, and other facts it considers pertinent and valuable;

(5) make available to the authorities of a political subdivision information reported to the department pursuant to the requirements of Chapter 36 of this title of businesses licensed under Section 12-36-510 in the requesting political subdivision;

(6) hire all necessary personnel, including officers, agents, deputies, experts, and assistants, and assign to them duties and powers as the department prescribes;

(7) require those of its officers, agents, and employees it designates to give bond for the honest performance of their duties in the sum and with the sureties it determines; and all premiums on the bonds must be paid by the department;

(8) pay travel expenses, purchase, or lease all necessary facilities, equipment, books, periodicals, and supplies for the performance of its duties;

(9) exercise and perform other powers and duties as granted to it or imposed upon it by law;

(10) make available to the authorities of a municipality or county in this State levying a tax based on gross receipts or net taxable sales, any records indicating the amount of gross receipts or net taxable sales reported to the department; provided, however, that income tax records may be made available only if the department first has satisfied itself that the gross receipts reported to the municipality or county were less than the gross receipts as indicated by the records of the department; and

(11) provide data and assistance to municipalities and counties in which Article 8, Chapter 1, Title 6, the Fairness in Lodging Act, is implemented."

Time effective

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 262

(R282, S988)

AN ACT TO AMEND SECTION 27-2-105, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DUTIES OF THE SOUTH CAROLINA GEODETIC SURVEY (SCGS) WITH RESPECT TO DETERMINING COUNTY BOUNDARIES, SO AS TO AUTHORIZE THE SCGS TO CLARIFY COUNTY BOUNDARIES AND MEDIATE BOUNDARY DISPUTES BETWEEN COUNTIES BY PROVIDING A PROCEDURE ALLOWING THE SCGS ADMINISTRATIVELY TO ADJUST COUNTY BOUNDARIES, TO PROVIDE THE PROCEDURES INCLUDING NOTICE THAT SCGS MUST FOLLOW IN MAKING SUCH ADJUSTMENTS, TO PROVIDE THAT

AFFECTED PARTIES MAY FILE A REQUEST FOR A CONTESTED CASE ON THESE ADJUSTMENTS TO THE ADMINISTRATIVE LAW COURT, PROVIDE THE TIME WITHIN WHICH SUCH A REQUEST MUST BE FILED, AND PROVIDE FOR FURTHER APPEALS, TO PROVIDE THE METHOD OF DETERMINING THE EFFECTIVE DATE OF THESE ADMINISTRATIVE COUNTY BOUNDARY ADJUSTMENTS AND THE NOTICE REQUIREMENTS FOR THESE ADJUSTMENTS TO BE EFFECTIVE, AND TO PROVIDE THAT NOTHING CONTAINED IN THIS ADMINISTRATIVE PROCESS RESTRICTS THE AUTHORITY OF THE GENERAL ASSEMBLY BY LEGISLATIVE ENACTMENT TO ADJUST OR OTHERWISE CLARIFY COUNTY BOUNDARIES BY LEGISLATIVE ENACTMENT.

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

Findings

SECTION 1. (A) The General Assembly finds:

(1) that exact and precise locations of boundaries of this state's political subdivisions are critical for the efficient provision of services, enforcement of property rights, and election of public officials;

(2) that the passage of time and growth in society has led to confusion over statutory county descriptions and the locations of county boundary lines;

(3) that technology now exists to cost-effectively provide definite and permanent markers of boundary lines;

(4) that it is necessary for the effective and efficient operation of state government and its political subdivisions that county boundaries are clearly and accurately determined as expeditiously as possible; and

(5) that the South Carolina Geodetic Survey is the appropriate instrument to vest with the necessary authority to resolve county boundary issues.

(B) The General Assembly further finds that it is appropriate statutorily to allow the South Carolina Geodetic Survey, with appropriate procedural safeguards, administratively to adjust or otherwise clarify disputed or unclear boundaries. However, in providing the statutory administrative process and procedural safeguards in the amendments to Section 27-2-105 of the 1976 Code as contained in this act, the General Assembly in no way restricts the

plenary authority of the General Assembly by legislative enactment to adjust or otherwise clarify existing county boundaries.

Clarification of county boundaries, role of South Carolina Geodetic Survey

SECTION 2. Section 27-2-105 of the 1976 Code is amended to read:

"Section 27-2-105. (A)(1) Where county boundaries are ill-defined, unmarked, or poorly marked, the South Carolina Geodetic Survey on a cooperative basis shall assist counties in defining and monumenting the locations of county boundaries and positioning the monuments using geodetic surveys. The South Carolina Geodetic Survey (SCGS) shall seek to clarify the county boundaries as defined in Chapter 3, Title 4. The SCGS shall analyze archival and other evidence and perform field surveys geographically to position all county boundaries in accordance with statutory descriptions. Physical and descriptive points defining boundaries must be referenced using South Carolina State Plane Coordinates.

(2) If there is a boundary dispute between two or more counties, the SCGS shall act as the mediator to resolve the dispute.

(3) Upon reestablishing all, or some portion, of a county boundary, the SCGS shall certify its work and within thirty days of that certification:

(a) provide copies to the administrator of each affected county;

(b) provide written notification to affected parties;

(c) provide notice and copies to the public through its official website and or other means it considers appropriate; and

(d) notify as it determines appropriate, other affected state and federal agencies.

(4) For purposes of item (1), a certification for all or some portion of a county boundary means a plat signed and sealed by a licensed South Carolina Professional Land Surveyor and approved by the Chief of the SCGS.

(B)(1) An affected party disagreeing with a boundary certified by the SCGS may file a request for a contested case hearing with the South Carolina Administrative Law Court according to the court's rules of procedure. An affected party has sixty calendar days from the date of a written notice sent to the affected party to file an appeal with the Administrative Law Court.

(2) As used in this subsection an 'affected party' means:

(a) the governing body of an affected county;

(b) the governing body of a political subdivision of this State, including a school district, located in whole or in part in the certification zone;

(c) an elected official, other than a statewide elected official, whose electoral district is located in whole or in part in the certification zone;

(d) a property owner or an individual residing in the certification zone;

(e) a business entity located in the certification zone; or

(f) a nonresident individual who owns or leases real property situated in the certification zone.

(3) A 'certification zone' means the actual territory in which the boundary certification changes from one affected county to another.

(4) The decision of the Administrative Law Court may be appealed as provided in Section 1-23-610.

(5) The certified county boundary plat described in subsection (A)(4) of this section takes effect for all purposes on the date provided in item (6).

(6) When the certified boundary plat is no longer subject to appeal, the SCGS under cover of a letter signed by the Chief of the SCGS shall provide an appropriate revised boundary map to the Secretary of State, the South Carolina Department of Archives, and the register of deeds in each affected county. The date of the SCGS director's cover letter is the date the revised boundaries take effect.

(7) When all portions of a county boundary are resolved, the SCGS shall prepare a unique boundary description for counties with boundaries affected by the operation of this section and forward that description in a form suitable for the General Assembly to amend county boundaries as described in Chapter 3, Title 4.

(C) Nothing in this section may be construed as limiting or in any way restricting the plenary authority of the General Assembly by legislative enactment to adjust or otherwise clarify existing county boundaries, however, these boundaries may have been established."

Time effective

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

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 263

(R283, S1008)

AN ACT TO AMEND SECTION 9-8-10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS PERTAINING TO THE RETIREMENT SYSTEM FOR JUDGES AND SOLICITORS, SO AS TO INCLUDE ADMINISTRATIVE LAW JUDGES IN THE DEFINITION OF "JUDGE"; TO AMEND SECTION 9-8-40, AS AMENDED, RELATING TO MEMBERSHIP IN THE SYSTEM, SO AS TO ALLOW ADMINISTRATIVE LAW JUDGES SERVING ON JULY 1, 2014, TO ELECT TO BECOME A MEMBER; TO AMEND SECTION 9-8-60, AS AMENDED, RELATING TO THE RETIREMENT OF MEMBERS OF THE SYSTEM, SO AS TO ALLOW A PERSON TO RECEIVE A RETIREMENT ALLOWANCE WHILE UNDER EMPLOYMENT BY ANOTHER SYSTEM; TO AMEND SECTION 9-8-120, AS AMENDED, RELATING TO A MEMBER OF THE SYSTEM RETURNING TO SERVICE, SO AS TO IMPOSE A TEN THOUSAND DOLLAR EARNING LIMITATION ON MEMBERS RETURNING TO EMPLOYMENT UNDER ANOTHER SYSTEM, AND TO PROVIDE EXCEPTIONS; AND TO REPEAL SECTION 9-8-65 RELATING TO RETIREMENT COMPENSATION WHILE EMPLOYED BY A PUBLIC INSTITUTION OF EDUCATION.

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

Definition

SECTION 1. Section 9-8-10(16) of the 1976 Code is amended to read:

"(16) 'Judge' means a justice of the Supreme Court or a judge of the court of appeals, circuit or family court of the State of South

Carolina. Subject to the provisions of Section 9-8-40, 'judge' also means an administrative law judge."

Administrative Law Judge may become a member of Retirement System for Judges and Solicitors

SECTION 2. Section 9-8-40(1) of the 1976 Code, as last amended by Act 108 of 2007, is further amended to read:

"(1) All persons who are judges or solicitors on July 1, 1979, and who have not attained age seventy-two shall become members of the system as of that date. All administrative law judges on July 1, 2014, who have not retired may elect to become a member of the system. Administrative law judges making that election may transfer prior service into the system as provided in Section 9-8-50, and to the extent the service thus transferred occurred after the member took office as an administrative law judge, that service is deemed earned service in the system. All other persons become members of the system on taking office as judge, solicitor, or circuit public defender before attaining age seventy-two."

Retirement allowance while employed under another system, earnings limitation, repeal

SECTION 3. A. Section 9-8-60(1) of the 1976 Code, as last amended by Act 278 of 2012, is further amended to read:

"(1) A member of the system may retire upon written application to the board setting forth at what time, not later than the end of the calendar year in which the member attains age seventy-two and not more than ninety days prior nor more than six months subsequent to the execution and filing thereof, the member desires to be retired, if the member at the time so specified for retirement is no longer in the service of the State, except as a member of the General Assembly or as allowed pursuant to subsection (7), and has completed ten years of earned service as a judge or eight years of earned service as a solicitor or circuit public defender or was in service as a judge or solicitor on July 1, 1984, and has either:

(a) attained the age of sixty-five and completed at least twenty years of credited service;

(b) attained age seventy and completed at least fifteen years of credited service; or

(c) completed at least twenty-five years of credited service in the system for a judge, or twenty-four years of credited service in the system for a solicitor or circuit public defender, regardless of age. A member may retire under this section if the member was a member of this system as of June 30, 2004; attained age sixty-five with at least four years' earned service in the position of judge, solicitor, or circuit public defender; and, as of June 30, 2004, had a total of twenty-five years of credited service with the State in the South Carolina Retirement System, the Police Officers Retirement System, or the Retirement System for Members of the General Assembly.

A person receiving retirement allowances under this system who is elected to the General Assembly continues to receive the retirement allowances while serving in the General Assembly, and also must be a member of the retirement system unless the person files a statement with the board on a form prescribed by the board electing not to participate in the applicable system while a member of the General Assembly. A person making this election shall not make contributions to the applicable retirement system nor shall the State make contributions on the member's behalf and the person is not entitled to benefits from the applicable retirement system after ceasing to be a member of the General Assembly."

B. Section 9-8-120(2) of the 1976 Code, as last amended by Act 108 of 2007, is further amended to read:

"(2)(a) A retired member of the system who has been retired for at least thirty consecutive calendar days may be hired and return to employment covered by the South Carolina Retirement System or the South Carolina Police Officers Retirement System and earn up to ten thousand dollars without affecting the monthly retirement allowance the member is receiving from the system. If the retired member continues in service after earning ten thousand dollars in a calendar year, the member's allowance must be discontinued during his period of service in the remainder of the calendar year. If a retired member of the system returns to employment covered by the South Carolina Retirement System or South Carolina Police Officers Retirement System sooner than thirty days after retirement, the member's retirement allowance is suspended while the member remains employed by the participating employer. If an employer fails to notify the system of the engagement of a retired member to perform services, the employer shall reimburse the system for all benefits wrongly paid to the retired member. If the beneficiary's return is as a member of the

General Assembly, retirement allowances continue as provided pursuant to Section 9-8-60(1).

(b) The earnings limitation imposed pursuant to this item does not apply if the member meets at least one of the following qualifications:

(i) the member retired before July 1, 2014;

(ii) the member had attained the age of sixty-two years at retirement; or

(iii) compensation received by the retired member from the covered employer is for service in a public office filled by the appointment of the Governor and with confirmation by the Senate, by appointment or election by the General Assembly, or by election of the qualified electors of the applicable jurisdiction.

(c) A member retiring before July 1, 2014, is not subject to the thirty-day separation from service requirement pursuant to this item and the retired member's retirement allowance is not suspended if the retired member returns to employment covered by the South Carolina Retirement System or the Police Officers' Retirement System sooner than thirty days after retirement.

(d) If a participating employer in the South Carolina Retirement System or the South Carolina Police Officers Retirement System employs a retired member of the system, the retired member and the participating employer shall pay to the South Carolina Retirement System or the South Carolina Police Officers Retirement System, as applicable, the employee and employer contributions, respectively, that would be required if the member were an active contributing member of the applicable system. A retired member so employed may not become a member of the South Carolina Retirement System or the South Carolina Police Officers Retirement System and does not accrue service credit in either system by reason of the contributions required pursuant to this subitem."

C. Section 9-8-65 of the 1976 Code is repealed.

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 264

(R284, S1026)

AN ACT TO AMEND SECTION 29-5-440, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SUITS ON CONTRACTOR PAYMENT BONDS, SO AS TO PROVIDE THAT CERTAIN WRITTEN NOTICE REQUIRED OF A REMOTE CLAIMANT MUST BE SENT BY CERTIFIED OR REGISTERED MAIL AND MUST GENERALLY CONFORM WITH STATUTORY LIMITS ON THE AGGREGATE AMOUNT OF LIENS FILED BY A SUB-SUBCONTRACTOR OR SUPPLIER, TO PROVIDE ANY PAYMENT BOND SURETY FOR THE BONDED CONTRACTOR SHALL HAVE THE SAME RIGHTS AND DEFENSES OF THE BONDED CONTRACTOR, TO MAKE THE LANGUAGE APPLICABLE TO ANY PAYMENT BOND WHETHER PRIVATE, COMMON LAW, PUBLIC, OR STATUTORY IN NATURE, WHEN THE BONDS ARE NOT OTHERWISE REQUIRED OR GOVERNED BY STATUTE, AND TO PROVIDE NECESSARY DEFINITIONS; AND TO AMEND SECTION 11-1-120, RELATING TO SUITS ON PAYMENT BONDS AND REMOTE CLAIMANTS INVOLVING CONSTRUCTION CONTRACTS WITH THE STATE OR A POLITICAL SUBDIVISION OF THE STATE, SECTION 11-35-3030, RELATING TO CONTRACT PERFORMANCE PAYMENT BONDS UNDER THE CONSOLIDATED PROCUREMENT CODE, AND SECTION 57-5-1660, RELATING TO CONTRACTOR BONDS INVOLVING THE DEPARTMENT OF TRANSPORTATION, ALL SO AS TO MAKE CONFORMING CHANGES.

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

Notice for remote claimants, rights and defenses of payment bond sureties, definitions

SECTION 1. Section 29-5-440 of the 1976 Code is amended to read:

"Section 29-5-440. Every person who has furnished labor, material, or rental equipment to a bonded contractor or its subcontractors in the prosecution of work provided for in any contract for construction, and who has not been paid in full therefor before the expiration of a period of ninety days after the day on which the last of the labor was done or performed by him or material or rental equipment was furnished or supplied by him for which such claim is made, shall have the right to sue on the payment bond for the amount, or the balance thereof, unpaid at the time of the institution of such suit and to prosecute such action to final execution and judgment for the sum or sums justly due him.

A remote claimant shall have a right of action on the payment bond only upon giving written notice by certified or registered mail to the bonded contractor within ninety days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material or rental equipment upon which such claim is made. However, in no event shall the aggregate amount of any claim against such payment bond by a remote claimant exceed the amount due by the bonded contractor to the person to whom the remote claimant has supplied labor, materials, rental equipment, or services, unless the remote claimant has provided notice of furnishing labor, materials, or rental equipment to the bonded contractor. Such written notice to the bonded contractor must generally conform to the requirements of Section 29-5-20(B) and sent by certified or registered mail to the bonded contractor at any place the bonded contractor maintains a permanent office for the conduct of its business, or at the current address as shown on the records of the Department of Labor, Licensing and Regulation. After receiving the notice of furnishing labor, materials, or rental equipment, no payment by the bonded contractor shall lessen the amount recoverable by the remote claimant. However, in no event shall the aggregate amount of claims on the payment bond exceed the penal sum of the bond.

No suit under this section shall be commenced after the expiration of one year after the last date of furnishing or providing labor, services, materials, or rental equipment.

For purposes of this section, 'bonded contractor' means a contractor or subcontractor furnishing a payment bond, and 'remote claimant' means a person having a direct contractual relationship with a subcontractor or supplier of a bonded contractor, but no contractual relationship expressed or implied with the bonded contractor. Any

payment bond surety for the bonded contractor must have the same rights and defenses of the bonded contractor as provided in this section.

This section shall apply to any payment bond, whether statutory, public, common law, or private in nature, that is issued in connection with a construction project or other improvements to real property within South Carolina when such payment bonds are not otherwise required or governed by any other applicable section of the South Carolina Code of Laws.

For the purposes of this section:

(1) 'Statutory bonds' or 'public bonds' means bonds that are either:

(a) provided because required by statute and in accordance with the minimum guidelines set forth in this section; or

(b) contain either express or implied reference to the provisions of this section.

(2) 'Common law bonds' or 'private bonds' means bonds that are either:

(a) not required by statute, such as a bond voluntarily provided to meet a contractual agreement between parties; or

(b) required by statute but that specifically deviates from the statutory requirements to provide broader protection."

State and political subdivisions, conforming changes

SECTION 2. Section 11-1-120 of the 1976 Code is amended to read:

"Section 11-1-120. When the State or a county, city, public service district, or other political subdivision thereof, or other public entity contracts for construction and requires the person or entity performing the work to furnish a payment bond not governed by Section 11-35-3030(2)(c) or Section 57-5-1660(b), for the protection of persons who furnish labor, material, or rental equipment to the contractor or its subcontractors for the work specified in the contract, the following provisions shall apply.

Every person who has furnished labor, material, or rental equipment to a bonded contractor or its subcontractors in the prosecution of the work provided for in the contract for construction, and who has not been paid in full therefor before the expiration of a period of ninety days after the day on which the last of the labor was done or performed by him or material or rental equipment was furnished or supplied by him for which such claim is made, shall have the right to sue on such bond for the amount, or the balance thereof, unpaid at the time of the

institution of such suit and to prosecute such action to final execution and judgment for the sum or sums justly due him.

A remote claimant shall have a right of action on the payment bond only upon giving written notice by certified or registered mail to the bonded contractor within ninety days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material or rental equipment upon which such claim is made. However, in no event shall the aggregate amount of any claim against such payment bond by a remote claimant exceed the amount due by the bonded contractor to the person to whom the remote claimant has supplied labor, materials, rental equipment, or services, unless the remote claimant has provided notice of furnishing labor, materials, or rental equipment to the bonded contractor. Such written notice to the bonded contractor must generally conform to the requirements of Section 29-5-20(B) and sent by certified mail or registered mail to the bonded contractor at any place the bonded contractor maintains a permanent office for the conduct of its business, or at the current address as shown on the records of the Department of Labor, Licensing and Regulation. After receiving the notice of furnishing labor, materials, or rental equipment, no payment by the bonded contractor shall lessen the amount recoverable by the remote claimant. However, in no event shall the aggregate amount of claims on the payment bond exceed the penal sum of the bond.

No suit under this section shall be commenced after the expiration of one year after the last date of providing or furnishing labor, materials, rental equipment, or services.

For purposes of this section, 'bonded contractor' means a contractor or subcontractor furnishing a payment bond, and 'remote claimant' means a person having a direct contractual relationship with a subcontractor or supplier of a bonded contractor, but no contractual relationship expressed or implied with the bonded contractor. Any payment bond surety for the bonded contractor must have the same rights and defenses of the bonded contractor as provided in this section.

If the State, or county, city, public service district, or other political subdivision of the State, or other public entity contracts for construction and requires the contractor to furnish a payment bond pursuant to this section, the State, political subdivision of this State, or other public entity of this State may not exact that the payment bond be furnished by a particular surety company or through a particular agent or broker."

Consolidated procurement code, conforming changes

SECTION 3. Section 11-35-3030(2)(c) of the 1976 Code is amended to read:

"(c) Suits on Payment Bonds-Right to Institute. A person who has furnished labor, material, or rental equipment to a bonded contractor or his subcontractors for the work specified in the contract, and who has not been paid in full for it before the expiration of a period of ninety days after the day on which the last of the labor was done or performed by the person or material or rental equipment was furnished or supplied by the person for which the claim is made, has the right to sue on the payment bond for the amount, or the balance of it, unpaid at the time of institution of the suit and to prosecute the action for the sum or sums justly due the person. A remote claimant has a right of action on the payment bond only upon giving written notice to the contractor within ninety days from the date on which the person did or performed the last of the labor or furnished or supplied the last of the material or rental equipment upon which the claim is made, stating with substantial accuracy the amount claimed as unpaid and the name of the party to whom the material or rental equipment was furnished or supplied or for whom the labor was done or performed. The written notice to the bonded contractor must be served personally or served by mailing the notice by registered or certified mail, postage prepaid, in an envelope addressed to the bonded contractor at any place the bonded contractor maintains a permanent office for the conduct of its business, or at the current address as shown on the records of the Department of Labor, Licensing and Regulation. The aggregate amount of a claim against the payment bond by a remote claimant may not exceed the amount due by the bonded contractor to the person to whom the remote claimant has supplied labor, materials, rental equipment, or services, unless the remote claimant has provided notice of furnishing labor, materials, or rental equipment to the bonded contractor. The written notice to the bonded contractor must generally conform to the requirements of Section 29-5-20(B) and sent by certified or registered mail to the bonded contractor at any place the bonded contractor maintains a permanent office for the conduct of its business, or at the current address as shown on the records of the Department of Labor, Licensing and Regulation. After receiving the notice of furnishing labor, materials, or rental equipment, payment by the bonded contractor may not lessen the amount recoverable by the remote claimant. The aggregate amount of claims on the payment bond may not exceed the

penal sum of the bond. A suit under this section must not be commenced after the expiration of one year after the last date of furnishing or providing labor, services, materials, or rental equipment.

For purposes of this section, 'bonded contractor' means the contractor or subcontractor furnishing the payment bond, and 'remote claimant' means a person having a direct contractual relationship with a subcontractor or supplier of a bonded contractor, but no expressed or implied contractual relationship with the bonded contractor. Any payment bond surety for the bonded contractor must have the same rights and defenses of the bonded contractor as provided in this section."

Department of Transportation, conforming changes

SECTION 4. Section 57-5-1660(b) of the 1976 Code is amended to read:

"(b) Every person who has furnished labor, material, or rental equipment in the prosecution of the work provided for in such contract, in respect of which such a bond has been furnished under this section and who has not been paid in full therefor before the expiration of a period of ninety days after the day on which the last of the labor was done or performed by him or material or rental equipment was furnished or supplied by him for which such claim is made, shall have the right to sue on such bond for the amount, or the balance thereof, unpaid at the time of the institution of such suit and to prosecute such action to final execution and judgment for the sum or sums justly due him. A remote claimant shall have a right of action upon the bond only upon giving written notice by certified or registered mail to the contractor within ninety days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material or rental equipment for which claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom material or rental equipment was furnished or supplied or for whom labor was done or performed. However, in no event shall the aggregate amount of any claim against such payment bond by a remote claimant exceed the amount due by the bonded contractor to the person to whom the remote claimant has supplied labor, materials, rental equipment, or services, unless the remote claimant has provided notice of furnishing labor, materials, or rental equipment to the bonded contractor. Such written notice to the bonded contractor must generally conform to the requirements of Section 29-5-20(B) and sent by

certified or registered mail to the bonded contractor at any place the bonded contractor maintains a permanent office for the conduct of his business, or at the current address as shown on the records of the Department of Labor, Licensing and Regulation. After receiving the notice of furnishing labor, materials, or rental equipment, no payment by the bonded contractor shall lessen the amount recoverable by the remote claimant. However, in no event shall the aggregate amount of claims on the payment bond exceed the penal sum of the bond.

For purposes of this section, 'bonded contractor' means the contractor or subcontractor furnishing the payment bond, and 'remote claimant' means a person having a direct contractual relationship with a subcontractor or supplier, but no contractual relationship expressed or implied with the bonded contractor. No suit under this section shall be commenced after the expiration of one year after the date of the final settlement of the contract. Any payment bond surety for the bonded contractor must have the same rights and defenses of the bonded contractor as provided in this section."

Time effective

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 265

(R285, S1099)

AN ACT TO AMEND SECTION 41-27-260, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXEMPTIONS FROM THE DEFINITION OF EMPLOYMENT FOR UNEMPLOYMENT BENEFIT PURPOSES, SO AS TO PROVIDE EXEMPTIONS FOR MOTOR CARRIERS THAT USE INDEPENDENT CONTRACTORS AND INDIVIDUALS TRANSPORTING VEHICLES FOR AUTOMOBILE DEALERS UNDER CERTAIN CIRCUMSTANCES.

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

Exemptions for motor carriers using independent contractors and automobile transports for dealers

SECTION 1. Section 41-27-260 of the 1976 Code, as last amended by Act 63 of 2011, is further amended by adding appropriately numbered items at the end to read:

"(19) An individual or entity who owns, or holds under a bona fide lease purchase or installment-purchase agreement, a tractor trailer, tractor, or other vehicle and who, under a valid independent contractor contract provides services as a driver of the tractor trailer, tractor, or other vehicle to a motor carrier.

(20) An individual performing a service for an automobile dealer related to the transportation of individual vehicles to purchasers or sellers of vehicles, including, but not limited to, when:

(a) an automobile auction is the purchaser, seller, or both;

(b) the contract of service contemplates that the service is to be performed personally by the individual;

(c) the individual does not own the vehicle used in connection with the performance of the service;

(d) the service is in the nature of a single transaction with no guarantee of a continuing relationship with the automobile dealer for whom the service is performed; or

(e) any combination of subitems (a) through (d)."

Time effective

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

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 266

(R286, S1100)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 41-27-265 SO AS TO

EXEMPT CORPORATE OFFICERS FROM UNEMPLOYMENT BENEFITS UNLESS THE EMPLOYER ELECTS COVERAGE PURSUANT TO SPECIFIED PROCEDURES, AND TO COMPLY WITH FEDERAL MANDATES BY PROVIDING EXEMPTIONS FOR INDIVIDUALS EMPLOYED BY AN INDIAN TRIBE AND FOR INDIVIDUALS EMPLOYED BY ORGANIZATIONS THAT ARE RELIGIOUS, CHARITABLE, OR EDUCATIONAL IN NATURE, OR AS OTHERWISE DEFINED BY FEDERAL LAW.

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

Corporate officers exempt absent employer election, procedure, exceptions

SECTION 1. Article 3, Chapter 27, Title 41 of the 1976 Code is amended by adding:

"Section 41-27-265. (A) Solely for purposes of this title, services performed by a person appointed or otherwise serving as an officer for a corporation pursuant to Article 4, Chapter 8, Title 33 shall not be considered services in employment. However, a corporation may elect to cover not less than all of its corporate officers under subsection (B). If an employer does not elect to cover its corporate officers under subsection (B), the employer must notify its corporate officers in writing that they are ineligible for unemployment benefits. However, if the employer fails to provide notice, the individual's status as a corporate officer is unchanged and the person remains ineligible for unemployment benefits.

(B) An employer may elect to cover its corporate officers by providing the department with a written election that all services performed by its corporate officers shall be deemed to constitute employment for all purposes related to Chapters 27 through 41 of this title for at least two calendar years. Upon written approval of the election by the department, the services shall be deemed to constitute employment for purposes of Chapters 27 through 41 of this title on and after the date of approval. Services covered under this subsection shall cease to be deemed employment as of January first of any calendar year subsequent to the two calendar year period, only if the employer files a written application for termination of coverage with the department before January fifteenth of that year.

(C)(1) Services performed by an individual employed by a religious, charitable, educational, or other organization which is excluded from the term 'employment' as defined in the federal Unemployment Tax Act solely by reason of 26 U.S.C. Section 3306(c)(8) of that act are not subject to the provisions of this section.

(2) Services performed by an individual employed by an Indian tribe, as defined in 26 U.S.C. Section 3306(u) of the federal Unemployment Tax Act, provided that the service is excluded from the term 'employment' as defined in the federal Unemployment Tax Act solely by reason of 26 U.S.C. Section 3306(c)(7) of that act are not subject to the provisions of this section."

Time effective

SECTION 2. This act takes effect January 1, 2015.

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 267

(R291, H3021)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 57 TO TITLE 11 SO AS TO ENACT THE IRAN DIVESTMENT ACT OF 2014 AND TO PROHIBIT CERTAIN INVESTMENTS AND CONTRACTS WITH PERSONS DEEMED TO BE ENGAGING IN INVESTMENT ACTIVITIES IN IRAN.

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

Iran Divestment Act

SECTION 1. Title 11 of the 1976 Code is amended by adding:

"CHAPTER 57

Iran Divestment Act

Article 1

General Provisions

Section 11-57-10. This chapter may be cited as the 'Iran Divestment Act of 2014'.

Section 11-57-20. The General Assembly finds that:

(1) Congress and the President have determined that the illicit nuclear activities of the Government of Iran, combined with its development of unconventional weapons and ballistic missiles, and its support of international terrorism, represent a serious threat to the security of the United States, Israel, and other United States allies in Europe, the Middle East, and around the world.

(2) The International Atomic Energy Agency has repeatedly called attention to Iran's unlawful nuclear activities, and, as a result, the United Nations Security Council has adopted a range of sanctions designed to encourage the Government of Iran to cease those activities and comply with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons.

(3) On July 1, 2010, President Barack Obama signed into law H.R. 2194, the 'Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010' (Public Law 111-195), which expressly authorizes states and local governments to prevent investment in, including prohibiting entry into or renewing contracts with, companies operating in Iran's energy sector with investments that have the result of directly or indirectly supporting the efforts of the Government of Iran to achieve nuclear weapons capability.

(4) The serious and urgent nature of the threat from Iran demands that states, local governments, and private institutions work together with the federal government and American allies to do everything possible diplomatically, politically, and economically to prevent Iran from acquiring a nuclear weapons capability.

(5) Respect for human rights in Iran has steadily deteriorated as demonstrated by transparently fraudulent elections and the brutal repression and murder, arbitrary arrests, and show trials of peaceful dissidents.

(6) The concerns of the State of South Carolina regarding Iran are strictly the result of the actions of the Government of Iran and should not be construed as enmity towards the Iranian people.

(7) In order to effectively address the need for this State to respond to the policies of Iran in a uniform fashion, prohibiting contracts with persons engaged in investment activities in the energy sector of Iran must be accomplished on a statewide basis.

(8) It is the intent of the General Assembly to fully implement the authority granted under Section 202 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Public Law 111-195).

Section 11-57-30. As used in this chapter:

(1) 'Energy sector of Iran' means activities to develop petroleum or natural gas resources or nuclear power in Iran.

(2) 'Financial institution' means the term as used in Section 14 of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note).

(3) 'Investment' means a commitment or contribution of funds or property, whatever the source, a loan or other extension of credit, and the entry into or renewal of a contract for goods or services. It does not include indirect beneficial ownership through index funds, commingled funds, limited partnerships, derivative instruments, or the like.

(4) 'Iran' includes the Government of Iran and any agency or instrumentality of Iran.

(5) 'Person' means any of the following:

(a) a natural person, corporation, company, limited liability company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group;

(b) any governmental entity or instrumentality of a government, including a multilateral development institution, as defined in Section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3));

(c) any successor, subunit, parent entity, or subsidiary of, or any entity under common ownership or control with, any entity described in subitems (a) and (b) of this item.

(6) 'State agency' means each state board, commission, department, executive department or officer, institution, and instrumentality.

Section 11-57-40. This chapter does not apply to a procurement or contract valued at one thousand dollars or less.

Article 3

State Divestment

Section 11-57-300. For purposes of this chapter, a person engages in investment activities in Iran if:

(1) the person provides goods or services of twenty million dollars or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or

(2) the person is a financial institution that extends twenty million dollars or more in credit to another person, for forty-five days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list, created pursuant to Section 11-57-310, as a person engaging in investment activities in Iran as described in this section.

Section 11-57-310. (A)(1) No more than one hundred twenty days after the effective date of this act, the Executive Director of the State Budget and Control Board shall develop or contract to develop, using credible information available to the public, a list of persons it determines engage in investment activities in Iran as described in Section 11-57-310. If the executive director has contracted to develop the list, the list shall be finally developed no more than one hundred twenty days after the effective date of this act. The list, when completed, shall be posted on the website of the State Budget and Control Board.

(2) The executive director shall update the list every one hundred eighty days.

(3) Before finalizing an initial list or an updated list, the executive director must do all of the following before a person is included on the list:

(a) Provide ninety days' written notice of the executive director's intent to include the person on the list. The notice shall inform the person that inclusion on the list would make the person ineligible to contract with the State. The notice shall specify that the person, if it ceases its engagement in investment activities in Iran, may be removed from the list.

(b) The executive director shall provide a person with an opportunity to comment in writing that it is not engaged in investment activities in Iran. If the person demonstrates to the executive director

that the person is not engaged in investment activities in Iran, the person shall not be included on the list.

(4) The executive director shall make every effort to avoid erroneously including a person on the list.

(B) A person that is identified on a list created pursuant to subsection (A) as a person engaging in investment activities in Iran as described in Section 11-57-300, is ineligible to contract with the State.

(C) Any contract entered into with a person that is ineligible to contract with the State shall be void ab initio.

Section 11-57-320. Notwithstanding Section 11-57-310, a person engaged in investment activities in Iran as described in Section 11-57-300, may contract with the State, on a case-by-case basis, if:

(1) the investment activities in Iran were made before the effective date of this act, the investment activities in Iran have not been expanded or renewed after the effective date of this act, and the person has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

(2) the state agency makes a determination that the commodities or services are necessary to perform its functions and that, absent such an exemption, the state agency would be unable to obtain the commodities or services for which the contract is offered. Such determination shall be entered into the procurement record.

Section 11-57-330. (A) A state agency or entity shall require a person that attempts to contract with the State, including a contract renewal or assumption, to certify, at the time the bid is submitted or the contract is entered into, renewed, or assigned, that the person or the assignee is not identified on a list created pursuant to Section 11-57-310. A state agency shall include certification information in the procurement record.

(B) A person that contracts with the State, including a contract renewal or assumption, shall not utilize, on the contract with the state agency or entity, any subcontractor that is identified on a list created pursuant to Section 11-57-310.

(C) Upon receiving information that a person who has made the certification required by subsection (A) is in violation thereof, the state agency or entity shall review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of this act within ninety days after the determination of such violation, then the

state agency or entity shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the contractor in default.

Section 11-57-340. The executive director shall report to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Governor annually by October first, on the status of the federal 'Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010' (Public Law 111-195), the 'Iran Divestment Act of 2014', and any rules or regulations adopted thereunder.

Article 5

Political Subdivision Divestment

Section 11-57-500. A person that is identified on a list created pursuant to Section 11-57-310, as a person engaging in investment activities in Iran as described in Section 11-57-300 shall be ineligible to contract with any political subdivision of this State, and any contract entered into with a political subdivision of this State shall be void ab initio.

Section 11-57-510. (A) After this act takes effect, every bid or proposal made to a political subdivision of the State or any public department, agency, or official thereof where competitive bidding is required by statute, rule, regulation, or local law, for work or services performed or to be performed or goods sold or to be sold, shall contain the following statement subscribed by the bidder and affirmed by such bidder as true under the penalties of perjury: 'By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to Section 11-57-310.'

(B) Notwithstanding subsection (A), the statement of noninvestment in the Iranian energy sector may be submitted electronically.

(C) A bid shall not be considered for award nor shall any award be made where the condition set forth in subsection (A) has not been complied with; provided, however, that if in any case the bidder cannot

make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. A political subdivision may award a bid to a bidder who cannot make the certification pursuant to subsection (A), on a case-by-case basis, if:

(1) the investment activities in Iran were made before the effective date of this act, the investment activities in Iran have not been expanded or renewed after the effective date of this act, and the person has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

(2) the political subdivision makes a determination that the goods or services are necessary for the political subdivision to perform its functions and that, absent such an exemption, the political subdivision would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

Article 7

Prohibition on Iranian Investment

Section 11-57-700. (A) Neither the Retirement System Investment Commission or the State Treasurer may invest funds with a person that is identified on a list created pursuant to Section 11-57-310 as a person engaging in investment activities in Iran as described in Section 11-57-300.

(B) Any existing investments in violation of subsection (A) as of the effective date of this act, must be divested within one hundred twenty days of the effective date of this act.

Section 11-57-710. Notwithstanding Section 11-57-700, an investment may be made in a person engaged in investment activities in Iran as described in Section 11-57-300, on a case-by-case basis, if:

(1) the investment activities in Iran were made before the effective date of this act, the investment activities in Iran have not been expanded or renewed after the effective date of this act, and the person has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

(2) the investor makes a determination that the investments are necessary to perform its functions.

Section 11-57-720. Nothing in this article requires the Retirement System Investment Commission or its agents or contract investment managers to take action as described in this article unless it is determined, in good faith, that the action described in this article is consistent with the fiduciary responsibilities of the commission or its agents or contract investment managers as described in Chapter 16, Title 9, and there are appropriated funds of the State to absorb the expenses necessary to implement this article.

Section 11-57-730. Present, future, and former board members, officers, and employees of the State Budget and Control Board, the Public Employee Benefit Authority, the Retirement System Investment Commission, and contract investment managers and agents retained by the commission, as well as present, future, and former State Treasurers, officers, and employees of the State Treasurer, and contract investment managers and agents retained by the State Treasurer must be indemnified from the General Fund of the State and held harmless by the State from all claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, including court costs and attorney's fees, and against all liability, losses, and damages of any nature whatsoever that these present, future, or former board members, officers, employees, agents or contract investment managers shall or may at any time sustain by reason of any decision to restrict, reduce, or eliminate investments pursuant to this chapter.

Section 11-57-740. The restrictions provided for in this chapter apply only until:

(1) the President or Congress of the United States, by means including, but not limited to, legislation, executive order, or written certification, declares that divestment of the type provided for in this chapter interferes with the conduct of United States foreign policy; or

(2) the United States revokes its current sanctions against Iran."

Notice to Attorney General of the United States

SECTION 2. The Secretary of State, in consultation with the South Carolina Attorney General, shall submit to the Attorney General of the United States a written notice describing this act within thirty days after the effective date of this act.

Severability

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this Act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 4. This act takes effect ninety days after approval by the Governor. However, immediately upon approval by the Governor, any rule or regulation that must be amended or repealed to implement this act is authorized.

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 268

(R296, H3459)

AN ACT TO AMEND SECTION 40-2-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA BOARD OF ACCOUNTANCY, SO AS TO PROVIDE THE DIRECTOR OF DEPARTMENT OF LABOR, LICENSING AND REGULATION SHALL DESIGNATE ONE FULL-TIME ADMINISTRATOR WHO IS A LICENSED CERTIFIED PUBLIC ACCOUNTANT IN THIS STATE TO SERVE AS FULL-TIME ADMINISTRATOR OF THE BOARD, TO REQUIRE ADVICE AND CONSENT OF THE BOARD IN MAKING THIS DESIGNATION, TO PROVIDE THE PRIMARY RESPONSIBILITY OF THE ADMINISTRATOR IS TO ADMINISTER THE BOARD BUT THAT HE MAY BE

ASSIGNED ADDITIONAL DUTIES AND RESPONSIBILITIES WITHIN THE DEPARTMENT BY THE DIRECTOR IF THE ADDITIONAL DUTIES AND RESPONSIBILITIES DO NOT UNREASONABLY OCCUPY THE ADMINISTRATOR'S TIME, AND TO PROVIDE THE DIRECTOR MAY TERMINATE THE ADMINISTRATOR; TO AMEND SECTION 40-2-30, RELATING TO THE PRACTICE OF ACCOUNTANCY, SO AS TO EXEMPT A LICENSEE FROM LICENSURE REQUIREMENTS OF PRIVATE SECURITY AND INVESTIGATION AGENCIES; TO AMEND SECTION 40-2-70, RELATING TO POWERS AND DUTIES OF THE BOARD, SO AS TO PROVIDE THE BOARD MAY CONDUCT PERIODIC INSPECTIONS OF LICENSEES OR FIRMS IN A CERTAIN MANNER, AND TO PROVIDE FOR COMPLAINTS; AND TO AMEND SECTION 40-2-80, RELATING TO INVESTIGATIONS OF ALLEGED VIOLATIONS, SO AS TO PROVIDE THE DEPARTMENT SHALL DIRECT THE INVESTIGATOR ASSIGNED TO THE BOARD TO INVESTIGATE AN ALLEGED VIOLATION TO DETERMINE THE EXISTENCE OF PROBABLE CAUSE MERITING FURTHER PROCEEDINGS.

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

Administrator requirements, termination by LLR director

SECTION 1. Section 40-2-10 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

"( )(1) The director, with the advice and consent of the board, shall designate for the use of the board one full-time administrator who is a certified public accountant licensed in this State. The administrator's primary responsibility is to administer the board; provided, however, that the director may assign to the administrator additional duties and responsibilities within the department so long as the additional duties and responsibilities do not unreasonably occupy the administrator's time so that he does not thoroughly fulfill his duties and responsibilities to the board.

(2) A person employed by the board under this section may be terminated by the director."

Licensee exempt from private security and investigator requirements

SECTION 2. Section 40-2-30 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

"( ) Notwithstanding another provision of law, a licensed certified public accountant while in the performance of his duties is exempt from the licensing requirements of Chapter 18 of this title."

Powers and duties, investigations and complaints

SECTION 3. Section 40-2-70 of the 1976 Code is amended to read:

"Section 40-2-70. In addition to the powers and duties provided in Section 40-1-70, the board may:

(1) determine the eligibility of applicants for examination and licensure;

(2) examine applicants for licensure including, but not limited to:

(a) prescribing the subjects, character, and manner of licensing examinations;

(b) preparing, administering, and grading the examination or assisting in the selection of a contractor to prepare, administer, or grade the examination; and

(c) charging, or authorizing a third party administering the examination to charge, each applicant a fee in an adequate amount to cover examination costs;

(3) establish criteria for issuing, renewing, and reactivating authorizations for qualified applicants to practice, including issuing active or permanent, temporary, limited, and inactive licenses or other categories as may be created;

(4) adopt a code of professional ethics appropriate to the profession;

(5) evaluate and approve continuing education course hours and programs;

(6) conduct periodic inspections of licensees or firms with notice to the licensee or firm of at least three business days, and if upon inspection a violation is found, a formal complaint shall be filed and the customary procedures for complaints must be followed;

(7) conduct hearings on alleged violations of this chapter and regulations promulgated under this chapter;

(8) participate in national efforts to regulate the accounting profession;

(9) discipline licensees or registrants in a manner provided for in this chapter;

(10) project future activity of the program based on historical trends and program requirements, including the cost of licensure and renewal, conducting investigations and proceedings, participating in national efforts to regulate the accounting profession, and providing educational programs for the benefit of the public and licensees and their employees;

(11) issue safe harbor language nonlicensees may use in connection with financial statements, transmittals, or financial information which does not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS);

(12) promulgate regulations that have been submitted to the director at least thirty days in advance of filing with the Legislative Council as required by Section 1-23-30, including, but not limited to, a schedule of fees for examination, licensure, and regulation; and

(13) promulgate standards for peer review."

Inspector-investigator requirements, department reports

SECTION 4. Section 40-2-80(B) of the 1976 Code is amended to read:

"(B)(1) An investigation of a licensee pursuant this chapter must be performed by an inspector-investigator who has been licensed as a certified public accountant in this State for at least five years. The inspector-investigator must report the results of his investigation to the board no later than one hundred fifty days after the date upon which he initiated his investigation. If the inspector-investigator has not completed his investigation by that date, then the board may extend the investigation for a period defined by the board. The board may grant subsequent extensions to complete the investigation as needed. The inspector-investigator may designate additional persons of appropriate competency to assist in an investigation.

(2) The department shall annually post a report related to the number of complaints received, the number of investigations initiated, the average length of investigations, and the number of investigations that exceeded one hundred fifty days."

Lapsed licenses, "accounting practitioner" included

SECTION 5. Section 40-2-250(F) of the 1976 Code is amended to read:

"(F) A certified public accountant, accounting practitioner, or public accountant whose license has lapsed or has been inactive for:

(1) fewer than three years, the license may be reinstated by applying to the board, submitting proof of completing forty continuing education units for each year the license has lapsed or has been inactive, and paying the reinstatement fee;

(2) three or more years, the license may be reinstated upon completion of six months of additional experience, and one hundred and twenty hours of continuing education;

(3) an indefinite period and has active status outside of this State may reinstate the license by submitting an application under Section 40-2-240."

Annual report from LLR

SECTION 6. The Director of the Department of Labor, Licensing and Regulation must submit an annual report to the Chairmen of the Senate and House Committees on Labor, Licensing and Regulation concerning the workload of the Accountancy Board's Administrator, specifically addressing the amount of time that the administrator must devote to the work of the Accountancy Board compared to the amount of time that he must devote to other duties and responsibilities. The other duties and responsibilities, and the time devoted to them, must be itemized in the report.

Time effective

SECTION 7. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 269

(R298, H3959)

AN ACT TO AMEND SECTION 16-15-395, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR, SO AS TO INCLUDE THE APPEARANCE OF A MINOR IN A STATE OF SEXUALLY EXPLICIT NUDITY WHEN A REASONABLE PERSON WOULD INFER THE PURPOSE IS SEXUAL STIMULATION IN THE PURVIEW OF THE OFFENSE; TO AMEND SECTION 16-15-405, AS AMENDED, RELATING TO SECOND DEGREE SEXUAL EXPLOITATION OF A MINOR, SO AS TO INCLUDE THE APPEARANCE OF A MINOR IN A STATE OF SEXUALLY EXPLICIT NUDITY WHEN A REASONABLE PERSON WOULD INFER THE PURPOSE IS SEXUAL STIMULATION IN THE PURVIEW OF THE OFFENSE; AND TO AMEND SECTION 16-15-410, AS AMENDED, RELATING TO THIRD DEGREE SEXUAL EXPLOITATION OF A MINOR, SO AS TO INCLUDE THE APPEARANCE OF A MINOR IN A STATE OF SEXUALLY EXPLICIT NUDITY WHEN A REASONABLE PERSON WOULD INFER THE PURPOSE IS SEXUAL STIMULATION IN THE PURVIEW OF THE OFFENSE.

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

Sexual exploitation of a minor, first degree

SECTION 1. Section 16-15-395 of the 1976 Code, as last amended by Act 208 of 2004, is further amended to read:

"Section 16-15-395. (A) An individual commits the offense of first degree sexual exploitation of a minor if, knowing the character or content of the material or performance, he:

(1) uses, employs, induces, coerces, encourages, or facilitates a minor to engage in or assist others to engage in sexual activity or appear in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation for a live performance or for the purpose of producing material that contains a visual representation depicting this activity or a state of sexually explicit

nudity when a reasonable person would infer the purpose is sexual stimulation;

(2) permits a minor under his custody or control to engage in sexual activity or appear in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation for a live performance or for the purpose of producing material that contains a visual representation depicting this activity or a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation;

(3) transports or finances the transportation of a minor through or across this State with the intent that the minor engage in sexual activity or appear in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation for a live performance or for the purpose of producing material that contains a visual representation depicting this activity or a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation; or

(4) records, photographs, films, develops, duplicates, produces, or creates a digital electronic file for sale or pecuniary gain material that contains a visual representation depicting a minor engaged in sexual activity or a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation.

(B) In a prosecution pursuant to this section, the trier of fact may infer that a participant in a sexual activity or a state of sexually explicit nudity depicted in material as a minor through its title, text, visual representations, or otherwise, is a minor.

(C) Mistake of age is not a defense to a prosecution pursuant to this section.

(D) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned for not less than three years nor more than twenty years. No part of the minimum sentence of imprisonment may be suspended nor is the individual convicted eligible for parole until he has served the minimum term of imprisonment. Sentences imposed pursuant to this section must run consecutively with and commence at the expiration of another sentence being served by the person sentenced."

Sexual exploitation of a minor, second degree

SECTION 2. Section 16-15-405 of the 1976 Code, as last amended by Act 208 of 2004, is further amended to read:

"Section 16-15-405. (A) An individual commits the offense of second degree sexual exploitation of a minor if, knowing the character or content of the material, he:

(1) records, photographs, films, develops, duplicates, produces, or creates digital electronic file material that contains a visual representation of a minor engaged in sexual activity or appearing in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation; or

(2) distributes, transports, exhibits, receives, sells, purchases, exchanges, or solicits material that contains a visual representation of a minor engaged in sexual activity or appearing in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation.

(B) In a prosecution pursuant to this section, the trier of fact may infer that a participant in sexual activity or a state of sexually explicit nudity depicted in material as a minor through its title, text, visual representations, or otherwise, is a minor.

(C) Mistake of age is not a defense to a prosecution pursuant to this section.

(D) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not less than two years nor more than ten years. No part of the minimum sentence may be suspended nor is the individual convicted eligible for parole until he has served the minimum sentence."

Sexual exploitation of a minor, third degree

SECTION 3. Section 16-15-410 of the 1976 Code, as last amended by Act 226 of 2008, is further amended to read:

"Section 16-15-410. (A) An individual commits the offense of third degree sexual exploitation of a minor if, knowing the character or content of the material, he possesses material that contains a visual representation of a minor engaging in sexual activity or appearing in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation.

(B) In a prosecution pursuant to this section, the trier of fact may infer that a participant in sexual activity or a state of sexually explicit nudity depicted as a minor through its title, text, visual representation, or otherwise, is a minor.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than ten years.

(D) This section does not apply to an employee of a law enforcement agency, including the State Law Enforcement Division, a prosecuting agency, including the South Carolina Attorney General's Office, or the South Carolina Department of Corrections who, while acting within the employee's official capacity in the course of an investigation or criminal proceeding, is in possession of material that contains a visual representation of a minor engaging in sexual activity or appearing in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation."

Savings clause

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Time effective

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 270

(R299, H4348)

AN ACT TO AMEND SECTION 63-3-530, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE JURISDICTION OF THE FAMILY COURT, INCLUDING JURISDICTION TO ORDER VISITATION FOR GRANDPARENTS OF MINOR CHILDREN, SO AS TO ELIMINATE CERTAIN PREREQUISITES TO ORDERING VISITATION, AND TO CLARIFY THAT PARENT MEANS THE NATURAL OR ADOPTIVE PARENT.

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

Grandparent visitation

SECTION 1. Section 63-3-530(A)(33) of the 1976 Code, as last amended by Act 267 of 2010, is further amended to read:

"(33) to order visitation for the grandparent of a minor child where either or both parents of the minor child is or are deceased, or are divorced, or are living separate and apart in different habitats, if the court finds that:

(1) the child's parents or guardians are unreasonably depriving the grandparent of the opportunity to visit with the child, including denying visitation of the minor child to the grandparent for a period exceeding ninety days; and

(2) awarding grandparent visitation would not interfere with the parent-child relationship; and:

(a) the court finds by clear and convincing evidence that the child's parents or guardians are unfit; or

(b) the court finds by clear and convincing evidence that there are compelling circumstances to overcome the presumption that the parental decision is in the child's best interest.

The judge presiding over this matter may award attorney's fees and costs to the prevailing party.

For purposes of this item, 'grandparent' means the natural or adoptive parent of a natural or adoptive parent of a minor child."

Time effective

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

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 271

(R302, H4550)

AN ACT TO AMEND SECTION 40-35-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS CONCERNING LONG-TERM HEALTH CARE ADMINISTRATORS, SO AS TO REVISE AND ADD NECESSARY DEFINITIONS; TO AMEND SECTION 40-35-40, RELATING TO THE LICENSURE OF LONG-TERM HEALTH CARE ADMINISTRATORS, SO AS TO REVISE LICENSURE CRITERIA; AND TO AMEND SECTION 40-35-200, AS AMENDED, RELATING TO THE PROHIBITION AGAINST A PERSON ACTING OR SERVING IN THE CAPACITY OF A NURSING HOME ADMINISTRATOR OR RESIDENTIAL CARE FACILITY ADMINISTRATOR WITHOUT A LICENSE, SO AS TO MAKE A CONFORMING CHANGE.

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

Definitions

SECTION 1. Section 40-35-20 of the 1976 Code, as last amended by Act 293 of 2004, is further amended to read:

"Section 40-35-20. As used in this chapter:

(1) 'Accredited college or university' means a college or university whose accreditation is recognized by the Council on Higher Education Accreditation and the United States Department of Education.

(2) 'Board' means the South Carolina Board of Long Term Health Care Administrators.

(3) 'Community residential care facility' or 'CRCF' means a facility defined for licensing purposes under law or pursuant to regulations for community residential care facilities by the Department of Health and Environmental Control, whether proprietary or nonprofit.

(4) 'Community residential care facility administrator' or 'CRCFA' means a person who has attained the required education and experience, is otherwise qualified, has been issued a license by the board, and is eligible to administer, manage, supervise, or be in administrative charge of a community residential care facility.

(5) 'Consumer' means a person who is or has been a resident of a nursing home or community residential care facility.

(6) 'Department' means the Department of Labor, Licensing and Regulation.

(7) 'Habilitation center for persons with intellectual disability or persons with related conditions' means a facility which is licensed by the Department of Health and Environmental Control and that serves four or more persons with intellectual disability or persons with related conditions and provides health or rehabilitative services on a regular basis to individuals whose mental and physical conditions require services including room, board, and active treatment for their intellectual disability or related conditions.

(8) 'Nursing home' means an institution or facility defined for licensing purposes under law or pursuant to regulations for nursing homes promulgated by the Department of Health and Environmental Control, whether proprietary or nonprofit including, but not limited to, nursing homes owned or administered by the State or a political subdivision of the State. The term does not include habilitation centers for persons with intellectual disability or persons with related conditions.

(9) 'Nursing home administrator' or 'NHA' means a person who has attained the requisite education and experience, is otherwise qualified, and has been issued a license by the board and is eligible to administer, manage, supervise, or be in administrative charge of a nursing home.

(10) 'Practical experience in nursing home administration' means full-time employment, with a minimum of thirty-six hours each week, under the on-site supervision by a licensed nursing home administrator in a state-licensed nursing home. During the on-site supervision by a licensed NHA, the applicant is responsible and accountable for at least a six-month period in at least two of the following areas:

(a) business and fiscal management;

(b) a direct patient-care service such as nursing, physical therapy, occupational therapy, speech therapy, chaplaincy, social work, or activities; and

(c) a supporting service such as dietary, maintenance, engineering, laundry, environmental services, or pharmacy.

(11) 'Qualified intellectual disability professional' means a person who, by training and experience, meets the requirements of applicable federal law and regulations for a qualified intellectual disability professional, as determined by the Department of Disabilities and Special Needs.

(12) 'Related health care administration' means the administration of a facility that provides direct nursing care on a twenty-four hour basis to persons who require health services because of illness, age, or chronic disability. Administration of a CRCF or an Independent Living Community is not considered related health care administration.

(13) 'Community residential care facility administrator work experience' means on-site work experience with supervisory and direct resident care responsibilities under the supervision of a licensed CRCFA in a licensed CRCF.

(14) 'Work experience in a health related field other than in a Community Residential Care Facility' means a satisfactory demonstration through the application for licensure that the applicant has sufficient knowledge of and experience with business and fiscal management responsibilities, coordinating patient care, and direct contact in a health care facility as determined by the board.

(15) 'Sponsor' means a person who is financially or legally responsible for an individual currently residing in a nursing home or residential care facility."

Licensure criteria

SECTION 2. Section 40-35-40 of the 1976 Code is amended to read:

"Section 40-35-40. (A) The board shall issue a nursing home administrator license to a person who submits evidence satisfactory to the board that the person:

(1) is at least twenty-one years of age;

(2) has not been convicted of any criminal act that is relevant to the practice of nursing home administration, including financial misconduct or physical violence;

(3) is of reputable and responsible character and is of sound physical and mental health sufficient to perform the duties of a nursing home administrator;

(4)(a) has a baccalaureate degree or higher in health care administration or related health care degree from an accredited college or university and one year of practical experience in nursing home administration or related health care administration;

(b) has a baccalaureate degree other than in health care administration from an accredited college or university and two years of practical experience in nursing home administration or related health care administration;

(c) has a health-related associates degree from an accredited college or university and three years of practical experience in nursing home administration or related health care administration; or

(d) has a combination of education and experience as established by the board in regulation;

(5) has successfully completed the nursing home administrators' examination administered by the board; and

(6) has paid the applicable fees.

(B) The board shall issue a community residential care facility administrator license to a person who submits evidence satisfactory to the board that the person:

(1) is at least twenty-one years of age;

(2) has not been convicted of any criminal act that is relevant to the practice of community residential care facility administration, including financial misconduct or physical violence;

(3) is of reputable and responsible character and is of sound physical and mental health sufficient to perform the duties of a community residential care facility administrator;

(4)(a) has a nonhealth-related associates degree or is a licensed practical nurse with at least one year of on-site work experience of at least three hundred eighty-four hours with supervisory and direct resident care responsibilities under the supervision of a licensed community residential care facility administrator;

(b) has a health-related associates degree with at least nine months of on-site work experience of at least two hundred eighty-eight hours with supervisory and direct resident care responsibilities under the supervision of a licensed CRCFA;

(c) has a baccalaureate degree or higher with at least six months of on-site work experience of at least one hundred ninety-two hours with supervisory and direct resident care responsibilities under the supervision of a licensed CRCFA;

(d) has a combination of education and experience as established by the board in regulation; or

(e) provided, however, a person initially licensed as a community residential care facility administrator before July 1, 2000, must have at least a high school diploma or the equivalent and at least two years of on-site work experience with supervisory and direct resident care responsibilities under the supervision of a licensed community residential care facility administrator;

(5) has successfully completed the community residential care facility administrators' examination administered by the board and has paid the established fees.

(C) The board may establish qualifications in regulation for the issuance of a combined nursing home administrator and community residential care facility administrator license.

(D) An applicant for a nursing home administrator license or a community residential care facility administrator license shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine state criminal history and a federal fingerprint review to be conducted by the Federal Bureau of Investigation to determine other criminal history. In addition to the fingerprint fee, the results of the reviews must be furnished to the board by the applicant before initial licensure.

(E) An applicant for a nursing home administrator license or a community residential care facility administrator license shall provide a current credit report before initial licensure.

(F) An application must be submitted on forms prescribed by the department and developed in consultation with the board."

Unlawful conduct

SECTION 3. Section 40-35-200(B) of the 1976 Code is amended to read:

"(B) It is unlawful for a person to act or serve in the capacity of a nursing home administrator or community residential care facility administrator unless the person is licensed in accordance with this chapter."

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 272

(R308, H4840)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "HIGH SCHOOL EQUIVALENCY DIPLOMA ACCESSIBILITY ACT"; BY ADDING SECTION 59-43-25 SO AS TO PROVIDE THAT BEFORE JANUARY 1, 2015, THE STATE BOARD OF EDUCATION SHALL SELECT A TEST OR TEST BATTERY THAT ELIGIBLE CANDIDATES SUCCESSFULLY MAY COMPLETE TO RECEIVE A HIGH SCHOOL EQUIVALENCY DIPLOMA, TO PROVIDE THAT THE TEST BATTERIES MUST HAVE DEMONSTRATED THE APPROPRIATE RIGOR FOR A HIGH SCHOOL EQUIVALENCY EXAM AND MUST BE VALID AND RELIABLE FOR THE PURPOSE FOR WHICH THESE TEST BATTERIES ARE ADMINISTERED, TO PROVIDE THE STATE BOARD SHALL SELECT AT LEAST ONE TEST BATTERY MEETING THIS RIGOR REQUIREMENT THAT IS AVAILABLE IN PAPER AND PENCIL FORM, IF ONE IS AVAILABLE, AND THAT THE APPROVED TEST BATTERIES THAT ARE AVAILABLE IN PAPER AND PENCIL FORM AND DEPENDENT ON COMPUTER TECHNOLOGY MUST BE AVAILABLE TO ELIGIBLE CANDIDATES IN BOTH FORMS, TO REQUIRE THE BOARD SHALL AUTHORIZE THE ADMINISTRATION OF THIS TEST BY THE STATE DEPARTMENT OF EDUCATION PURSUANT TO CERTAIN REGULATIONS AND POLICIES, AND TO PROVIDE THE BOARD SHALL ISSUE HIGH SCHOOL EQUIVALENCY DIPLOMAS TO ELIGIBLE CANDIDATES WHO SUCCESSFULLY COMPLETE THE TEST OR TEST BATTERY AFTER JANUARY 1, 2015; AND TO AMEND SECTION 59-43-20, RELATING TO POWERS OF THE STATE BOARD OF EDUCATION WITH RESPECT TO BASIC ADULT AND SECONDARY EDUCATION, SO AS TO MAKE CONFORMING CHANGES AND CLARIFY APPLICABILITY.

Whereas, the South Carolina General Assembly finds that the Palmetto State's path to economic prosperity involves creating jobs and improving education, among other essential elements; and

Whereas, the South Carolina General Assembly finds that approximately four hundred eighteen thousand working-age South Carolinians between ages eighteen and sixty-four have not earned a high school diploma or its equivalent, which must be rectified to provide a workforce that will attract jobs and improve our overall economy; and

Whereas, the South Carolina General Assembly finds that the only test currently available to earn a high school equivalency diploma in South Carolina is offered only in a computer-based format, requiring technology that limits the places in which it can be offered, thus limiting opportunities for people to take the test and earn their high school equivalency diploma; and

Whereas, the South Carolina General Assembly finds that adopting an alternative high school equivalency test that must be offered in a paper and pen or pencil format not dependent on the availability of computer-based technology is essential to broadening the accessibility of the testing needed to earn a high school equivalency diploma to those who need it most. Now, therefore,

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

Citation

SECTION 1. This act must be known and may be cited as the "High School Equivalency Diploma Accessibility Act".

Test batteries, formats

SECTION 2. Chapter 43, Title 59 of the 1976 Code is amended by adding:

"Section 59-43-25. Before January 1, 2015, the State Board of Education shall select one or more tests or test batteries that an eligible candidate successfully may complete to receive a high school equivalency diploma. The test batteries approved by the State Board

must have demonstrated the appropriate rigor for a high school equivalency exam and must be valid and reliable for the purpose for which these test batteries are administered. The State Board shall select at least one test battery meeting this requirement that is available in paper and pencil form, if one is available. The approved test batteries that are available in paper and pencil (pen), as well as dependent on computer technology, must be available to eligible candidates in both forms. Upon making its selection, the board shall authorize the administration of this test by the State Department of Education under policies that the board shall establish by regulations promulgated by the board and other procedures that the board considers appropriate. The board shall issue a high school equivalency diploma to an eligible candidate who successfully completes the approved test or test battery after January 1, 2015."

State Board of Education powers, conforming provisions, applicability

SECTION 3. Section 59-43-20 of the 1976 Code is amended to read:

"Section 59-43-20. (A) The State Board of Education may:

(1) make and enforce regulations for the organization, conduct, and supervision of adult basic and adult secondary (GED, alternate testing, and high school diploma) education;

(2) determine the qualifications of teachers and issue teaching certificates for teaching adult basic and adult secondary (GED, alternate testing, and high school diploma) education classes;

(3) determine the tuition which may be required of persons attending adult basic and adult secondary (GED, alternate testing, and high school diploma) education classes;

(4) determine the subjects which may be taught in adult basic and adult secondary (GED, alternate testing, and high school diploma) education classes.

(B) The State Board of Education is also responsible for the administration, coordination, and management of adult basic and adult secondary (GED, alternate testing, and high school diploma) education for the purpose of facilitating and coordinating adult basic and adult secondary (GED, alternate testing, and high school diploma) education programs for South Carolina adults whose level of educational attainment is below high school, as prescribed by state and federal laws and regulations. The State Board of Education and the local school districts are responsible for effective coordination and utilization of

literacy councils, the technical education system, the educational television network, nonprofit groups, business and industry representatives, and other state and local agencies and private persons interested in adult basic and adult secondary (GED, alternate testing, and high school diploma) education programs to deliver programs to the state's undereducated adult population.

(C) Any funds distributed by the State Board of Education for local literacy councils or programs must be made available to those councils or programs either in-kind or in money.

(D) The requirements of this section apply to alternate high school equivalency testing required in Section 59-43-25."

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 273

(R309, H4864)

AN ACT TO AMEND SECTION 46-21-215, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REQUIRED LABELS AND TAGS FOR CONTAINERS OF AGRICULTURAL, VEGETABLE, AND FLOWER SEEDS, SO AS TO REVISE CERTAIN OF THESE LABELING AND TAGGING REQUIREMENTS.

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

Labeling and tagging requirements revised

SECTION 1. Section 46-21-215 of the 1976 Code, as added by Act 238 of 2010, is amended to read:

"Section 46-21-215. Each container of agricultural, vegetable, and flower seeds which is sold, offered for sale, or exposed for sale, or

transported within this State for sowing purposes must state or have affixed in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information, which statement may not be modified or denied in the labeling or on another label attached to the container.

(A) For all agricultural, vegetable, and flower seeds treated as defined in this chapter for which a separate label may be used:

(1) a word or statement indicating that the seed has been treated;

(2) the commonly accepted coined, chemical, abbreviated chemical, or generic name of the applied substance or description of the process used;

(3) if the substance in the amount present with the seed is harmful to human or other vertebrate animals, a caution statement such as 'do not use for food, feed, or oil purposes'. The caution for mercurials and similarly toxic substances must be a poison statement or symbol; and

(4) if the seed is treated with an inoculant, the date beyond which the inoculant is not to be considered effective, and its date of expiration.

(B) For agricultural seeds, except for cool season lawn and turf grass seeds and mixtures as provided in item (C) and for hybrids which contain less than ninety-five percent hybrid seed as provided in item (I):

(1) the name of the kind and variety for each agricultural seed component present in excess of five percent of the whole and the percentage by weight of each; in order of its predominance where more than one component is required to be named the word 'mixture' or the word 'mixed' must be shown conspicuously on the label. Hybrids must be labeled as hybrids;

(2) lot number or other lot identification;

(3) origin, state or foreign country, if known; if unknown, the fact must be stated;

(4) percentage by weight of all weed seeds;

(5) the name and rate of occurrence per pound of each kind of restricted noxious weed seed present;

(6) percentage by weight of other crop seed;

(7) percentage by weight of inert matter;

(8) the total of subitems (1), (4), (6), and (7) must equal one hundred percent;

(9) for each named agricultural seed:

(a) percentage of germination, exclusive of hard seed;

(b) percentage of hard seeds, if present; and

(c) the calendar month and year the test was completed to determine the percentages.

Following subitems (a) and (b) the 'total germination and hard seed' may be stated, if desired; and

(10) name and address of the person who labeled the seed, or who sells, offers or exposes the seed for sale within this State.

(C) For cool season lawn and turf grasses including Kentucky bluegrass, red fescue, chewing fescue, hard fescue, tall fescue, perennial ryegrass, intermediate ryegrass, annual ryegrass, colonial bentgrass, creeping bentgrass, and mixtures of them:

(1) for single kinds, the name of the kind or kind and variety;

(2) for mixtures:

(a) the terms 'mix', 'mixed', or 'mixture' or 'blend' must be stated with the name of the mixture;

(b) the heading 'Pure Seed' and 'Germination' or 'Germ' must be used in the proper places;

(c) commonly accepted name of kind and variety of each agricultural seed component in excess of five percent of the whole, and the percentage by weights of pure seed in order of its predominance;

(3) lot number or other lot identification;

(4) origin, state or foreign country, if known; if unknown, it must be stated;

(5) percentage by weight of all weed seeds;

(6) the name and rate of occurrence per pound of each kind of restricted noxious weed seed present;

(7) percentage by weight of other crop seed;

(8) percentage by weight of inert matter;

(9) the total of subitems (1), (2), (5), (7), and (8) must be one hundred percent; and

(10) for each agricultural seed named under subitem (1) or (2):

(a) percentage of germination, exclusive of hard seed;

(b) percentage of hard seed, if present;

(c) calendar month and year the test was completed to determine percentages. The oldest test date must be used and the date of sale must be within fifteen months of this test date, exclusive of the month of the test, or alternatively the statement 'Sell by _____', which may be no more than fifteen months from the date of test exclusive of the month of test; and

(d) name and address of the person who labeled the seed, or who sells, offers or exposes this seed for sale within the State.

(D) For agricultural seeds that are coated:

(1) percentage by weight of pure seeds with coating material removed;

(2) percentage by weight of coating material;

(3) percentage by weight of inert material exclusive of coating material; and

(4) in addition to the provisions of this subsection, labeling of coated seed must comply with the requirements of subsections (A), (B), and (C).

(E) For vegetable seeds in packets as prepared for use in home gardens or household plantings or vegetable seeds in preplanted containers, mats, tapes, or other plant devices:

(1) name of kind and variety of seed;

(2) lot identification, such as by lot number or other means;

(3)(a) the calendar month and year the germination test was completed, and the date of sale may be no more than twelve months from the date of test exclusive of the month of the test; or

(b) the year for which the seed was packaged for sale as 'Packed for _____' and the statement 'Sell by _____', which must be twelve months from the date of the test exclusive of the month of the test;

(4) name and address of the person who labeled the seed or who sells, offers, or exposes the seed for sale within this State; and

(5) for seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape, or device, a statement to indicate the minimum number of seeds in the container.

(F) For vegetable seeds in containers other than packets prepared for use in home gardens or household planting and other than preplanted containers, mats, tapes, or other planting devices:

(1) the name of each kind and variety present in excess of five percent and the percentage by weight of each in order of its predominance;

(2) lot number or other lot identification;

(3) for each named vegetable seed:

(a) percentage of germination exclusive of hard seed;

(b) percentage of hard seed, if present;

(c) the calendar month and year the test was completed to determine the percentages; and

(d) germination test must have been completed within twelve months exclusive of the month of test.

Following subitems (a) and (b) the 'total germination and hard seed' may be stated, if desired;

(4) name and address of the person who labeled the seed, or who sells, offers, or exposes the seed for sale within this State; and

(5) the labeling requirements for vegetable seeds in containers of more than one pound is considered to have been met if the seed is weighed from a properly labeled container in the presence of the purchaser.

(G) For flower seeds in packets prepared for use in home gardens or household plantings or flower seeds in preplanted containers, mats, tapes, or other planting devices:

(1) for all kinds of flower seeds:

(a) the name of the kind and variety or a statement of type and performance characteristics as prescribed in regulations promulgated pursuant to the provisions of this chapter;

(b)(i) the calendar month and year the germination test was completed and the date of sale may be no more than twelve months from the date of test exclusive of the month of the test; or

(ii) the year the seed was packed for sale as 'Packed for _____' and the statement 'Sell by _____', which must be twelve months from the date of the test exclusive of the month of the test;

(c) the name and address of the person who labeled the seed or who sells, offers, or exposes the seed for sale within the State; and

(2) for seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape, or device, a statement to indicate the minimum number of seeds in the container.

(H) For flower seeds in containers other than packets and other than preplanted containers, mats, tapes, or other planting devices and not prepared for use in home flower gardens or household plantings:

(1) the name of the kind and variety or a statement of type and performance characteristics as prescribed by regulations promulgated pursuant to the provisions of this chapter, and for wildflowers, the genus and species and subspecies, if appropriate;

(2) the lot number or other lot identification;

(3) for wildflower seed only with a pure seed percentage of less than ninety percent:

(a) the percentage, by weight, of each component listed in order of their predominance;

(b) the percentage by weight of weed seed if present; and

(c) the percentage by weight of inert matter;

(4) for seeds for which standard testing procedures are prescribed:

(a) percentage of germination exclusive of hard or dormant seed;

(b) percentage of hard or dormant seed, if present;

(c) the calendar month and year that the test was completed to determine the percentages; germination test must have been completed within twelve months exclusive of the month of test; and

(5) name and address of the person who labeled the seed or who sells, offers, or exposes the seed for sale within this State.

(I) For agricultural and vegetable hybrid seed which contain less than ninety-five percent hybrid seed:

(a) kind or variety must be labeled as 'hybrid';

(b) the percent which is hybrid must be labeled parenthetically in direct association following named variety; such as, 'Comet (85% hybrid)'; and

(c) varieties in which the pure seed contains less than seventy-five percent hybrid seed may not be labeled hybrids."

Time effective

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

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 274

(R310, H5014)

AN ACT TO AMEND SECTION 56-1-2100, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO A COMMERCIAL DRIVER LICENSE, SO AS TO DELETE THE VARIOUS ENDORSEMENTS AND RESTRICTIONS THAT MAY BE ATTACHED TO A COMMERCIAL DRIVER LICENSE, AND TO PROVIDE THAT ENDORSEMENTS AND RESTRICTIONS ARE ADDED TO A COMMERCIAL DRIVER LICENSE AS REQUIRED UNDER THE FEDERAL MOTOR

CARRIER SAFETY REGULATIONS; TO AMEND SECTION 56-5-2770, RELATING TO SIGNALS AND MARKINGS ON SCHOOL BUSES, OVERTAKING AND PASSING A SCHOOL BUS, AND LOADING PASSENGERS ON A SCHOOL BUS, SO AS TO PROVIDE THAT A SCHOOL BUS MAY BE EQUIPPED WITH A DIGITAL RECORDING DEVICE MOUNTED ON THE SCHOOL BUS; BY ADDING SECTION 56-5-2773 SO AS TO PROVIDE THAT A UNIFORM TRAFFIC CITATION MAY BE ISSUED BASED UPON IMAGES OBTAINED FROM A DIGITAL RECORDING DEVICE MOUNTED ON A SCHOOL BUS, AND TO PROVIDE THAT THE DIGITAL IMAGES MAY BE USED AS EVIDENCE AT A HEARING REGARDING AN OFFENSE RELATED TO THE OPERATION OF A SCHOOL BUS; TO AMEND SECTION 56-7-35, AS AMENDED, RELATING TO THE ISSUANCE OF A UNIFORM TRAFFIC TICKET FOR SPEEDING OR DISREGARDING A TRAFFIC CONTROL DEVICE, SO AS TO PROVIDE THAT THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A UNIFORM TRAFFIC CITATION ALLEGING THE VIOLATION OF THE PROVISIONS THAT RELATES TO THE OPERATION OF A SCHOOL BUS; AND TO AMEND SECTION 56-7-15, AS AMENDED, RELATING TO THE ISSUANCE OF A UNIFORM TRAFFIC TICKET BY A LAW ENFORCEMENT OFFICER TO ARREST A PERSON FOR AN OFFENSE COMMITTED IN HIS PRESENCE OR FOR DOMESTIC VIOLENCE OFFENSES, SO AS TO PROVIDE THAT THE ISSUANCE OF A UNIFORM TRAFFIC TICKET ALLEGING THE VIOLATION OF A PROVISION THAT RELATES TO THE OPERATION OF A BUS IS NOT SUBJECT TO THE PROVISIONS CONTAINED IN THIS SECTION.

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

Commercial driver license

SECTION 1. Section 56-1-2100(B) of the 1976 Code, as last amended by Act 216 of 2010, is further amended to read:

"(B) The holder of a valid commercial driver license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles. Vehicles which require an endorsement may not be driven unless the proper endorsement appears

on the license. Commercial driver licenses may be issued with the following classifications, endorsements, and restrictions:

(1) Classifications:

(a) Class A: A combination of vehicles with a gross combination weight rating of twenty-six thousand one pounds or more provided the gross vehicle weight rating of the vehicle being towed is in excess of ten thousand pounds.

(b) Class B: A single vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more, or any such vehicle towing a vehicle not in excess of ten thousand pounds gross vehicle weight rating.

(c) Class C: A single vehicle, or combination of vehicles, that are not Class A or B vehicles but either designed to transport sixteen or more passengers including the driver, or are required to be placarded for hazardous materials under 49 C.F.R. Part 172, subpart F.

(2) Endorsements are added to commercial driver licenses as required under Part 383.153 of the Federal Motor Carrier Safety Regulations.

(3) Restrictions are added to commercial driver licenses as required under Part 383.153 of the Federal Motor Carrier Safety Regulations."

School bus

SECTION 2. Section 56-5-2770(D) of the 1976 Code is amended to read:

"(D)(1) A school bus must be equipped with red and amber visual signals meeting the requirements of State Department of Education Regulations and Specifications Pertaining to School Buses, which must be actuated by the driver whenever the bus is stopped or preparing to stop on the highway for the purpose of receiving or discharging school children. A driver must not actuate the special visual signals when the bus is in designated school bus loading or off-loading areas if the bus is off the roadway entirely.

(2) A school bus may be equipped with a digital video recording device mounted on the school bus with a clear view of vehicles passing the bus on either side and showing the date and time the recording was made and an electronic symbol showing the activation of amber lights, flashing red lights, stop arms, and brakes. Digital video recording devices mounted on school buses must be procured in compliance with Chapter 11, Title 35 or a procurement code adopted by the political

subdivision procuring the digital video recording device in compliance with Section 11-35-50."

School bus

SECTION 3. Article 21, Chapter 5, Title 56 of the 1976 Code is amended by adding:

"Section 56-5-2773. (A) A uniform traffic citation alleging the violation of Section 56-5-2770 may be issued based in whole or in part upon images obtained from a digital video recording device mounted on a school bus. A copy of the citation must be given directly to the alleged offender by the law enforcement officer issuing the citation.

(B) Digital images obtained from a digital video recording device mounted on a school bus pursuant to Section 56-5-2770(D) may be used as evidence at any hearing related to a violation of Section 56-5-2770 to corroborate testimony by the school bus driver or any other person who witnessed the offense."

Uniform traffic ticket

SECTION 4. Section 56-7-35(C) of the 1976 Code, as added by Act 65 of 2011, is further amended to read:

"(C) The provisions of this section do not apply to:

(1) toll collection; or

(2) issuance of a uniform traffic citation alleging the violation of Section 56-5-2770."

Uniform traffic ticket

SECTION 5. Section 56-7-15 of the 1976 Code, as last amended by Act 78 of 2013, is further amended by adding at the end:

"(C) The issuance of a uniform traffic ticket alleging the violation of Section 56-5-2770 is not subject to the provisions of this section."

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 275

(R319, H3905)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "BACK TO BASICS IN EDUCATION ACT OF 2014" BY ADDING SECTION 59-29-15 SO AS TO REQUIRE CURSIVE WRITING AND MEMORIZATION OF MULTIPLICATION TABLES AS SUBJECTS OF INSTRUCTION IN PUBLIC SCHOOLS, TO REQUIRE STUDENTS DEMONSTRATE COMPETENCE IN EACH SUBJECT BEFORE COMPLETION OF THE FIFTH GRADE, TO PROVIDE THE STATE DEPARTMENT OF EDUCATION SHALL ASSIST THE SCHOOL DISTRICTS IN IDENTIFYING THE MOST APPROPRIATE MEANS FOR INTEGRATING THIS REQUIREMENT INTO THEIR EXISTING CURRICULUMS AND RECOMMEND CURSIVE WRITING INSTRUCTIONAL MATERIALS FOR INCLUSION ON THE APPROVED STATE TEXTBOOK ADOPTION LIST, AND TO MAKE THE PROVISIONS OF THIS ACT APPLICABLE BEGINNING WITH THE 2015-2016 SCHOOL YEAR.

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

Back to Basics Education Act of 2014

SECTION 1. This act must be known and may be cited as the "Back to Basics in Education Act of 2014".

Teaching cursive writing and multiplication tables required, Department of Education obligations

SECTION 2. Article 1, Chapter 29, Title 59 of the 1976 Code is amended by adding:

"Section 59-29-15. (A) In addition to the requirements that writing and arithmetic be subjects of instruction in each school district pursuant to Section 59-29-10, each school district shall:

(1) provide instruction in cursive writing to ensure that students can create readable documents through legible cursive handwriting by the end of fifth grade; and

(2) require students to memorize multiplication tables to ensure that students can effectively multiply numbers by the end of fifth grade.

(B) The State Department of Education shall assist the school districts in identifying the most appropriate means for integrating this requirement into their existing curriculums. Additionally, the department, using procedures followed for other textbook adoptions, shall review and recommend cursive writing instructional materials for inclusion on the approved state textbook adoption list. Schools may select these materials in the same manner that other textbooks are selected from the list."

Time effective

SECTION 3. The provisions of this section take effect upon approval by the Governor, and are applicable beginning with the 2015-2016 academic year.

Ratified the 9th day of June, 2014.

Approved the 9th day of June, 2014.

No. 276

(R320, H4560)

AN ACT TO AMEND SECTION 17-1-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DESTRUCTION OR EXPUNGEMENT OF CERTAIN ARREST AND BOOKING RECORDS UNDER CERTAIN CIRCUMSTANCES, SO AS TO DEFINE THE TERM "UNDER SEAL", TO PROVIDE IN THE CASE OF OFFENSES EXPUNGED FOR THE RETENTION BY LAW ENFORCEMENT AND PROSECUTION AGENCIES OF ARREST AND BOOKING RECORDS, ASSOCIATED BENCH

WARRANTS, INCIDENT REPORTS, AND OTHER INFORMATION UNDER SEAL FOR THREE YEARS AND ONE HUNDRED TWENTY DAYS AND ALLOW FOR THEIR INDEFINITE RETENTION FOR CERTAIN DELINEATED PURPOSES, TO PROVIDE THAT THIS INFORMATION IS NOT A PUBLIC DOCUMENT AND IS EXEMPT FROM DISCLOSURE EXCEPT BY COURT ORDER, TO AUTHORIZE REDACTION OF CERTAIN INFORMATION IN AN INCIDENT REPORT IF A REQUEST IS MADE TO INSPECT OR OBTAIN AN INCIDENT REPORT PURSUANT TO THE FREEDOM OF INFORMATION ACT, AND TO PROVIDE A CRIMINAL PENALTY FOR PERSONS WHO VIOLATE PROVISIONS RELATING TO THE RELEASE OF AN INCIDENT REPORT; TO AMEND SECTION 22-5-910, AS AMENDED, RELATING TO EXPUNGEMENT OF CRIMINAL RECORDS, SO AS TO INCLUDE ASSOCIATED BENCH WARRANTS IN THE INFORMATION THAT MAY BE EXPUNGED; TO AMEND SECTION 17-22-910, RELATING TO APPLICATIONS FOR CERTAIN OFFENSES ELIGIBLE FOR EXPUNGEMENT, SO AS TO CONFORM THE PROVISIONS TO THAT OF SECTION 44-53-450 WHICH ALLOWS FOR EXPUNGEMENT OF CERTAIN DELINEATED DRUG OFFENSES; TO AMEND SECTION 17-22-940, RELATING TO THE EXPUNGEMENT PROCESS, SO AS TO INCLUDE THE TRAFFIC EDUCATION PROGRAM DIRECTOR'S PARTICIPATION IN THE PROCESS; AND TO AMEND SECTION 17-22-950, RELATING TO THE ISSUANCE OF EXPUNGEMENT ORDERS, SO AS TO MAKE A CONFORMING CHANGE TO ADD THAT ASSOCIATED BENCH WARRANTS ARE INCLUDED IN THE EXPUNGEMENT ORDER AND TO PROVIDE EXPUNGEMENT PROCEDURES WHEN CRIMINAL CHARGES ARE BROUGHT IN SUMMARY COURT WHEN THE PERSON WAS NOT FINGERPRINTED.

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

Expungement, retention of certain information by law enforcement or prosecution agencies

SECTION 1. Section 17-1-40 of the 1976 Code, as last amended by Act 75 of 2013, is further amended to read:

"Section 17-1-40. (A) For purposes of this section, 'under seal' means not subject to disclosure other than to a law enforcement or prosecution agency, and attorneys representing a law enforcement or prosecution agency, unless disclosure is allowed by court order.

(B)(1) If a person's record is expunged pursuant to Article 9, Title 17, Chapter 22, because the person was charged with a criminal offense, or was issued a courtesy summons pursuant to Section 22-3-330 or another provision of law, and the charge was discharged, proceedings against the person were dismissed, or the person was found not guilty of the charge, then the arrest and booking record, associated bench warrants, mug shots, and fingerprints of the person must be destroyed and no evidence of the record pertaining to the charge or associated bench warrants may be retained by any municipal, county, or state agency. Provided, however, that:

(a) Law enforcement and prosecution agencies shall retain the arrest and booking record, associated bench warrants, mug shots, and fingerprints of the person under seal for three years and one hundred twenty days. A law enforcement or prosecution agency may retain the information indefinitely for purposes of ongoing or future investigations and prosecution of the offense, and to defend the agency and the agency's employees during litigation proceedings. The information must remain under seal. The information is not a public document and is exempt from disclosure, except by court order.

(b) Detention and correctional facilities shall retain booking records, identifying documentation and materials, and other institutional reports and files under seal, on all persons who have been processed, detained, or incarcerated, for a period not to exceed three years and one hundred twenty days from the date of the expungement order to manage the facilities' statistical and professional information needs, and to defend the facilities and the facilities' employees during litigation proceedings, except when an action, complaint, or inquiry has been initiated. The information is not a public document and is exempt from disclosure, except by court order.

(2) A municipal, county, or state agency, or an employee of a municipal, county, or state agency that intentionally violates this subsection is guilty of contempt of court.

(3) Nothing in this subsection requires the South Carolina Department of Probation, Parole and Pardon Services to expunge the probation records of persons whose charges were dismissed by conditional discharge pursuant to Section 44-53-450.

(C)(1) If a person's record is expunged pursuant to Article 9, Title 17, Chapter 22, because the person was charged with a criminal

offense, or was issued a courtesy summons pursuant to Section 22-3-330 or another provision of law, and the charge was discharged, proceedings against the person were dismissed, or the person was found not guilty of the charge, then law enforcement and prosecution agencies shall retain the evidence gathered, unredacted incident and supplemental reports, and investigative files under seal for three years and one hundred twenty days. A law enforcement or prosecution agency may retain the information indefinitely for purposes of ongoing or future investigations, other law enforcement or prosecution purposes, and to defend the agency and the agency's employees during litigation proceedings. The information must remain under seal. The information is not a public document, is exempt from disclosure, except by court order, and is not subject to an order for destruction of arrest records.

(2) If a request is made to inspect or obtain the incident reports pursuant to the South Carolina Freedom of Information Act, the law enforcement agency shall redact the name of the person whose record is expunged and other information which specifically identifies the person from copies of the reports provided to the person or entity making the request.

(3) If a person other than the person whose record is expunged is charged with the offense, a prosecution agency may provide the attorney representing the other person with unredacted incident and supplemental reports. The attorney shall not provide copies of the reports to a person or entity nor share the contents of the reports with a person or entity, except during judicial proceedings or as allowed by court order.

(4) A person who intentionally violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days, or both.

(5) Nothing in this subsection prohibits evidence gathered or information contained in incident reports or investigation and prosecution files from being used for the investigation and prosecution of a criminal case or for the defense of a law enforcement or prosecution agency or agency employee.

(D) A municipal, county, or state agency may not collect a fee for the destruction of records pursuant to this section.

(E)(1) This section does not apply to a person who is charged with a violation of Title 50, Title 56, or an enactment pursuant to the authority of counties and municipalities provided in Titles 4 and 5.

(2) If a charge enumerated in item (1) is discharged, proceedings against the person are dismissed, the person is found not guilty of the

charge, or the person's record is expunged pursuant to Article 9, Title 17, Chapter 22, the charge must be removed from any Internet-based public record no later than thirty days from the disposition date.

(F) The State Law Enforcement Division is authorized to promulgate regulations that allow for the electronic transmission of information pursuant to this section.

(G) Unless there is an act of gross negligence or intentional misconduct, nothing in this section gives rise to a claim for damages against the State, a state employee, a political subdivision of the State, an employee of a political subdivision of the State, a public officer, or other persons."

Expungement, associated bench warrants included

SECTION 2. Section 22-5-910 of the 1976 Code, as last amended by Act 75 of 2013, is further amended to read:

"Section 22-5-910. (A) Following a first offense conviction for a crime carrying a penalty of not more than thirty days imprisonment or a fine of one thousand dollars, or both, the defendant after three years from the date of the conviction, including a conviction in magistrates or general sessions court, may apply, or cause someone acting on his behalf to apply, to the circuit court for an order expunging the records of the arrest and conviction and any associated bench warrant. However, this section does not apply to:

(1) an offense involving the operation of a motor vehicle;

(2) a violation of Title 50 or the regulations promulgated pursuant to Title 50 for which points are assessed, suspension provided for, or enhanced penalties for subsequent offenses are authorized; or

(3) an offense contained in Chapter 25, Title 16, except first offense criminal domestic violence as contained in Section 16-25-20, which may be expunged five years from the date of the conviction.

(B) If the defendant has had no other conviction during the three-year period, or during the five-year period as provided in subsection (A)(3), following the first offense conviction for a crime carrying a penalty of not more than thirty days imprisonment or a fine of not more than one thousand dollars, or both, including a conviction in magistrates or general sessions court, the circuit court may issue an order expunging the records including any associated bench warrant. No person may have his records expunged under this section more than once. A person may have his record expunged even though the conviction occurred prior to June 1, 1992.

(C) After the expungement, the South Carolina Law Enforcement Division is required to keep a nonpublic record of the offense and the date of the expungement to ensure that no person takes advantage of the rights of this section more than once. This nonpublic record is not subject to release pursuant to Section 34-11-95, the Freedom of Information Act, or any other provision of law except to those authorized law or court officials who need to know this information in order to prevent the rights afforded by this section from being taken advantage of more than once.

(D) As used in this section, 'conviction' includes a guilty plea, a plea of nolo contendere, or the forfeiting of bail."

Expungement, certain drug offenses eligible for expungement

SECTION 3. Section 17-22-910 of the 1976 Code is amended to read:

"Section 17-22-910. Applications for expungement of all criminal records must be administered by the solicitor's office in each circuit in the State as authorized pursuant to:

(1) Section 34-11-90(e), first offense misdemeanor fraudulent check;

(2) Section 44-53-450(b), conditional discharge;

(3) Section 22-5-910, first offense conviction in magistrates court;

(4) Section 22-5-920, youthful offender act;

(5) Section 56-5-750(f), first offense failure to stop when signaled by a law enforcement vehicle;

(6) Section 17-22-150(a), pretrial intervention;

(7) Section 17-1-40, criminal records destruction, except as provided in Section 17-22-950;

(8) Section 20-7-8525, juvenile expungements;

(9) Section 17-22-530(a), alcohol education program;

(10) Section 17-22-330(A), traffic education program; and

(11) any other statutory authorization."

Expungement, traffic education program directors included

SECTION 4. Section 17-22-940(E) of the 1976 Code is amended to read:

"(E) In cases when charges are sought to be expunged pursuant to Section 17-22-150(a), 17-22-530(a), 22-5-910, or 44-53-450(b), the circuit pretrial intervention director, alcohol education program

director, traffic education program director, or summary court judge shall attest by signature on the application to the eligibility of the charge for expungement before either the solicitor or his designee and then the circuit court judge, or the family court judge in the case of a juvenile, signs the application for expungement."

Expungement, court orders to include associated bench warrants, summary court expungement procedures

SECTION 5. Section 17-22-950 of the 1976 Code is amended to read:

"Section 17-22-950. (A)(1) When criminal charges are brought in a summary court and the accused person is found not guilty or if the charges are dismissed or nolle prossed, pursuant to Section 17-1-40, the presiding judge of the summary court, at no cost to the accused person, immediately shall issue an order to expunge the criminal records, including any associated bench warrants, of the accused person unless the dismissal of the charges occurs at a preliminary hearing or unless the accused person has charges pending in summary court and a court of general sessions and such charges arise out of the same course of events. This expungement must occur no sooner than the appeal expiration date and no later than thirty days after the appeal expiration date. Except as provided in item (2), upon issuance of the order, the judge of the summary court or a member of the summary court staff must coordinate with SLED to confirm that the criminal charge is statutorily appropriate for expungement; obtain and verify the presence of all necessary signatures; file the completed expungement order with the clerk of court; provide copies of the completed expungement order to all governmental agencies which must receive the order including, but not limited to, the arresting law enforcement agency, the detention facility or jail, the solicitor's office, the magistrates or municipal court where the arrest or bench warrant originated, the magistrates or municipal court that was involved in any way in the criminal process of the charge or bench warrant sought to be expunged, and SLED. The judge of the summary court or a member of the summary court staff also must provide a copy of the completed expungement order to the applicant or his retained counsel. The prosecuting agency or appropriate law enforcement agency may file an objection to a summary court expungement. If an objection is filed by the prosecuting agency or law enforcement agency, that expungement then must be heard by the judge of a general sessions court. The prosecuting

agency's or the appropriate law enforcement agency's reason for objecting must be that the:

(a) accused person has other charges pending;

(b) prosecuting agency or the appropriate law enforcement agency believes that the evidence in the case needs to be preserved; or

(c) accused person's charges were dismissed as a part of a plea agreement.

(2) If criminal charges are brought in a summary court and the accused person is found not guilty, or the charges are dismissed or nolle prossed pursuant to Section 17-1-40, and the person was not fingerprinted for the violation, then, upon issuance of the order, the summary court shall coordinate with the arresting law enforcement agency to confirm that the person was not fingerprinted for the violation; obtain and verify all necessary signatures; and provide copies of the completed expungement order to the arresting law enforcement agency and all summary courts that were involved in the criminal process of the charges. The summary court is not required to provide copies of the completed expungement order to SLED. All summary courts that were involved in the criminal process of the charges shall destroy all documentation related to the charges, including, but not limited to, removing the charges from Internet-based public records. All other provisions of subsection (A)(1) apply.

(B) If the prosecuting agency or the appropriate law enforcement agency objects to an expungement order being issued pursuant to subsection (A)(1)(b), the prosecuting agency or appropriate law enforcement agency must notify the accused person of the objection. This notice must be given in writing at the address listed on the accused person's bond form, or through his attorney, no later than thirty days after the person is found not guilty or his charges are dismissed or nolle prossed."

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 9th day of June, 2014.

Approved the 9th day of June, 2014.

No. 277

(R321, H4944)

AN ACT TO AMEND SECTION 12-43-225, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MULTIPLE LOT DISCOUNT, SO AS TO PROVIDE AN ADDITIONAL YEAR OF ELIGIBILITY IN CERTAIN CIRCUMSTANCES.

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

Multiple lot discount extension

SECTION 1. Section 12-43-225(D) of the 1976 Code is amended to read:

"(D)(1) For lots which received the discount provided in subsection (B) on December 31, 2011, there is granted an additional year of eligibility for that discount in property tax years 2012, 2013, 2014, and 2015, in addition to any remaining period provided for in subsection (B). If ten or more lots receiving the discount under this item are sold to a new owner primarily in the business of real estate development, the new owner may make written application within sixty days of the date of sale to the assessor for the remaining eligibility period under this item.

(2) For lots which received the discount provided in subsection (C) after December 31, 2008, and before January 1, 2012, upon written application to the assessor no later than thirty days after mailing of the property tax bill, there is granted an additional year of eligibility for that discount in property tax years 2012, 2013, 2014, and 2015. If a lot receiving the additional eligibility under this item is transferred to a new owner primarily in the business of residential development or residential construction during its eligibility period, the new owner may apply to the county assessor for the discount allowed by this item for the remaining period of eligibility, which must be allowed if the new owner applied for the discount within thirty days of the mailing of the tax bill and meets the other requirements of this section."

Time effective

SECTION 2. This act takes effect upon approval by the Governor and applies to property tax years beginning after 2013.

Ratified the 9th day of June, 2014.

Approved the 9th day of June, 2014.

No. 278

(R322, H5040)

AN ACT TO AMEND SECTION 51-13-1720, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE BOARD OF REGENTS FOR THE OLD JACKSONBOROUGH HISTORIC DISTRICT AUTHORITY, SO AS TO REDUCE THE BOARD TO SEVEN MEMBERS, AND TO CHANGE THE MANNER IN WHICH TWO APPOINTMENTS ARE MADE.

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

Membership of Board of Regents for the Old Jacksonborough District Authority

SECTION 1. Section 51-13-1720 of the 1976 Code, as last amended by Act 279 of 2012, is further amended to read:

"Section 51-13-1720. The authority must be governed by a board of regents consisting of seven members, as follows:

(a) one member appointed by the Senator in whose district the present Village of Jacksonborough is located. The member must be a resident of this State;

(b) one member appointed by the Representative in whose district the present Village of Jacksonborough is located. The member must be a resident of this State;

(c) four members resident in Colleton County appointed by the Governor upon recommendation of the Colleton County Legislative Delegation;

(d) one member appointed by the Governor with the advice and consent of the Senate who resides in the congressional district in which the present Village of Jacksonborough is located.

The terms of the members must be for four years and until their successors are appointed and qualify except that those originally appointed to the board of regents, four shall serve two years and three shall serve for four years. The length of such terms must be determined by lot. In the case of a vacancy, the vacancy must be filled in the manner of the original appointment for the unexpired portion of the term only. The board of regents, upon being appointed, shall meet and elect a chairman and other officers it considers necessary from its membership."

Time effective

SECTION 2. This act takes effect upon approval by the Governor. However, any member serving on the effective date of this act may continue to serve until their term expires, at which time the succeeding member must be appointed pursuant to the provisions of this act.

Ratified the 9th day of June, 2014.

Approved the 9th day of June, 2014.

No. 279

(R297, H3644)

AN ACT TO AMEND SECTION 12-6-3588, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE RENEWABLE ENERGY TAX CREDIT INCENTIVE PROGRAM, SO AS TO REDESIGNATE THE PROGRAM THE "SOUTH CAROLINA CLEAN ENERGY TAX INCENTIVE PROGRAM", TO REVISE DEFINITIONS TO EXTEND THE CREDIT TO ADDITIONAL FORMS OF ENERGY PRODUCTION AND OPERATIONS, TO DECREASE INVESTMENT THRESHOLDS AND DECREASE JOB CREATION THRESHOLDS FOR QUALIFYING FOR THE CREDIT AND MAKE THE CREDIT, PREVIOUSLY DUE TO EXPIRE DECEMBER 31, 2015, AVAILABLE THROUGH 2020, AND TO REVISE CREDIT ADMINISTRATION PROCEDURES FOR CREDITS EARNED AFTER 2014; TO AMEND SECTION 12-6-3620, RELATING TO THE CORPORATE INCOME AND LICENSE TAX CREDIT ALLOWED FOR EQUIPMENT

INSTALLED TO PRODUCE ENERGY FROM BIOMASS SOURCES, SO AS TO PROVIDE THAT THE PRIMARY ADMINISTRATION OF SUCH CREDITS EARNED AFTER TAXABLE YEAR 2013, IS BY THE SOUTH CAROLINA DEPARTMENT OF REVENUE; TO AMEND SECTION 12-20-105, RELATING TO THE CORPORATE LICENSE TAX CREDIT ALLOWED FOR CASH CONTRIBUTIONS TO PROVIDE INFRASTRUCTURE FOR ELIGIBLE PROJECTS, SO AS TO INCLUDE IN THE DEFINITION OF "ELIGIBLE PROJECT" A MUNICIPAL OR COUNTY-OWNED, MULTIUSE SPORTS AND RECREATIONAL COMPLEX LOCATED IN A COUNTY IN WHICH HAS BEEN COLLECTED AT LEAST FIVE MILLION DOLLARS IN A FISCAL YEAR IN STATE-IMPOSED ACCOMMODATIONS TAX AND TO FURTHER DEFINE "INFRASTRUCTURE" FOR PURPOSES OF A MULTIUSE SPORTS AND RECREATIONAL COMPLEX; TO AMEND SECTION 12-10-95, RELATING TO THE CREDIT AGAINST WITHHOLDING FOR RETRAINING, SO AS TO INCREASE THE CREDIT, SPECIFY ELIGIBLE EMPLOYEES AND PROGRAMS, PROVIDE THAT A BUSINESS MAY NOT CLAIM THE CREDIT IF THE EMPLOYEE IS REQUIRED TO REIMBURSE OR PAY FOR THE COSTS OF THE RETRAINING, INCREASE THE MATCH AMOUNT FOR THE BUSINESS, AND PROVIDE THAT THE PROGRAMS ARE SUBJECT TO REVIEW BY THE DEPARTMENT OF REVENUE AND THE STATE BOARD OF TECHNICAL AND COMPREHENSIVE EDUCATION; AND TO AMEND SECTION 12-10-105, RELATING TO THE ANNUAL FEE FOR A BUSINESS CLAIMING THE WITHHOLDING CREDIT, SO AS TO INCREASE THE THRESHOLD BELOW WHICH THE ANNUAL FEE FOR THE JOB RETRAINING CREDIT DOES NOT APPLY.

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

Tax credit renamed, extended, and revised

SECTION 1. A. Section 12-6-3588 of the 1976 Code is amended to read:

"Section 12-6-3588. (A) The General Assembly has determined to enact the 'South Carolina Clean Energy Tax Incentive Program' as

contained in this section to encourage business investment that will produce high quality employment opportunities and enhance this state's position as a center for production and use of clean energy products. The program accomplishes this goal by providing tax incentives to companies in the solar, wind, geothermal, and other clean energy industries which are expanding or locating in South Carolina.

(B) As used in this section:

(1) 'Capital investment' means an expenditure to acquire, lease, or improve property that is used in operating a business, including land, buildings, machinery, and fixtures.

(2) 'Manufacturing' means fabricating, producing, or manufacturing raw or unprepared materials into usable products, imparting new forms, qualities, properties, and combinations. Manufacturing does not include generating electricity for off-site consumption.

(3) 'Qualifying investment' means investment in land, buildings, machinery, and fixtures for expansion of an existing facility or establishment of a new facility in this State. Qualifying investment does not include relocating an existing facility in this State to another location in this State without additional capital investment.

(4) 'Clean energy operations' are limited to manufacturers of systems or components that are used or useful in manufacturing or operation of clean energy equipment for the generation, storage, testing and research and development, and transmission or distribution of electricity from clean energy sources, including specialized packaging for the clean energy equipment manufactured at the facility. A clean energy operation does not include generating electricity for off-site consumption.

(C) A business or corporation meeting the requirements of this section is eligible to receive a ten percent nonrefundable income tax credit of the cost of the company's total qualifying investments in plant and equipment in this State for clean energy operations.

(D) The business or corporation shall:

(1) manufacture clean energy systems or components in South Carolina for solar, wind, geothermal, or other clean energy uses in order to be eligible for the tax credit authorized by this section;

(2) invest at least fifty million dollars in a Tier IV county, at least one hundred million dollars in a Tier III county, at least one hundred fifty million dollars in a Tier II county, and at least two hundred million dollars in a Tier I county according to the county ranking and designation system as provided pursuant to Section 12-6-3360(B) in

the year the tax credit is claimed in new qualifying plant and equipment; and

(3) have created at least one full-time job for every one million dollars of capital investment qualifying for the credit that each pays at least one hundred twenty-five percent of this state's average annual median wage as defined by the Department of Commerce.

(E) The income tax credit is allowed for up to sixty months beginning with the first taxable year for which the business or corporation is eligible to receive the credit, so long as the business or corporation becomes eligible to receive the credit no later than the tax year ending on December 31, 2020.

(F) A taxpayer may separately qualify for new facilities in separate locations or for separate expansions of existing facilities located in this State.

(G) A taxpayer's total credit for all expenditures allowed pursuant to this section must not exceed five hundred thousand dollars for any year and five million dollars total for all years. Unused credits may be carried forward for fifteen years after the tax year in which a qualified expenditure was made. The credit is nonrefundable.

(H) For any credit awarded after tax year 2014, to obtain the amount of the credit available to a taxpayer, each taxpayer shall notify the Department of Revenue, in writing, of its intention to claim the tax credit. The Department of Revenue shall determine the proof necessary to meet the requirements of subsections (D)(1) and (D)(2). Expenditures qualifying for the tax credit allowed by this section must be certified by the Department of Revenue. The Department of Revenue must consult with the Department of Commerce, the State Energy Office, or any other appropriate state and federal officials on standards for certification.

Each taxpayer shall submit a request for the credit to the Department of Revenue by January thirty-first for qualifying expenses incurred in the previous calendar year and the Department of Revenue must notify the taxpayer that the submitted expenditures qualify for the credit and the amount of credit allocated to such taxpayer by March first of that year. A taxpayer may claim the maximum amount of the credit for its taxable year which contains the December thirty-first of the previous calendar year.

(I) To obtain the amount of the credit available to a taxpayer, the Department of Commerce also must certify to the Department of Revenue that the taxpayer has met the job creation requirements of subsection (D)(3).

(J) The credits authorized by this section are in lieu of any other applicable income tax credits or abatements allowed by state law, and in the event of an overlap or conflict in available credits or abatements to a taxpayer, the taxpayer must select the credit or abatement the taxpayer desires in the manner prescribed by the Department of Revenue to the extent the credits or abatements conflict or overlap."

B. This section takes effect upon approval by the Governor and applies to tax years beginning after 2013.

Administration of tax credit

SECTION 2. Section 12-6-3620 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

"( ) Notwithstanding subsections (A) or (D)(1), for any credit requested after tax year 2013, to obtain the maximum amount of credit available to a taxpayer, a taxpayer must submit a request for credit to the Department of Revenue by January thirty-first for all qualifying equipment placed in service in the previous calendar year and the department must notify the taxpayer that it qualifies for the credit and the amount of credit allocated to the taxpayer by March first of that year. A taxpayer may claim the maximum amount of the credit for its taxable year which contains the December thirty-first of the previous calendar year. The Department of Revenue may require any documentation that it deems necessary to administer the credit, including, but not limited to, documentation relating to certifying the costs incurred by a taxpayer. The Department of Revenue shall consult with the State Energy Office or any other appropriate state and federal officials on standards for certification."

Additional 'eligible project'

SECTION 3. A. Section 12-20-105(B) of the 1976 Code is amended by adding an appropriately numbered item to read:

"(3) In a county in which at least five million dollars in state accommodations tax imposed pursuant to Section 12-36-920 has been collected in at least one fiscal year, a county or municipality-owned multiuse sports and recreational complex is considered an 'eligible project' promoting economic development for all purposes of the credit allowed pursuant to this section."

B. Section 12-20-105 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

"( ) For the purposes of this section, for a qualifying project pursuant to subsection (B)(3), infrastructure includes all applicable provisions of subsection (C) applying to the development and construction of the sports and recreational complex and further includes costs of land acquisition and preparation, construction of facilities and venues in the complex, improvements and upgrades to existing facilities and venues, and any other capital costs incurred in the acquisition, construction, and operation of the complex."

C. This section takes effect upon approval by the Governor and applies for contributions made for a multiuse sports and recreational complex placed in service after 2011.

Job retraining tax credit and annual fee revised

SECTION 4. A. Section 12-10-95 of the 1976 Code is amended to read:

"Section 12-10-95. (A)(1) Subject to the conditions in this section, a business engaged in manufacturing or processing operations or technology intensive activities at a manufacturing, processing, or technology intensive facility as defined in Section 12-6-3360(M) and that meets the requirements of Section 12-10-50(B)(2) may negotiate with a technical college, with approval from the State Board for Technical and Comprehensive Education, to claim as a credit against withholding one thousand dollars a year for the retraining of a production or technology first line employee or immediate supervisor who has been continuously employed by the business for a minimum of two years and is a full-time employee, so long as retraining is necessary for the qualifying business to remain competitive or to introduce new technologies. In addition to the yearly limits, the retraining credit claimed against withholding may not exceed five thousand dollars over five consecutive years for each retrained production or technology first line employee or immediate supervisor.

(2) Retraining programs that are eligible for the credit include, but are not limited to:

(a) retraining of current employees on newly installed equipment; and

(b) retraining of current employees on newly implemented technology, such as computer platforms, software implementation and upgrades, Total Quality Management, ISO 9000, and self-directed work teams.

Executive training, management development training, career development, personal enrichment training, and cross-training of employees on equipment or technology that is not new to the company are not eligible for the credit.

(B) A qualifying business is eligible to claim as a retraining credit against withholding the lower amount of the following:

(1) the retraining credit for the applicable withholding period as determined by subsection (A); or

(2) withholding paid to the State for the applicable withholding period.

(C) All retraining must be approved by a technical college under the jurisdiction of the State Board for Technical and Comprehensive Education. A qualifying business must submit a retraining program for approval by the appropriate technical college. The approving technical college may provide the retraining itself, subject to the retraining program, or contract with other training entities to provide the required retraining, or supervise the employer's approved internal training program.

(D) An employer may not receive the credit allowed by this section if the employer requires that the employee reimburse or pay the employer for the direct costs of retraining, or if the employee is required to reimburse or pay the employer indirectly through the forfeiture of leave time, vacation time, or other compensable time. Direct costs of retraining include instructor salaries, development of retraining programs, purchase or rental of materials and supplies, textbooks and manuals, instructional media, such as video tapes, presentations, equipment used for retraining only, not to include production equipment, and reasonable travel costs as limited by the state's travel expense reimbursement policy.

(E) The qualifying business must expend at least one dollar fifty cents on retraining eligible employees for every dollar claimed as a credit against withholding for retraining. All training costs, including costs in excess of the retraining credits and matching funds, are the responsibility of the business.

(F) A qualifying business may not claim retraining credit for training provided to the following production or technology first line employees or immediate supervisors:

(a) temporary or contract employees; and

(b) employees who are subject to a revitalization agreement, including a preliminary revitalization agreement.

(G) Notwithstanding another provision of this section, the retraining credit allowed by this section is for:

(1) apprenticeship programs; and

(2) retraining for all relevant employees that enable a company to export or increase its ability to export its products, including training for logistics, regulatory, and administrative areas connected to its export process and other export process training that allows a qualified company to maintain or expand its business in this State.

(H) There is hereby established an annual renewal fee of two hundred fifty dollars to be billed and collected by the department.

(I)(1) All approved programs and training must be reviewed annually by the State Board for Technical and Comprehensive Education.

(2) Every three years, the Department of Revenue must audit any business that claimed the job retraining credit pursuant to this section during that time period, solely for the purpose of verifying proper sources and uses of the credits.

(J) The State Board for Technical and Comprehensive Education shall establish policies and procedures to provide the oversight and review provisions of this section. By November fifteenth of each year, the State Board for Technical and Comprehensive Education shall submit a statewide aggregated report detailing the utilization of the retraining credit pursuant to this section, as well as the board's activities in regard to oversight, to the Governor, the Chairman of the House Ways and Means Committee, the Chairman of the Senate Finance Committee, the Coordinating Council for Economic Development, and the Department of Revenue. Also, the board shall make the report available in a conspicuous place on the website maintained by the board."

B. Section 12-10-105 of the 1976 Code is amended to read:

"Section 12-10-105. In addition to the application fee provided in Section 12-10-100, an additional annual fee of one thousand dollars must be remitted by those qualifying businesses claiming in excess of ten thousand dollars of job development credits or in excess of forty thousand dollars in job retraining credits in one calendar year. The fee is due for each project that is subject to a revitalization agreement that exceeds ten thousand dollars or retraining agreement that exceeds forty thousand dollars in one calendar year and must be remitted to the

Department of Revenue to be used to reimburse the department for costs incurred auditing reports required pursuant to Section 12-10-80(A). The fee becomes due at the time the single project's claims for job development credits exceeds ten thousand dollars or job retraining credits exceed forty thousand dollars for that calendar year."

C. This section takes effect upon approval by the Governor and applies to tax years beginning after December 31, 2013.

Time effective

SECTION 5. Except where provided otherwise, this act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 10th day of June, 2014.

No. 280

(R316, H3014)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 29 TO TITLE 14 SO AS TO ENACT THE "VETERANS TREATMENT COURT PROGRAM ACT"; TO AUTHORIZE CIRCUIT SOLICITORS TO ESTABLISH VETERANS TREATMENT COURT PROGRAMS; TO PROVIDE THAT EACH CIRCUIT SOLICITOR THAT ACCEPTS STATE FUNDING FOR THE IMPLEMENTATION OF A VETERANS TREATMENT COURT PROGRAM MUST ESTABLISH AND ADMINISTER AT LEAST ONE VETERANS TREATMENT COURT PROGRAM FOR THE CIRCUIT WITHIN ONE HUNDRED EIGHTY DAYS OF RECEIPT OF FUNDING; AND TO PROVIDE THAT THE CIRCUIT SOLICITOR MUST ADMINISTER THE PROGRAM AND ENSURE THAT ALL ELIGIBLE PERSONS ARE PERMITTED TO APPLY FOR ADMISSION.

Whereas, researchers have shown that a significant number of members of the United States Armed Forces who have served in Iraq and

Afghanistan will suffer, as a result of their military service, mental health injuries, such as post-traumatic stress disorder, depression, anxiety and acute stress, and injuries that affect brain function, such as traumatic brain injury; and

Whereas, while the vast majority of returning members of the United States Armed Forces do not have contact with the criminal justice system, and most veterans and members of the United States Armed Forces are well-adjusted, contributing members of society, psychiatrists and law enforcement officials agree that combat-related injuries have led to instances of criminality; and

Whereas, as a grateful State, we must continue to honor the military service of our men and women by providing them with an alternative to incarceration when feasible, permitting them instead to obtain proper treatment for mental health and substance abuse problems that have resulted from military service. Now, therefore,

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

Veterans Treatment Courts

SECTION 1. Title 14 of the 1976 Code is amended by adding:

"CHAPTER 29

Veterans Treatment Court Program

Section 14-29-10. This chapter may be cited as the 'Veterans Treatment Court Program Act'.

Section 14-29-20. The General Assembly recognizes the success of various other states' veterans court initiatives in rehabilitating certain nonviolent offenders who are veterans of a military conflict in which the United States military is or has been involved. The purpose of this chapter is to divert qualifying nonviolent military veteran offenders away from the criminal justice system and into appropriate treatment programs, thereby reserving prison space for violent criminals and others for whom incarceration is the only reasonable alternative.

Section 14-29-30. Each circuit solicitor may establish a veterans treatment court program. Each circuit solicitor that accepts state

funding for the implementation of a veterans treatment court program must establish and administer at least one veterans treatment court program for the circuit within one hundred eighty days of receipt of funding. The circuit solicitor must administer the program and ensure that all eligible persons are permitted to apply for admission to the program."

Savings Clause

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Severability

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 9th day of June, 2014.

Approved the 10th day of June, 2014.

No. 281

(R317, H3102)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT "JAIDON'S LAW"; TO AMEND SECTION 43-5-1285, RELATING TO EVALUATION OF THE SUCCESS AND EFFECTIVENESS OF THE SOUTH CAROLINA FAMILY INDEPENDENCE ACT OF 1995, SO AS TO REQUIRE THE DEPARTMENT OF SOCIAL SERVICES (DSS) TO REPORT ANNUALLY CERTAIN DATA TO THE GENERAL ASSEMBLY; BY ADDING SECTION 2-15-64 SO AS TO REQUIRE THE LEGISLATIVE AUDIT COUNCIL TO AUDIT EVERY THREE YEARS A PROGRAM OF DSS TO BE DETERMINED IN CONSULTATION WITH THE HOUSE JUDICIARY COMMITTEE AND SENATE GENERAL COMMITTEE AND TO AUTHORIZE THE LEGISLATIVE AUDIT COUNCIL TO SEEK REIMBURSEMENT OF AUDIT COSTS FROM DSS UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 63-7-1680, AS AMENDED, RELATING TO A PLACEMENT PLAN FOR A CHILD REMOVED FROM THE CUSTODY OF THE PARENT OR GUARDIAN, SO AS TO ALLOW DSS TO FILE A MOTION WITH THE COURT TO TERMINATE OR SUSPEND VISITATION WITH THE PARENT OR GUARDIAN; TO AMEND SECTION 63-7-1690, RELATING TO CONTENTS OF A PLACEMENT PLAN WHEN THE CONDITIONS FOR REMOVAL OF A CHILD FROM THE CUSTODY OF A PARENT INCLUDE CONTROLLED SUBSTANCE ABUSE, SO AS TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 63-7-1710, RELATING TO CIRCUMSTANCES UNDER WHICH DSS IS REQUIRED TO FILE A PETITION TO TERMINATE PARENTAL RIGHTS, SO AS TO ADD COMMITTING, AND AIDING OR ABETTING TO COMMIT, HOMICIDE BY CHILD ABUSE OF ANOTHER CHILD OF THE PARENT AND WILFUL FAILURE TO COMPLY WITH THE TERMS OF A TREATMENT PLAN OR

PLACEMENT PLAN TWICE WITHIN TWELVE MONTHS; TO AMEND SECTION 63-7-1940, RELATING TO COURT-ORDERED ENTRY OF A PERSON IN THE CENTRAL REGISTRY FOR CHILD ABUSE AND NEGLECT, SO AS TO REQUIRE ENTRY IF A NEWBORN INFANT TESTS POSITIVE FOR A CONTROLLED SUBSTANCE, PRESCRIBED DRUG, OR ALCOHOL-RELATED DIAGNOSIS, IN CERTAIN CIRCUMSTANCES; TO AMEND SECTION 63-7-2570, AS AMENDED, RELATING TO GROUNDS FOR TERMINATION OF PARENTAL RIGHTS, SO AS TO ADD ADDICTION TO ALCOHOL OR ILLEGAL DRUGS OR PRESCRIPTION MEDICATION ABUSE AND COMMITTING MURDER, VOLUNTARY MANSLAUGHTER, OR HOMICIDE BY CHILD ABUSE OF ANOTHER CHILD OF THE PARENT; TO AMEND SECTION 63-7-1700, AS AMENDED, RELATING TO PERMANENCY PLANNING FOR A CHILD, SO AS TO REQUIRE A PARENT TO UNDERGO A DRUG TEST BEFORE RETURNING THE CHILD TO THE HOME IF THE REASON FOR REMOVAL IS RELATED TO DRUG ABUSE BY THE PARENT; TO AMEND SECTION 17-5-540, RELATING TO CORONER OR MEDICAL EXAMINER NOTIFICATION OF THE DEPARTMENT OF CHILD FATALITIES, SO AS TO APPLY IN ALL CASES WHEN A CHILD DIES AS A RESULT OF VIOLENCE; AND TO AMEND SECTION 43-1-210, AS AMENDED, RELATING TO DSS REPORTING REQUIREMENTS, SO AS TO REQUIRE DSS ANNUALLY TO REPORT CERTAIN DATA TO THE GOVERNOR AND GENERAL ASSEMBLY ADDRESSING CHILD PROTECTION WORKER CASELOADS, TIMELINESS OF CHILD ABUSE AND NEGLECT INVESTIGATIONS, AND TIMELINESS OF CASEWORKER VISITS WITH CHILDREN IN FOSTER CARE.

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

Jaidon's Law created

SECTION 1. This act may be cited as "Jaidon's Law".

Annual reports, Family Independence Program

SECTION 2. Section 43-5-1285 of the 1976 Code, as added by Act 102 of 1995, is amended to read:

"Section 43-5-1285. The department shall report annually to the General Assembly on the number of Family Independence families and individuals no longer receiving welfare, the number of individuals who have participated in educational, employment, or training programs under this act, the number of individuals who have completed educational, employment, or training programs under this act, and the number of individuals who have become employed and the duration of their employment."

Department of Social Services audits

SECTION 3. Chapter 15, Title 2 of the 1976 Code is amended by adding:

"Section 2-15-64. Beginning December 31, 2013, and every three years thereafter, the Legislative Audit Council shall conduct a management performance audit of a program of the South Carolina Department of Social Services. The program to be reviewed will be determined after consultation with the House of Representatives and the Senate. The Legislative Audit Council is authorized to charge the Department of Social Services for federal funds, if available, for the costs associated with this audit and shall provide certification to the Department of Social Services of certified public expenditures that are eligible for matching federal funds. The Department of Social Services shall remit the federal funds to the Legislative Audit Council as reimbursement for the costs of the audit."

Visitation of child in foster care

SECTION 4. Section 63-7-1680(D) of the 1976 Code, as last amended by Act 160 of 2010, is further amended to read:

"(D) The third section of the plan shall set forth rights and obligations of the parents or guardian while the child is in custody including, but not limited to:

(1) the responsibility of the parents or guardian for financial support of the child during the placement; and

(2) the visitation rights and obligations of the parents or guardian during the placement.

The department may move before the family court for termination or suspension of visits between the parent or guardian and the child. The

family court may order termination or suspension of the visits if ongoing contact between the parent or guardian and the child would be contrary to the best interests of the child. This section of the plan must include a notice to the parents or guardian that failure to support or visit the child as provided in the plan may result in termination of parental rights."

Placement plan, technical changes

SECTION 5. Section 63-7-1690 of the 1976 Code is amended to read:

"Section 63-7-1690. (A) When the conditions justifying removal pursuant to Section 63-7-1660 include the addiction of the parent or abuse by the parent of controlled substances, the court may require as part of the placement plan ordered pursuant to Section 63-7-1680:

(1) the parent to successfully complete a treatment program operated by the Department of Alcohol and Other Drug Abuse Services or another treatment program approved by the department before return of the child to the home;

(2) any other adult person living in the home who has been determined by the court to be addicted to or abusing controlled substances or alcohol and whose conduct has contributed to the parent's addiction or abuse of controlled substances or alcohol to successfully complete a treatment program approved by the department before return of the child to the home; and

(3) the parent or other adult, or both, identified in item (2) to submit to random testing for substance abuse and to be alcohol or drug free for a period of time to be determined by the court before return of the child. The parent or other adult identified in item (2) must continue random testing for substance abuse and must be alcohol or drug free for a period of time to be determined by the court after return of the child before the case will be authorized to be closed.

(B) Results of tests ordered pursuant to this section must be submitted to the department and are admissible only in family court proceedings brought by the department."

Termination of parental rights

SECTION 6. Section 63-7-1710(A) of the 1976 Code is amended to read:

"(A) When a child is in the custody of the department, the department shall file a petition to terminate parental rights or shall join as party in a termination petition filed by another party if:

(1) a child has been in foster care under the responsibility of the State for fifteen of the most recent twenty-two months;

(2) a court of competent jurisdiction has determined the child to be an abandoned infant;

(3) a court of competent jurisdiction has determined that the parent has committed murder, voluntary manslaughter, or homicide by child abuse of another child of the parent;

(4) a court of competent jurisdiction has determined that the parent has aided, abetted, conspired, or solicited to commit murder, voluntary manslaughter, or homicide by child abuse of another child of the parent;

(5) a court of competent jurisdiction has determined that the parent has committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent; or

(6) a court of competent jurisdiction has found the parent to be in wilful contempt on two occasions over a twelve-month period for failure to comply with the terms of the treatment plan or placement plan established pursuant to subarticle 11."

Court order, Central Registry of Child Abuse and Neglect

SECTION 7. Section 63-7-1940 of the 1976 Code is amended to read:

"Section 63-7-1940. (A) At a hearing pursuant to Section 63-7-1650 or 63-7-1660, at which the court orders that a child be taken or retained in custody or finds that the child was abused or neglected, the court:

(1) shall order, without possibility of waiver by the department, that a person's name be entered in the Central Registry of Child Abuse and Neglect if the court finds that there is a preponderance of evidence that the person:

(a) physically abused the child; however, if the only form of physical abuse that is found by the court is excessive corporal punishment, the court only may order that the person's name be entered in the central registry if item (2) applies;

(b) sexually abused the child;

(c) wilfully or recklessly neglected the child; or

(d) gave birth to the infant and the infant tested positive for the presence of any amount of controlled substance, prescription drugs not

prescribed to the mother, metabolite of a controlled substance, or the infant has a medical diagnosis of neonatal abstinence syndrome, unless the presence of the substance or metabolite is the result of a medical treatment administered to the mother of the infant during birth or to the infant;

(2) may, except as provided for in item (1), order that the person's name be entered in the central registry if the court finds by a preponderance of evidence that:

(a) the person abused or neglected the child in any manner, including the use of excessive corporal punishment; and

(b) the nature and circumstances of the abuse indicate that the person would present a significant risk of committing physical or sexual abuse or wilful or reckless neglect if the person were in a position or setting outside of the person's home that involves care of or substantial contact with children.

(B) At the probable cause hearing, the court may order that the person be entered in the central registry if there is sufficient evidence to support the findings required by subsection (A)."

Grounds to terminate parental rights

SECTION 8. Section 63-7-2570 of the 1976 Code, as last amended by Act 160 of 2010, is further amended to read:

"Section 63-7-2570. The family court may order the termination of parental rights upon a finding of one or more of the following grounds and a finding that termination is in the best interest of the child:

(1) The child or another child while residing in the parent's domicile has been harmed as defined in Section 63-7-20, and because of the severity or repetition of the abuse or neglect, it is not reasonably likely that the home can be made safe within twelve months. In determining the likelihood that the home can be made safe, the parent's previous abuse or neglect of the child or another child may be considered.

(2) The child has been removed from the parent pursuant to subarticle 3 or Section 63-7-1660 and has been out of the home for a period of six months following the adoption of a placement plan by court order or by agreement between the department and the parent and the parent has not remedied the conditions which caused the removal.

(3) The child has lived outside the home of either parent for a period of six months, and during that time the parent has wilfully failed to visit the child. The court may attach little or no weight to incidental

visitations, but it must be shown that the parent was not prevented from visiting by the party having custody or by court order. The distance of the child's placement from the parent's home must be taken into consideration when determining the ability to visit.

(4) The child has lived outside the home of either parent for a period of six months, and during that time the parent has wilfully failed to support the child. Failure to support means that the parent has failed to make a material contribution to the child's care. A material contribution consists of either financial contributions according to the parent's means or contributions of food, clothing, shelter, or other necessities for the care of the child according to the parent's means. The court may consider all relevant circumstances in determining whether or not the parent has wilfully failed to support the child, including requests for support by the custodian and the ability of the parent to provide support.

(5) The presumptive legal father is not the biological father of the child, and the welfare of the child can best be served by termination of the parental rights of the presumptive legal father.

(6) The parent has a diagnosable condition unlikely to change within a reasonable time including, but not limited to, addiction to alcohol or illegal drugs, prescription medication abuse, mental deficiency, mental illness, or extreme physical incapacity, and the condition makes the parent unlikely to provide minimally acceptable care of the child. It is presumed that the parent's condition is unlikely to change within a reasonable time upon proof that the parent has been required by the department or the family court to participate in a treatment program for alcohol or drug addiction, and the parent has failed two or more times to complete the program successfully or has refused at two or more separate meetings with the department to participate in a treatment program.

(7) The child has been abandoned as defined in Section 63-7-20.

(8) The child has been in foster care under the responsibility of the State for fifteen of the most recent twenty-two months.

(9) The physical abuse of a child of the parent resulted in the death or admission to the hospital for in-patient care of that child and the abuse is the act for which the parent has been convicted of or pled guilty or nolo contendere to committing, aiding, abetting, conspiring to commit, or soliciting an offense against the person as provided for in Chapter 3, Title 16, criminal domestic violence as defined in Section 16-25-20, criminal domestic violence of a high and aggravated nature as defined in Section 16-25-65, or an assault and battery offense as provided in Article 7, Chapter 3, Title 16.

(10) A parent of the child pleads guilty or nolo contendere to or is convicted of the murder of the child's other parent.

(11) Conception of a child as a result of the criminal sexual conduct of a biological parent, as found by a court of competent jurisdiction, is grounds for terminating the rights of that biological parent, unless the sentencing court makes specific findings on the record that the conviction resulted from consensual sexual conduct when neither the victim nor the actor were younger than fourteen years of age nor older than eighteen years of age at the time of the offense.

(12) The parent of the child pleads guilty or nolo contendere to or is convicted of murder, voluntary manslaughter, or homicide by child abuse, of another child of the parent."

Reunification of child with parents

SECTION 9. Section 63-7-1700(D) of the 1976 Code, as last amended by Act 160 of 2010, is further amended to read:

"(D) If the court determines at the permanency planning hearing that the child may be safely maintained in the home in that the parent has remedied the conditions that caused the removal and the return of the child to the child's parent would not cause an unreasonable risk of harm to the child's life, physical health, safety, or mental well-being, the court shall order the child returned to the child's parent. The court may order a specified period of supervision and services not to exceed twelve months. When determining whether the child should be returned, the court shall consider all evidence; if the removal of the child from the family was due to drug use by one or both parents, then a drug test must be administered to the parent or both parents, as appropriate, and the results must be considered with all other evidence in determining whether the child should be returned to the parents' care; and the supplemental report including whether the parent has substantially complied with the terms and conditions of the plan approved pursuant to Section 63-7-1680."

Coroner and medical examiner child fatality reporting

SECTION 10. Section 17-5-540 of the 1976 Code is amended to read:

"Section 17-5-540. The coroner or medical examiner, within twenty-four hours or one working day, whichever occurs first, must

notify the Department of Child Fatalities when a child dies in the county he serves:

(1) as a result of violence;

(2) in any suspicious or unusual manner; or

(3) when the death is unexpected and unexplained including, but not limited to, possible sudden infant death syndrome."

Caseworker and caseload reporting requirements

SECTION 11. Section 43-1-210 of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

"Section 43-1-210. The director shall prepare and submit to the Governor and the General Assembly a full and detailed report of its activities and expenditures annually, including a statement of its personnel and the salaries paid, and shall likewise make such recommendations and suggestions as it shall deem advisable in the execution of its duties to the General Assembly. In addition, this report must include, but is not limited to, the following information:

(1) the monthly total number of cases assigned, as of the last business day of every month, to each case worker in the Department of Social Services Child Protective Services Division;

(2) the monthly total number of children assigned, as of the last business day of every month, to each case worker in the Department of Social Services Child Protective Services Division;

(3) the monthly total number of children seen by the Department of Social Services within twenty-four hours of a report of abuse or neglect that were accepted for intake;

(4) the monthly total number of children that were not seen by the Department of Social Services within twenty-four hours of a report of abuse or neglect;

(5) the total number of children in foster care that were seen by the Department of Social Services each month; and

(6) the total number of children in foster care that were not seen by the Department of Social Services each month.

The Department of Social Services shall prepare and submit this report no later than March first of each year."

Time effective

SECTION 12. This act takes effect upon approval by the Governor.

Ratified the 9th day of June, 2014.

Approved the 10th day of June, 2014.

No. 282

(R278, S909)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-90-165 SO AS TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF INSURANCE MAY DECLARE A CAPTIVE INSURANCE COMPANY INACTIVE IN CERTAIN CIRCUMSTANCES AND THAT THE DIRECTOR MAY MODIFY THE MINIMUM TAX PREMIUM APPLICABLE TO THE COMPANY DURING INACTIVITY; BY ADDING SECTION 38-90-215 SO AS TO PROVIDE A PROTECTED CELL MAY BE EITHER INCORPORATED OR UNINCORPORATED, AND TO PROVIDE REQUIREMENTS FOR EACH; BY ADDING SECTION 38-90-250 SO AS TO PROVIDE THE DEPARTMENT MUST CONSIDER A LICENSED CAPTIVE INSURANCE COMPANY THAT MEETS THE REQUIREMENTS OF AN INSURER FOR ISSUANCE OF A CERTIFICATE OF AUTHORITY TO ACT AS AN INSURER; TO AMEND SECTION 38-90-10, AS AMENDED, RELATING TO DEFINITIONS CONCERNING CAPTIVE INSURANCE COMPANIES, SO AS TO PROVIDE ADDITIONAL TERMS AND REVISE DEFINITIONS OF CERTAIN EXISTING TERMS; TO AMEND SECTION 38-90-20, AS AMENDED, RELATING TO THE DOCUMENTATION REQUIRED FOR LICENSING CAPTIVE INSURANCE COMPANIES, SO AS TO REMOVE THE REQUIREMENT OF A CERTIFICATE OF GENERAL GOOD ISSUED BY THE DIRECTOR; TO AMEND SECTION 38-90-35, RELATING TO THE CONFIDENTIALITY OF INFORMATION CONCERNING CAPTIVE INSURANCE COMPANIES SUBMITTED TO THE DEPARTMENT OF INSURANCE, SO AS TO REVISE REQUIREMENTS FOR MAKING THE INFORMATION SUBJECT TO DISCOVERY IN A CIVIL ACTION; TO AMEND SECTION 38-90-40, AS AMENDED, RELATING TO CAPITALIZATION

REQUIREMENTS, SECURITY REQUIREMENTS, AND RESTRICTIONS ON DIVIDEND PAYMENTS FOR CAPTIVE INSURANCE COMPANIES, SO AS TO INCLUDE CAPTIVE INSURANCE COMPANIES AND RISK RETENTION GROUPS, TO REVISE THE FORM OF CAPITAL REQUIRED FOR A CAPTIVE INSURANCE COMPANY THAT IS NOT A SPONSORED CAPTIVE INSURANCE COMPANY THAT ASSUMES RISK, AND TO REVISE REQUIREMENTS FOR CONTRIBUTIONS TO A CAPTIVE INSURANCE COMPANY INCORPORATED AS A NONPROFIT, AMONG OTHER THINGS; TO AMEND SECTION 38-90-50, AS AMENDED, RELATING TO FREE SURPLUS REQUIREMENTS OF A CAPTIVE INSURANCE COMPANY, SO AS TO INCLUDE CAPTIVE INSURANCE COMPANIES AND SPECIAL PURPOSE CAPTIVE INSURANCE COMPANIES FORMED AS A RISK RETENTION GROUP, AND TO REVISE THE FORM OF CAPITAL REQUIRED FOR A CAPTIVE INSURANCE COMPANY THAT IS NOT A SPONSORED CAPTIVE INSURANCE COMPANY THAT ASSUMES RISK; TO AMEND SECTION 38-90-55, AS AMENDED, RELATING TO THE INCORPORATION OF CAPTIVE INSURANCE COMPANIES, SO AS TO DELETE PROVISIONS CONCERNING THE MINIMUM NUMBER AND STATUS OF INCORPORATORS, PREREQUISITES TO TRANSMITTING ARTICLES OF INCORPORATION TO THE SECRETARY OF STATE, AND THE ISSUANCE OF CAPITAL STOCK AT PAR VALUE; TO AMEND SECTION 38-90-60, AS AMENDED, RELATING TO INCORPORATION OPTIONS AND REQUIREMENTS FOR CAPTIVE INSURANCE COMPANIES, SO AS TO REVISE THE AVAILABLE OPTIONS; TO AMEND SECTION 38-90-70, AS AMENDED, RELATING TO REPORTING REQUIREMENTS FOR CAPTIVE INSURANCE COMPANIES AND CAPTIVE REINSURANCE COMPANIES, SO AS TO INCLUDE CAPTIVE INSURANCE COMPANIES FORMED AS RISK RETENTION GROUPS; TO AMEND SECTION 38-90-80, AS AMENDED, RELATING TO INSPECTIONS AND EXAMINATIONS OF CAPTIVE INSURANCE COMPANIES BY THE DEPARTMENT, SO AS TO DELETE REFERENCES TO PURE CAPTIVE INSURANCE COMPANIES AND SPECIAL PURPOSE CAPTIVE INSURANCE COMPANIES; TO AMEND SECTION 38-90-90, AS AMENDED, RELATING TO THE SUSPENSION OR REVOCATION OF A CAPTIVE INSURANCE LICENSE, SO

AS TO MAKE A GRAMMATICAL CHANGE; TO AMEND SECTION 38-90-100, AS AMENDED, RELATING TO THE LOANS BY CAPTIVE INSURANCE COMPANIES, SO AS TO PROVIDE A SPONSORED CAPTIVE INSURANCE COMPANY MAY MAKE LOANS TO ITS PARENT COMPANY IN CERTAIN CIRCUMSTANCES AND TO MAKE CONFORMING CHANGES; TO AMEND SECTION 38-90-110, AS AMENDED, RELATING TO CREDIT RESERVES, SO AS TO INCLUDE CAPTIVE INSURANCE COMPANIES FORMED AS RISK RETENTION GROUPS; TO AMEND SECTION 38-90-130, AS AMENDED, RELATING THE PROHIBITION AGAINST PARTICIPATION IN PLAN, POOL, ASSOCIATION, GUARANTY, OR INSOLVENCY FUNDS BY CAPTIVE INSURANCE COMPANIES, SO AS TO PROVIDE CAPTIVE INSURANCE COMPANIES, INCLUDING PURE CAPTIVE INSURANCE COMPANIES, MAY PARTICIPATE IN A POOL FOR THE PURPOSE OF COMMERCIAL RISK SHARING, AMONG OTHER THINGS; TO AMEND SECTION 38-90-160, AS AMENDED, RELATING TO APPLICABILITY OF THE CHAPTER, SO AS TO INCLUDE CAPTIVE INSURANCE COMPANIES FORMED AS RISK RETENTION GROUPS; TO AMEND SECTION 38-90-180, AS AMENDED, RELATING TO THE APPLICABILITY OF SPONSORED CAPTIVE INSURANCE COMPANY ASSETS AND CAPITAL PROVISIONS, SO AS TO PROVIDE REQUIREMENTS FOR THE NAME OF NEW CAPTIVE INSURANCE COMPANIES, TO PROVIDE CIRCUMSTANCES IN WHICH A SPONSORED CAPTIVE INSURANCE COMPANY MAY ESTABLISH PROTECTED CELLS, INCLUDING REQUIREMENTS FOR A PLAN OF OPERATION, THE ATTRIBUTIONS OF ASSETS AND LIABILITIES BETWEEN A PROTECTED CELL AND THE GENERAL ACCOUNT OF THE SPONSORED CAPTIVE INSURANCE COMPANY, AND ADMINISTRATIVE AND ACCOUNTING PROCEDURES; TO AMEND SECTION 38-90-210, RELATING TO THE SEPARATE ACCOUNTING OF PROTECTED CELLS WHEN ESTABLISHED, SO AS TO REQUIRE THIS ACCOUNTING MUST REFLECT THE PARTICIPANTS OF THE PROTECTED CELL IN ADDITION TO EXISTING REQUIREMENTS; TO AMEND SECTION 38-90-220, AS AMENDED, RELATING TO CERTAIN REQUIREMENTS APPLICABLE TO SPONSORS OF CAPTIVE INSURANCE COMPANIES, SO AS TO REVISE THE

REQUIREMENTS; TO AMEND SECTION 38-90-230, AS AMENDED, RELATING TO PARTICIPANTS IN SPONSORED CAPTIVE INSURANCE COMPANIES, SO AS TO PROVIDE THAT PROTECTED CELLS ASSETS ARE ONLY AVAILABLE TO CREDITORS OF THE SPONSORED CAPTIVE INSURANCE COMPANY AND RELATED REQUIREMENTS, AND TO PROVIDE REQUIREMENTS CONCERNING OBLIGATIONS OF SPONSORED CAPTIVE INSURANCE COMPANIES WITH RESPECT TO PROTECTED CELLS AND ITS GENERAL ACCOUNT; TO AMEND SECTION 38-90-240, RELATING TO THE ELIGIBILITY OF A LICENSED CAPTIVE INSURANCE COMPANY FOR CERTIFICATE OF AUTHORITY TO ACT AS INSURER, SO AS TO DELETE THE EXISTING LANGUAGE AND TO PROVIDE FOR WHO MAY PARTICIPATE IN A SPONSORED CAPTIVE INSURANCE COMPANY AND OBLIGATIONS OF THESE PARTICIPANTS, AND TO PROVIDE SPONSORED CAPTIVE INSURANCE COMPANIES MAY NOT BE USED TO FACILITATE INSURANCE SECURITIZATION TRANSACTIONS; TO AMEND SECTION 38-90-450, AS AMENDED, RELATING TO ORGANIZATION REQUIREMENTS FOR SPECIAL PURPOSE FINANCIAL CAPTIVES, SO AS TO DELETE PROVISIONS CONCERNING THE MINIMUM NUMBER AND STATUS OF INCORPORATORS, AND PREREQUISITES TO TRANSMITTING ARTICLES OF INCORPORATION TO THE SECRETARY OF STATE; AND TO REPEAL SECTION 38-90-235 RELATING TO TERMS AND CONDITIONS FOR PROTECTED CELL INSURANCE COMPANIES TO APPLY TO SPONSORED CAPTIVE INSURANCE COMPANIES.

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

Declaration of inactivity

SECTION 1. Article 1, Chapter 90, Title 38 of the 1976 Code is amended by adding:

"Section 38-90-165. (A) The director may declare inactive by order a captive insurance company other than a risk retention group or association captive if such captive insurance company has no outstanding liabilities and agrees to cease providing insurance coverage.

(B) During the period the captive insurance company is inactive, the director may by order:

(1) modify the minimum premium tax applicable to the captive insurance company to an amount no less than two thousand dollars and the captive insurance company shall pay no other premium taxes; and

(2) exempt the captive insurance company from the requirement to file such reports as set forth in the order."

Protected cells

SECTION 2. Article 1, Chapter 90, Title 38 of the 1976 Code is amended by adding:

"Section 38-90-215. (A) A protected cell may be either unincorporated or incorporated.

(B) With regard to unincorporated protected cells:

(1) The unincorporated protected cell shall have its own distinct name or designation, which shall include the words 'Protected Cell' or the abbreviation 'PC'. Any captive insurance company or protected cell formed prior to the effective date of this section may not be required to change its name to comply with the provisions of this paragraph.

(2) An unincorporated protected cell must meet the paid-in capital and free surplus requirements applicable to a special purpose captive insurance company and either:

(a) establish loss and loss expense reserves for business written through the unincorporated protected cell; or

(b) the business written through the unincorporated protected cell must be:

(i) fronted by an insurance company licensed pursuant to the laws of:

(A) any state; or

(B) any jurisdiction if the insurance company is a wholly owned subsidiary of an insurance company licensed pursuant to the laws of any state;

(ii) reinsured by a reinsurer authorized or approved by this State; or

(iii) secured by a trust fund in the United States for the benefit of policyholders and claimants funded by an irrevocable letter of credit or other asset acceptable to the director. The amount of security provided by the trust fund may not be less than the reserves associated with those liabilities, including reserves for losses, allocated

loss adjustment expenses, incurred but unreported losses, and unearned premiums for business written through the participant's protected cell. The director may require the sponsored captive to increase the funding of a trust established pursuant to this item. If the form of security in the trust is a letter of credit, the letter of credit must be established, issued, or confirmed by a bank chartered in this State, a member of the federal reserve system, or a bank chartered by another state if that state-chartered bank is acceptable to the director. A trust and trust instrument maintained pursuant to this item must be in a form and upon terms approved by the director.

(3) The creation of an unincorporated protected cell does not create, with respect to that protected cell, a legal person separate from the sponsored captive insurance company. Amounts attributed to a protected cell, including assets transferred to a protected cell account, are owned by the sponsored captive insurance company of which the protected cell is a part, and the sponsored captive insurance company may not be, or may not hold itself out to be, a trustee with respect to those protected cell assets of that protected cell account. Notwithstanding the provisions of this subsection, the sponsored captive insurance company may allow for a security interest to attach to protected cell assets or a protected cell account when in favor of a creditor of the protected cell and otherwise allowed under applicable law.

(4) This subsection may not be construed to prohibit the sponsored captive insurance company from:

(a) entering into contracts of insurance on behalf of the protected cell; or

(b) contracting with or arranging for third-party managers or advisors to manage the protected cell to manage the assets of a protected cell, if all remuneration, expenses, and other compensation of the third party manager or advisor is payable from the protected cell assets of that protected cell and not from the protected cell assets of other protected cells or the assets of the sponsored captive insurance company's general account.

(C) Incorporated protected cells shall be subject to all of the following:

(1) An incorporated protected cell may be organized and operated in any form of business organization set forth in Section 38-90-60(A).

(2) Except as specifically set forth in this chapter, each incorporated protected cell of a sponsored captive insurance company

shall be licensed and treated as a special purpose captive insurance company.

(3) A participant in an incorporated protected cell need not be a shareholder of the protected cell or of the sponsored captive insurance company or any affiliate thereof.

(D) The name of an incorporated protected cell must include the words 'Incorporated Cell' or the abbreviation 'IC'.

(E) Any captive insurance company or protected cell formed prior to July 31, 2013, shall not be required to change its name to comply with the provisions of subsection (D)."

Certificate of authority

SECTION 3. Article 1, Chapter 90, Title 38 of the 1976 Code is amended by adding:

"Section 38-90-250. A licensed captive insurance company that meets the necessary requirements of this title imposed upon an insurer must be considered for issuance of a certificate of authority to act as an insurer in this State."

Definitions

SECTION 4. Section 38-90-10 of the 1976 Code, as last amended by Act 291 of 2004, is further amended to read:

"Section 38-90-10. As used in this chapter, unless the context requires otherwise:

(1) 'Alien captive insurance company' means an insurance company formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of an alien jurisdiction which imposes statutory or regulatory standards in a form acceptable to the director on companies transacting the business of insurance in such jurisdiction.

(2) 'Affiliated company' means a company in the same corporate system as a parent, an industrial insured, or a member organization by virtue of common ownership, control, operation, or management.

(3) 'Association' means a legal association of individuals, corporations, limited liability companies, partnerships, political subdivisions, or associations that has been in continuous existence for at least one year:

(a) the member organizations of which collectively, or which does itself:

(i) own, control, or hold with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer or organized as a limited liability company; or

(ii) have complete voting control over an association captive insurance company organized as a mutual insurer; or

(b) the member organizations of which collectively constitute all of the subscribers of an association captive insurance company formed as a reciprocal insurer.

(4) 'Association captive insurance company' means a company that insures risks of the member organizations of the association and their affiliated companies.

(5) 'Branch business' means any insurance business transacted by a branch captive insurance company in this State.

(6) 'Branch captive insurance company' means an alien captive insurance company licensed by the director to transact the business of insurance in this State through a business unit with a principal place of business in this State.

(7) 'Branch operations' means any business operations of a branch captive insurance company in this State.

(8) 'Captive insurance company' means a pure captive insurance company, association captive insurance company, captive reinsurance company, sponsored captive insurance company, special purpose captive insurance company, or industrial insured captive insurance company formed or licensed under this chapter. For purposes of this chapter, a branch captive insurance company must be a pure captive insurance company with respect to operations in this State, unless otherwise permitted by the director.

(9) 'Captive reinsurance company' means a reinsurance company that is formed or licensed pursuant to this chapter and is wholly owned by a qualifying reinsurance parent company. A captive reinsurance company is a stock corporation.

(10) 'Consolidated debt to total capital ratio' means the ratio of the sum of (a) all debts and hybrid capital instruments including, but not limited to, all borrowings from banks, all senior debt, all subordinated debts, all trust preferred shares, and all other hybrid capital instruments that are not included in the determination of consolidated GAAP net worth issued and outstanding to (b) total capital, consisting of all debts and hybrid capital instruments as described in subitem (a) plus owners'

equity determined in accordance with GAAP for reporting to the United States Securities and Exchange Commission.

(11) 'Consolidated GAAP net worth' means the consolidated owners' equity determined in accordance with GAAP for reporting to the United States Securities and Exchange Commission.

(12) 'Controlled unaffiliated business' means a company:

(a) that is not in the corporate system of a parent and affiliated companies;

(b) that has an existing contractual relationship with a parent or affiliated company; and

(c) whose risks are managed by a captive insurance company in accordance with Section 38-90-190.

(13) 'Director' means the Director of the South Carolina Department of Insurance or the director's designee.

(14) 'Department' means the South Carolina Department of Insurance.

(15) 'GAAP' means generally accepted accounting principles.

(16) 'General account' means the assets and liabilities of a sponsored captive insurance company other than protected cell assets and protected cell liabilities.

(17) 'Industrial insured' means an insured as defined in Section 38-25-150(8).

(18) 'Industrial insured captive insurance company' means a company that insures risks of the industrial insureds that comprise the industrial insured group and their affiliated companies.

(19) 'Industrial insured group' means a group that meets either of the following criteria:

(a) a group of industrial insureds that collectively:

(i) own, control, or hold with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated as a stock insurer or limited liability company; or

(ii) have complete voting control over an industrial insured captive insurance company incorporated as a mutual insurer; or

(b) a group which is created under the Liability Risk Retention Act of 1986, 15 U.S.C. Section 3901, et seq., as amended, and Chapter 87, Title 38, as a corporation or other limited liability association taxable as a stock insurance company or a mutual insurer under this title.

(20) 'Member organization' means any individual, corporation, limited liability company, partnership, or association that belongs to an association.

(21) 'Parent' means any corporation, limited liability company, partnership, or individual that directly or indirectly owns, controls, or holds with power to vote more than fifty percent of the outstanding voting interests of a captive insurance company.

(22) 'Participant' means an entity as defined in Section 38-90-240, and any affiliates of that entity, that are insured by a sponsored captive insurance company, where the losses of the participant are limited through a participant contract to the assets of a protected cell.

(23) 'Participant contract' means a contract by which a sponsored captive insurance company insures the risks of a participant and limits the losses of the participant to the assets of a protected cell.

(24) 'Protected cell' means an identified pool of assets and liabilities of a sponsored captive insurance company for one or more participants that is segregated and insulated from the remainder of the sponsored captive insurance company's assets and liabilities as set forth in this chapter. A protected cell may be unincorporated or incorporated.

(25) 'Protected cell account' means a specifically identified bank or custodial account established by a sponsored captive insurance company for the purpose of segregating the protected cell assets of one protected cell from the protected cell assets of other protected cells and from the assets of the sponsored captive insurance company's general account.

(26) 'Protected cell assets' means all assets, contract rights, and general intangibles, identified with and attributable to a specific protected cell of a sponsored captive insurance company.

(27) 'Protected cell liabilities' means all liabilities and other obligations identified with and attributable to a specific protected cell of a sponsored captive insurance company.

(28) 'Pure captive insurance company' means a company that insures risks of its parent, affiliated companies, controlled unaffiliated business, or a combination thereof.

(29) 'Qualifying reinsurer parent company' means a reinsurer authorized to write reinsurance by this State and that has a consolidated GAAP net worth of not less than five hundred million dollars and consolidated debt to total capital ratio not greater than 0.50.

(30) 'Risk retention group' means a captive insurance company formed under the Product Liability Risk Retention Act of 1986, 15 U.S.C. Section 3901, et seq., as amended.

(31) 'Special purpose captive insurance company' means a captive insurance company that is formed or licensed under this chapter that does not meet the definition of any other type of captive insurance company defined in this section.

(32) 'Sponsor' means an entity that is approved by the director to provide all or part of the capital and surplus required by applicable law and to organize and operate a sponsored captive insurance company.

(33) 'Sponsored captive insurance company' means a captive insurance company:

(a) in which the minimum capital and surplus required by applicable law is provided by one or more sponsors;

(b) that is formed or licensed under this chapter;

(c) that segregates liability through one or more protected cells; and

(d) that insures the risks of participants through participant contracts.

(34) 'Treasury rates' means the United States Treasury strips asked yield as published in the Wall Street Journal as of a balance sheet date."

Required documentation

SECTION 5. Section 38-90-20(F) of the 1976 Code, as last amended by Act 291 of 2004, is further amended to read:

"(F) A foreign or alien captive insurance company, upon approval of the director or his designee, may become a domestic captive insurance company by complying with all of the requirements of law relative to the organization and licensing of a domestic captive insurance company of the same or equivalent type in this State and by filing with the Secretary of State its articles of association, charter, or other organizational document, together with appropriate amendments to them adopted in accordance with the laws of this State bringing those articles of association, charter, or other organizational document into compliance with the laws of this State. After this is accomplished, the captive insurance company is entitled to the necessary or appropriate certificates and licenses to continue transacting business in this State and is subject to the authority and jurisdiction of this State. In connection with this redomestication, the director may waive any requirements for public hearings. It is not necessary for a company redomesticating into this State to merge, consolidate, transfer assets, or otherwise engage in any other reorganization, other than as specified in this section."

Discovery of confidential information in civil actions

SECTION 6. Section 38-90-35 of the 1976 Code, as added by Act 291 of 2004, is amended to read:

"Section 38-90-35. (A) Information submitted pursuant to the provisions of this chapter is confidential and may not be made public by the director or an agent or employee of the director without the written consent of the company, except that information may be discoverable by a party in a civil action or contested case to which the submitting captive insurance company is a party, upon a showing by the party seeking to discover the information that:

(1) the information sought is relevant to and necessary for the furtherance of the action or case and the information sought is unavailable from other nonconfidential sources; or

(2) a subpoena applicable to the information is issued by a judicial or administrative law officer of competent jurisdiction has been submitted to the director.

(B) The director may disclose the information to the public officer having jurisdiction over the regulation of insurance in another state if:

(1) the public official agrees in writing to maintain the confidentiality of the information; and

(2) the laws of the state in which the public official serves require the information to be confidential."

Capitalization requirements

SECTION 7. Section 38-90-40 of the 1976 Code, as last amended by Act 217 of 2010, is further amended to read:

"Section 38-90-40. (A)(1) The director may not issue a license to a captive insurance company unless the company possesses and maintains unimpaired paid-in capital of:

(a) in the case of a pure captive insurance company, not less than one hundred thousand dollars;

(b) in the case of an association captive insurance company incorporated as a stock insurer or organized as a limited liability company, not less than four hundred thousand dollars;

(c) in the case of an industrial insured captive insurance company incorporated as a stock insurer or organized as a limited liability company, or in the case of a captive insurance company

formed as a risk retention group, not less than two hundred thousand dollars;

(d) in the case of a sponsored captive insurance company, not less than five hundred thousand dollars; however, if the sponsored captive insurance company does not assume any risk, the risks insured by the protected cells are homogeneous and there are no more than ten cells, the director may reduce this amount to an amount not less than one hundred fifty thousand dollars;

(e) in the case of a special purpose captive insurance company that is not a special purpose captive insurance company formed as a risk retention group, an amount determined by the director after giving due consideration to the company's business plan, feasibility study, and pro formas, including the nature of the risks to be insured.

(2)(a) Except for a sponsored captive insurance company that does not assume any risk, the unimpaired, paid-in capital required in subsection (A)(1) must be in the form of:

(i) cash on deposit with a bank located in South Carolina;

(ii) cash equivalent accessible through a bank or investment manager located in South Carolina; or

(iii) an irrevocable letter of credit in a form approved by the director and issued by a bank chartered by this State or a member bank of the Federal Reserve System with a branch office in this State or as approved by the director.

(b) For a sponsored captive insurance company that does not assume any risk, the capital also may be in the form of other high quality securities as approved by the director.

(B)(1) The director may not issue a license to a captive insurance company incorporated as a nonprofit corporation unless the company possesses and maintains unrestricted net assets of:

(a) in the case of a pure captive insurance company, not less than two hundred fifty thousand dollars;

(b) in the case of a special purpose captive insurance company formed as a risk retention group, not less than five hundred thousand dollars; and

(c) in the case of a special purpose captive insurance company that is not a special purpose captive insurance company formed as a risk retention group, an amount determined by the director after giving due consideration to the company's business plan, feasibility study, and pro formas, including the nature of the risks to be insured.

(2) Contributions to a captive insurance company incorporated as a nonprofit corporation must conform with the requirements of subsection (A)(2)(a).

(C) For purposes of subsections (A) and (B), the director may issue a license expressly conditioned upon the captive insurance company providing to the director satisfactory evidence of possession of the minimum required unimpaired paid-in capital. Until this evidence is provided, the captive insurance company may not issue any policy, assume any liability, or otherwise provide coverage. The director summarily may revoke the conditional license without legal recourse by the company if satisfactory evidence of the required capital is not provided within a maximum period of time, not to exceed one year, to be established by the director at the time the conditional license is issued.

(D) Notwithstanding the provisions of this section, the director may prescribe additional capital or net assets based upon the type, volume, and nature of insurance business transacted including, but not limited to, the net amount of risk retained for an individual risk. Contributions in connection with these prescribed additional net assets or capital must be in the form of:

(1) cash;

(2) cash equivalent;

(3) an irrevocable letter of credit issued by a bank chartered by this State or a member bank of the Federal Reserve System with a branch office in this State or as approved by the director; or

(4) securities invested as provided in Section 38-90-100.

(E) In the case of a branch captive insurance company, as security for the payment of liabilities attributable to branch operations, the director shall require that a trust fund, funded by an irrevocable letter of credit or other acceptable asset, be established and maintained in the United States for the benefit of United States policyholders and United States ceding insurers under insurance policies issued or reinsurance contracts issued or assumed, by the branch captive insurance company through its branch operations. The amount of the security may be no less than the capital and surplus required by this chapter and the reserves on these insurance policies or reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums with regard to business written through branch operations; however, the director may permit a branch captive insurance company that is required to post security for loss reserves on branch business by its reinsurer or front company to reduce the funds in the trust account required by this section by the same amount so long as the security remains posted with the reinsurer or front company. If the form of security selected is a letter of credit, the letter of credit must be established by, or issued or confirmed by, a

bank chartered in this State or a member bank of the Federal Reserve System.

(F)(1) A captive insurance company may not pay a dividend out of, or other distribution with respect to, capital or surplus, in excess of the limitations set forth in Section 38-21-250 through Section 38-21-270, without the prior approval of the director. Approval of an ongoing plan for the payment of dividends or other distributions must be conditioned upon the retention, at the time of each payment, of capital or surplus in excess of amounts specified by, or determined in accordance with formulas approved by, the director.

(2) A captive insurance company incorporated as a nonprofit corporation may not make any distributions without the prior approval of the director.

(G) An irrevocable letter of credit, which is issued by a financial institution other than a bank chartered by this State or a member bank of the Federal Reserve System, shall meet the same standards as an irrevocable letter of credit which has been issued by either entity."

Fee surplus requirements

SECTION 8. Section 38-90-50 of the 1976 Code, as last amended by Act 217 of 2010, is further amended to read:

"Section 38-90-50. (A)(1) The director may not issue a license to a captive insurance company unless the company possesses and maintains free surplus of:

(a) in the case of a pure captive insurance company, not less than one hundred fifty thousand dollars;

(b) in the case of an association captive insurance company incorporated as a stock insurer or organized as a limited liability company, not less than three hundred fifty thousand dollars;

(c) in the case of an industrial insured captive insurance company incorporated as a stock insurer or organized as a limited liability company, or in the case of a captive insurance company formed as a risk retention group, not less than three hundred thousand dollars;

(d) in the case of an association captive insurance company incorporated as a mutual insurer, not less than seven hundred fifty thousand dollars;

(e) in the case of an industrial insured captive insurance company, or a captive insurance company formed as a risk retention

group incorporated as a mutual insurer, not less than five hundred thousand dollars;

(f) in the case of a sponsored captive insurance company, not less than five hundred thousand dollars; however, if the sponsored captive insurance company does not assume any risk, the risks insured by the protected cells are homogeneous and there are no more than ten cells, the director may reduce this amount to an amount not less than one hundred fifty thousand dollars; and

(g) in the case of a special purpose captive insurance company that is not a special purpose captive insurance company formed as a risk retention group, an amount determined by the director after giving due consideration to the company's business plan, feasibility study, and pro formas, including the nature of the risks to be insured.

(2)(a) Except for a sponsored captive insurance company that does not assume any risk, the free surplus required in subsection (A)(1) must be in the form of:

(i) cash on deposit with a bank located in South Carolina;

(ii) cash equivalent accessible through a bank or investment manager located in South Carolina; or

(iii) an irrevocable letter of credit in a form approved by the director and issued by a bank chartered by this State or a member bank of the Federal Reserve System with a branch office in this State or as approved by the director.

(b) For a sponsored captive insurance company that does not assume any risk, the surplus also may be in the form of other high quality securities as approved by the director.

(B) Notwithstanding the requirements of subsection (A), a captive insurance company organized as a reciprocal insurer under this chapter may not be issued a license unless it possesses and thereafter maintains free surplus of one million dollars.

(C) For purposes of subsections (A) and (B), the director may issue a license expressly conditioned upon the captive insurance company providing to the director satisfactory evidence of possession of the minimum required free surplus. Until this evidence is provided, the captive may not issue any policy, assume any liability, or otherwise provide coverage. The director summarily may revoke the conditional license without legal recourse by the company if satisfactory evidence of the required capital is not provided within a maximum period of time, not to exceed one year, to be established by the director at the time the conditional license is issued.

(D) Notwithstanding another provision of this section, the director may prescribe additional surplus based upon the type, volume, and

nature of insurance business transacted including, but not limited to, the net amount of risk retained for an individual risk. This additional surplus must be in the form of:

(1) cash;

(2) cash equivalent;

(3) an irrevocable letter of credit issued by a bank chartered by this State, or a member bank of the Federal Reserve System with a branch in this State or as approved by the director; or

(4) securities invested as provided in Section 38-90-100.

(E) A captive insurance company may not pay a dividend out of, or other distribution with respect to, capital or surplus in excess of the limitations set forth in Section 38-21-270, without the prior approval of the director. Approval of an ongoing plan for the payment of dividends or other distribution must be conditioned upon the retention, at the time of each payment, of capital or surplus in excess of amounts specified by, or determined in accordance with formulas approved by the director.

(F) An irrevocable letter of credit, which is issued by a financial institution other than a bank chartered by this State or a member bank of the Federal Reserve System, shall meet the same standards as an irrevocable letter of credit which has been issued by either entity."

Incorporation requirements

SECTION 9. Section 38-90-55 of the 1976 Code, as last amended by Act 28 of 2009, is further amended to read:

"Section 38-90-55. (A) A captive reinsurance company must be incorporated as a stock insurer with its capital divided into shares and held by its shareholders.

(B) At least one of the members of the board of directors of a captive reinsurance company incorporated in this State must be a resident of this State."

Incorporation options

SECTION 10. Section 38-90-60 of the 1976 Code, as last amended by Act 28 of 2009, is further amended to read:

"Section 38-90-60. (A) A captive insurance company may be:

(1) incorporated as a stock insurer;

(2) incorporated as a nonprofit corporation;

(3) organized as a limited liability company;

(4) incorporated as a mutual insurer without capital stock, the governing body of which is elected by the members of the insurer; or

(5) organized as a reciprocal insurer pursuant to Chapter 17.

(B) No captive insurance company shall do any business in this State unless it first obtains from the director a certificate of authority authorizing it to do business in this State. In determining whether to issue a certificate of authority to a captive insurance company, the director may consider:

(1) the character, reputation, financial responsibility, insurance experience, and business qualifications of the incorporators, officers, and directors or managers; and

(2) other aspects the director considers advisable.

(C) In the case of a captive insurance company licensed as a branch captive insurance company, the alien captive insurance company must register to do business in this State after the certificate of authority has been issued.

(D) The articles of incorporation, articles of organization, or the application of a branch captive insurance company to qualify to do business in South Carolina, and the organization fees required by Section 33-1-220, 33-31-122, or 33-44-1204, as applicable, must be transmitted to the Secretary of State, who shall record the articles of incorporation, articles of organization, or application to qualify to do business in South Carolina.

(E) A captive insurance company formed as a corporation, a nonprofit corporation, or a limited liability company, pursuant to the provisions of this chapter has the privileges and is subject to the provisions of the general corporation law, including the South Carolina Nonprofit Corporation Act of 1994 for nonprofit corporations and the South Carolina Uniform Limited Liability Company Act of 1996 for limited liability companies, as applicable, as well as the applicable provisions contained in this chapter. If a conflict occurs between a provision of the general corporation law, including the South Carolina Nonprofit Corporation Act of 1994 for nonprofit corporations and the South Carolina Uniform Limited Liability Company Act of 1996 for limited liability companies, as applicable, and a provision of this chapter, the latter controls. The provisions of this title pertaining to mergers, consolidations, conversions, mutualizations, and redomestications apply in determining the procedures to be followed by a captive insurance company in carrying out any of the transactions described in those provisions, except the director may waive or modify the requirements for public notice and hearing in accordance with

regulations which the director may promulgate addressing categories of transactions. If a notice of public hearing is required, but no one requests a hearing, the director may cancel the hearing.

(F) A captive insurance company formed as a reciprocal insurer pursuant to the provisions of this chapter has the privileges and is subject to Chapter 17 in addition to the applicable provisions of this chapter. If a conflict occurs between the provisions of Chapter 17 and the provisions of this chapter, the latter controls. To the extent a reciprocal insurer is made subject to other provisions of this title pursuant to Chapter 17, the provisions are not applicable to a reciprocal insurer formed pursuant to the provisions of this chapter unless the provisions are expressly made applicable to a captive insurance company pursuant to the provisions of this chapter.

(G) In the case of a captive insurance company formed as a corporation, a mutual insurer, or a nonprofit corporation, at least one of the members of the board of directors of a captive insurance company incorporated in this State must be a resident of this State.

(H) In the case of a captive insurance company formed as a limited liability company, at least one of the managers of the captive insurance company must be a resident of this State.

(I) In the case of a captive insurance company formed as a reciprocal insurer, at least one of the members of the subscribers' advisory committee must be a resident of this State.

(J) The articles of incorporation or bylaws of a captive insurance company may authorize a quorum of a board of directors to consist of no fewer than one-third of the fixed or prescribed number of directors as provided for in Section 33-8-240(b). In the case of a limited liability company, the articles of organization or operating agreement of a captive insurance company may authorize a quorum to consist of no fewer than one-third of the managers required by the articles of organization or the operating agreement."

Reporting requirements

SECTION 11. Section 38-90-70(B) of the 1976 Code, as last amended by Act 291 of 2004, is further amended to read:

"(B) Before March first of each year, a captive insurance company or a captive reinsurance company shall submit to the director a report of its financial condition, verified by oath of two of its executive officers. Except as provided in Sections 38-90-40 and 38-90-50, a captive insurance company or a captive reinsurance company shall report using

generally accepted accounting principles, unless the director approves the use of statutory accounting principles, with useful or necessary modifications or adaptations required or approved or accepted by the director for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the director. Except as otherwise provided, an association captive insurance company, an industrial insured group, and a captive insurance company formed as a risk retention group shall file its report in the form and manner required by Section 38-13-80, and each industrial insured group and each captive insurance company formed as a risk retention group shall comply with the requirements provided for in Section 38-13-85. The director by regulation shall prescribe the forms in which pure captive insurance companies and industrial insured captive insurance companies shall report. Information submitted pursuant to this section is confidential as provided in Section 38-90-35, except for reports submitted by a captive insurance company formed as a risk retention group under the Product Liability Risk Retention Act of 1986, 15 U.S.C. Section 3901, et seq., as amended."

Inspections and examinations

SECTION 12. Section 38-90-80(A) of the 1976 Code, as last amended by Act 28 of 2009, is further amended to read:

"(A) At least once every five years, and whenever the director determines it to be prudent, the director personally, or by a competent person appointed by the director, shall visit each captive insurance company and thoroughly inspect and examine its affairs to ascertain its financial condition, its ability to fulfill its obligations, and whether it has complied with this chapter. The director may waive the requirement for a visit to the captive insurance company. The expenses and charges of the examination must be paid to the State by the company or companies examined and the department shall issue its warrants for the proper charges incurred in all examinations."

License suspensions and revocations

SECTION 13. Section 38-90-90(C) of the 1976 Code, as added by Act 28 of 2009, is amended to read:

"(C) In lieu of suspending or revoking the license of a captive insurance company, the director may impose fines as provided for in Section 38-2-10."

Loans

SECTION 14. Section 38-90-100 of the 1976 Code, as last amended by Act 332 of 2006, is further amended to read:

"Section 38-90-100. (A) An association captive insurance company, an industrial insured captive insurance company insuring the risks of an industrial insured group, and a captive insurance company formed as a risk retention group shall comply with the investment requirements contained in this title. Notwithstanding any other provision of this title, the director may approve the use of alternative reliable methods of valuation and rating.

(B) A pure captive insurance company, a captive reinsurance company, a special purpose captive insurance company, other than a special purpose captive insurance company formed as a risk retention group, and a sponsored captive insurance company are not subject to any restrictions on allowable investments contained in this title; however, the director may request a written investment plan and may prohibit or limit an investment that threatens the solvency or liquidity of the company.

(C) Only a pure captive insurance company or a sponsored captive insurance company may make loans to its parent company or affiliates and only by order of the director and must be evidenced by a note in a form approved by the director. Loans of minimum capital and surplus funds required by Sections 38-90-40(A) and 38-90-50(A) are prohibited."

Credit reserves

SECTION 15. Section 38-90-110(B)(2) of the 1976 Code, as last amended by Act 86 of 2007, is further amended to read:

"(2) An industrial insured captive insurance company or a captive insurance company formed as a risk retention group may not take credit for reserves on risks or portions of risks ceded to a reinsurer if the reinsurer is not in compliance with Sections 38-9-200, 38-9-210, and 38-9-220."

Participation in plan, pool, association, guaranty, or insolvency funds prohibited

SECTION 16. Section 38-90-130 of the 1976 Code, as last amended by Act 28 of 2009, is further amended to read:

"Section 38-90-130. A captive insurance company, including a captive insurance company organized as a reciprocal insurer under this chapter, may not join or contribute financially to a plan, pool, association, or guaranty or insolvency fund in this State, and a captive insurance company, or its insured or its parent or any affiliated company or any member organization of its association, or in the case of a captive insurance company organized as a reciprocal insurer, a subscriber of the company, may not receive a benefit from a plan, pool, association, or guaranty or insolvency fund for claims arising out of the operations of such captive insurance company. Subject to the prior written approval of the director or his designee, participation by a captive insurance company, including a pure captive insurance company, in a pool for the purpose of commercial risk sharing is not prohibited under this section. Nothing in this section may be interpreted to permit the writing of third-party risk by a captive insurance company outside of a commercial risk sharing arrangement approved by the director."

Applicability of chapter expanded

SECTION 17. Section 38-90-160 of the 1976 Code, as last amended by Act 18 of 2013, is further amended to read:

"Section 38-90-160. (A) No provisions of this title, other than those contained in this chapter or contained in specific references contained in this chapter and regulations applicable to them, apply to captive insurance companies.

(B) The director may exempt, by rule, regulation, or order, special purpose captive insurance companies, other than a special purpose captive insurance company formed as a risk retention group, on a case by case basis, from provisions of this chapter that he determines to be inappropriate given the nature of the risks to be insured.

(C) The provisions of Sections 38-5-120(A)(5), 38-5-120(B), 38-5-120(D)(1), 38-5-120(D)(2), 38-9-225, 38-9-230, 38-21-10, 38-21-30, 38-21-60, 38-21-70, 38-21-90, 38-21-95, 38-21-120, 38-21-130, 38-21-140, 38-21-150, 38-21-160, 38-21-170, 38-21-250,

38-21-270, 38-21-280, 38-21-310, 38-21-320, 38-21-330, 38-21-360, 38-55-75 and Chapters 44 and 46, Title 38 apply in full to a risk retention group licensed as a captive insurance company and, if a conflict occurs between those code sections and chapters referenced in this subsection and this chapter (Chapter 90, Title 38), then the code sections and chapters referenced in this subsection control.

(D) Except as provided elsewhere in this chapter, the provisions of Chapter 87, Title 38 apply to a risk retention group licensed as a captive insurance company.

(E)(1) Except for Section 38-9-330(F) and Section 38-9-440, the provisions of Article 3 and Article 5, Chapter 9, Title 38 apply in full to a risk retention group licensed as a captive insurance company, and if a conflict occurs between those provisions and this chapter, the provisions of this subsection control.

(2) The director may elect not to take regulatory action as otherwise required by Sections 38-9-330, 38-9-340, 38-9-350, and 38-9-360 if any of the following conditions exist:

(a) the director establishes that the risk retention group's members, sponsoring organizations, or both, are well-capitalized entities whose financial condition and support for the risk retention group is adequately documented. In making this determination, the director shall, at a minimum, require the filing of at least three years of historical, audited financial statements of the members, sponsor, or both, to assess the financial ability of the members', sponsor's, or both, support of the risk retention group. In addition, one year of projected financial information must be reviewed if available. The members, sponsor, or both, shall have:

(i) an investment grade rating from a nationally recognized statistical rating organization or A.M. Best rating of A- or better; or

(ii) equity equal to or greater than one hundred million dollars or equity equal to or greater than ten times the risk retention group's largest net retained per occurrence limit;

(b) each policyholder qualifies as an industrial insured in their state or this State, depending on which has the greater requirements, provided that if the policyholder's home state does not have an industrial insured exemption or equivalent, the policyholder must qualify under the industrial insured requirement of this State; or

(c) the risk retention group's certificate of authority date of issue was before January 1, 2011, and, based on a minimum five-year history of successful operations, is specifically exempted, in writing, from the requirements for mandatory risk-based capital action by the director."

Sponsored captive insurance company assets and capital provisions

SECTION 18. Section 38-90-180(B) of the 1976 Code, as last amended by Act 58 of 2001, is further amended to read:

"(B) In the case of a sponsored captive insurance company:

(1) the assets of the protected cell may not be used to pay expenses or claims other than those attributable to the protected cell; and

(2) its capital and surplus at all times must be available to pay expenses of or claims against the sponsored captive insurance company and may not be used to pay expenses or claims attributable to a protected cell.

(3) Notwithstanding another provision of law or regulation, upon an order of conservation, rehabilitation, or liquidation of a sponsored captive insurance company, the receiver shall deal with the sponsored captive insurance company's assets and liabilities, including protected cell assets and protected cell liabilities, pursuant to the requirements of this chapter."

Accounting provisions for protected cells

SECTION 19. Section 38-90-210 of the 1976 Code is amended to read:

"Section 38-90-210. (A) One or more sponsors may form a sponsored captive insurance company under this chapter.

(B) A sponsored captive insurance company formed or licensed under this chapter may establish and maintain one or more protected cells to insure risks of one or more participants, subject to the following conditions:

(1) the shareholders of a sponsored captive insurance company must be limited to its participants and sponsors;

(2) each protected cell must be accounted for separately on the books and records of the sponsored captive insurance company to reflect the participants of the protected cell, the financial condition and results of operations of the protected cell, net income or loss, dividends or other distributions to participants, and other factors may be provided in the participant contract or required by the director;

(3) the assets of a protected cell must not be chargeable with liabilities arising out of any other insurance business the sponsored captive insurance company may conduct;

(4) no sale, exchange, or other transfer of assets may be made by the sponsored captive insurance company between or among any of its protected cells without the consent of the protected cells;

(5) no sale, exchange, transfer of assets, dividend, or distribution may be made from a protected cell to a sponsor or participant without the director's approval and in no event may the approval be given if the sale, exchange, transfer, dividend, or distribution would result in insolvency or impairment with respect to a protected cell;

(6) a sponsored captive insurance company annually shall file with the director financial reports the director requires, which shall include, but are not limited to, accounting statements detailing the financial experience of each protected cell;

(7) a sponsored captive insurance company shall notify the director in writing within ten business days of a protected cell that is insolvent or otherwise unable to meet its claim or expense obligations;

(8) no participant contract shall take effect without the director's prior written approval, and the addition of each new protected cell and withdrawal of any participant of any existing protected cell constitutes a change in the business plan requiring the director's prior written approval.

(C) The name of a sponsored captive insurance company shall include the words 'Sponsored Captive' or the abbreviation 'SC'. Any captive insurance company or protected cell formed prior to July 31, 2013, may not be required to change its name to comply with the provisions of this subsection.

(D) A sponsored captive insurance company may establish one or more protected cells with the prior written approval of the director of a plan of operation or amendments submitted by the sponsored captive insurance company with respect to each protected cell. Upon the written approval of the director of the plan of operation, which shall include, but is not limited to, the specific business objectives and investment guidelines of the protected cell, the sponsored captive insurance company, in accordance with the approved plan of operation, may attribute to the protected cell insurance obligations with respect to its insurance business and assets to fund the obligations. The sponsored captive insurance company shall transfer all assets attributable to a protected cell to one or more separately established and identified protected cell accounts bearing the name or designation of that protected cell. Protected cell assets must be held in the

protected cell accounts for the purpose of satisfying the obligations of that protected cell.

(E) All attributions of assets and liabilities between a protected cell and the general account must be in accordance with the plan of operation approved by the director. No other attribution of assets or liabilities may be made by a sponsored captive insurance company between the sponsored captive insurance company's general account and its protected cells.

(F) A sponsored captive insurance company shall establish administrative and accounting procedures necessary to properly identify the one or more protected cells of the sponsored captive insurance company and the protected cell assets and protected cell liabilities attributable to the protected cells. The directors of a sponsored captive insurance company shall keep protected cell assets and protected cell liabilities:

(1) separate and separately identifiable from the assets and liabilities of the sponsored captive insurance company's general account; and

(2) attributable to one protected cell separate and separately identifiable from protected cell assets and protected cell liabilities attributable to other protected cells.

Notwithstanding the provisions of this subsection, if this subsection is violated, the remedy of tracing is applicable to protected cell assets when commingled with protected cell assets of other protected cells or the assets of the sponsored captive insurance company's general account. The remedy of tracing must not be construed as an exclusive remedy.

(G) When establishing a protected cell, the sponsored captive insurance company shall attribute to the protected cell assets with a value at least equal to the reserves and other insurance liabilities attributed to that protected cell."

Requirements of sponsors

SECTION 20. Section 38-90-220 of the 1976 Code, as last amended by Act 58 of 2001, is further amended to read:

"Section 38-90-220. (A) The sponsored captive insurance company shall attribute all insurance obligations, assets, and liabilities relating to a participant's risks to the participant's protected cell.

(B) The protected cell assets of a protected cell may not be charged with liabilities arising out of any other business the sponsored captive

insurance company may conduct. All contracts or other documentation reflecting protected cell liabilities shall clearly indicate that only the protected cell assets are available for the satisfaction of those protected cell liabilities. Under no circumstances may a protected cell be authorized to issue insurance or reinsurance contracts directly to policyholders or reinsureds or have any obligation to the policyholders or reinsureds of the sponsored captive insurance company's general account.

(C) The income, gains and losses, realized or unrealized, from protected cell assets and protected cell liabilities must be credited to or charged against the protected cell without regard to other income, gains or losses of the sponsored captive insurance company, including income, gains or losses of other protected cells. Investments must be handled pursuant to Section 38-90-100(B).

(D) In all sponsored captive insurance company transactions, the contracts or other documentation effecting the transaction shall contain provisions identifying the protected cell to which the transaction will be attributed. In addition, the contracts or other documentation must clearly disclose that the assets of that protected cell, and only those assets are available to pay the obligations of that protected cell. Notwithstanding the provisions of this subsection and subject to the provisions of this chapter and any other applicable law or regulation, the failure to include such language in the contracts or other documentation may not be used as the sole basis by creditors, reinsurers, or other claimants to circumvent the provisions of this chapter.

(E) Assets attributed to a protected cell must be valued at their market value on the date of valuation or if there is no readily available market, as provided in the contract or the rules or other written documentation applicable to the protected cell.

(F) At the cessation of business of a protected cell in accordance with the plan approved by the director, the sponsored captive insurance company voluntarily shall close out the protected cell account."

Protected cell assets, availability to creditors

SECTION 21. Section 38-90-230 of the 1976 Code, as last amended by Act 58 of 2001, is further amended to read:

"Section 38-90-230. (A) Protected cell assets are only available to the creditors of the sponsored captive insurance company that are creditors with respect to that protected cell and are therefore entitled, in

conformity with this chapter, to have recourse to the protected cell assets attributable to that protected cell. Protected cell assets are absolutely protected from the creditors of the sponsored captive insurance company that are not creditors with respect to that protected cell and who, therefore, are not entitled to have recourse to the protected cell assets attributable to that protected cell. Creditors with respect to a protected cell are not entitled to have recourse against the protected cell assets of other protected cells or the assets or the sponsored captive insurance company's general account. Protected cell assets only are available to creditors of a sponsored captive insurance company after all protected cell liabilities have been extinguished or otherwise provided for in accordance with the plan of operation relating to that protected cell.

(B) When an obligation of a sponsored captive insurance company to a person arises from a transaction, or is otherwise imposed, with respect to a protected cell:

(1) that obligation of the sponsored captive insurance company extends only to the protected cell assets attributable to that protected cell, and the person, with respect to that obligation, is entitled to have recourse only to the protected cell assets attributable to that protected cell; and

(2) that obligation of the sponsored captive insurance company does not extend to the protected cell assets of any other protected cell or the assets of the sponsored captive insurance company's general account, and that person, with respect to that obligation, is not entitled to have recourse to the protected cell assets of any other protected cell or the assets of the sponsored captive insurance company's general account.

(C) When an obligation of a sponsored captive insurance company relates solely to the general account, the obligation of the sponsored captive insurance company extends only to the sponsored captive insurance company, and that person, with respect to that obligation, is entitled to have recourse only to the assets of the sponsored captive insurance company's general account.

(D) The establishment of one or more protected cells alone does not constitute, and may not be deemed to be, a fraudulent conveyance, an intent by the sponsored captive insurance company to defraud creditors, or the carrying out of business by the sponsored captive insurance company for any other fraudulent purpose."

Eligibility of licensed captive insurance companies for certificate of authority to act as insurer

SECTION 22. Section 38-90-240 of the 1976 Code is amended to read:

"Section 38-90-240. (A) The following may be participants in a sponsored captive insurance company formed or licensed pursuant to this chapter:

(1) an association, a corporation, limited liability company, partnership, trust, or other business entity; and

(2) a sponsor may be a participant in a sponsored captive insurance company.

(B) A participant does not need to be a shareholder of the sponsored captive insurance company or an affiliate of the company.

(C) A participant shall insure only its own risks through a sponsored captive insurance company, unless otherwise approved by the director.

(D) A risk retention group may not be either a sponsor or participant in a sponsored captive insurance company.

(E) A sponsored captive insurance company established pursuant to Section 38-90-210 may not be used to facilitate insurance securitizations, but may be established for the purpose of isolating the expenses and claims. Insurance securitization transactions utilizing protected cells are governed by Chapter 10 of this title."

Special purpose financial captives, organization requirements

SECTION 23. Section 38-90-450 of the 1976 Code, as last amended by Act 28 of 2009, is further amended to read:

"Section 38-90-450. (A) A SPFC may be established as a stock corporation, limited liability company, mutual, partnership, or other form of organization approved by the director.

(B) The SPFC's organizational documents must limit the SPFC's authority to transact the business of insurance or reinsurance to those activities the SPFC conducts to accomplish its purpose as expressed in this article.

(C) The SPFC may not adopt a name that is the same as, deceptively similar to, or likely to be confused with or mistaken for another existing business name registered in this State.

(D) The organizational documents and the required organization fees must be transmitted to the Secretary of State, who shall record the relevant organizational documents.

(E) At least one of the members of the management of the SPFC must be a resident of this State.

(F) A SPFC formed pursuant to the provisions of this article has the privileges of and is subject to the provisions of the 1976 Code, applicable to its formation, as well as the applicable provisions contained in this article. If a conflict occurs between a provision of the applicable law and a provision of this article, the latter controls. Nothing contained in this provision with respect to a SPFC shall abrogate, limit, or rescind in any way the authority of the Securities Commissioner pursuant to the provisions of Title 35."

Repeal

SECTION 24. Section 38-90-235 of the 1976 Code is repealed.

Time effective

SECTION 25. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 10th day of June, 2014.

No. 283

(R294, H3411)

AN ACT TO AMEND SECTION 40-7-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF "HAIR BRAIDING" ASSOCIATED WITH THE LICENSURE AND REGULATION OF BARBERS, SO AS TO PERMIT THE USE OF HAIR EXTENSIONS IN HAIR BRAIDING, EXCEPT IN PUBLIC PLACES.

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

Hair extensions permitted, exception

SECTION 1. Section 40-7-20(2) of the 1976 Code is amended to read:

"(2) 'Hair braiding' means the weaving or interweaving of natural human hair for compensation without cutting, coloring, permanent waving, relaxing, removing, or chemical treatment. Hair braiding also includes the use of hair extensions, except when used in public places including, but not limited to, beaches, parks, and sidewalks."

Time effective

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

Ratified the 5th day of June, 2014.

Approved the 11th day of June, 2014.

No. 284

(R313, S516)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 155 TO TITLE 59 SO AS TO CREATE THE SOUTH CAROLINA READ TO SUCCEED OFFICE AND TO PROVIDE FOR ITS PURPOSES, TO PROVIDE NECESSARY DEFINITIONS, TO PROVIDE FOR A COMPREHENSIVE STATE PLAN TO IMPROVE READING ACHIEVEMENT IN PUBLIC SCHOOLS BY ASSESSING THE READINESS AND READING PROFICIENCY OF STUDENTS PROGRESSING FROM PREKINDERGARTEN THROUGH THIRD GRADE AND PROVIDING APPROPRIATE INTERVENTIONS AND OTHER ASSISTANCE TO STUDENTS, AS APPROPRIATE, TO PROVIDE RELATED OBLIGATIONS OF THE STATE DEPARTMENT OF EDUCATION, READ TO SUCCEED OFFICE, STATE BOARD OF EDUCATION, AND EACH SCHOOL CONCERNING THE PLAN AND RELATED PROVISIONS, TO PROVIDE THAT BEGINNING WITH THE 2017-2018 SCHOOL YEAR A STUDENT MUST BE RETAINED IN THE THIRD GRADE IF HE FAILS TO DEMONSTRATE

READING PROFICIENCY AT THE END OF THE THIRD GRADE AS INDICATED BY SCORING AT A CERTAIN ACHIEVEMENT LEVEL ON THE STATE SUMMATIVE READING ASSESSMENT, TO PROVIDE EXCEPTIONS, TO PROVIDE FOR THE ASSISTANCE OF RETAINED STUDENTS THROUGH CERTAIN SUPPORT AND SERVICES, TO PROVIDE RELATED EDUCATION REQUIREMENTS FOR TEACHERS AND ADMINISTRATORS IMPLEMENTED OVER SEVERAL YEARS, TO ENCOURAGE LOCAL SCHOOL DISTRICTS TO CREATE FAMILY-SCHOOL-COMMUNITY PARTNERSHIPS TO PROMOTE AND ENHANCE READING DEVELOPMENT AND PROFICIENCY THROUGHOUT THE YEAR IN HOMES AND IN THE COMMUNITY, TO REQUIRE THE READ TO SUCCEED OFFICE AND EACH DISTRICT TO PLAN FOR AND ACT DECISIVELY TO ENGAGE THE FAMILIES OF STUDENTS AS FULL PARTICIPATING PARTNERS IN PROMOTING THE READING AND WRITING HABITS AND SKILLS DEVELOPMENT OF THEIR CHILDREN IN A CERTAIN MANNER, AND TO PROVIDE THE BOARD AND DEPARTMENT SHALL TRANSLATE THE STATUTORY REQUIREMENTS FOR READING AND WRITING SPECIFIED IN THIS CHAPTER INTO STANDARDS, PRACTICES, AND PROCEDURES FOR SCHOOL DISTRICTS, BOARDS, AND THEIR EMPLOYEES AND FOR OTHER ORGANIZATIONS, AS APPROPRIATE, AND IN A CERTAIN MANNER; BY ADDING CHAPTER 156 TO TITLE 59 SO AS TO CREATE THE CHILD EARLY READING DEVELOPMENT AND EDUCATION PROGRAM, TO PROVIDE A FULL DAY, FOUR-YEAR-OLD KINDERGARTEN PROGRAM FOR AT-RISK CHILDREN WHICH MUST BE MADE AVAILABLE TO QUALIFIED CHILDREN IN ALL PUBLIC SCHOOL DISTRICTS WITHIN THE STATE, TO SPECIFY REQUIREMENTS OF THE PROGRAM, TO PROVIDE THE PROGRAM FIRST MUST BE MADE AVAILABLE TO ELIGIBLE CHILDREN IN EIGHT SPECIFIC TRIAL DISTRICTS AND THAT REMAINING FUNDS MAY BE USED TO EXPAND THE PROGRAM IN A SPECIFIC MANNER, TO PROVIDE ELIGIBILITY CRITERIA, TO PROVIDE REQUIREMENTS AND PROCEDURES FOR DETERMINING ELIGIBILITY, TO PROVIDE RELATED REQUIREMENTS OF THE DEPARTMENT OF EDUCATION, READ TO SUCCEED OFFICE, AND THE OFFICE OF FIRST

STEPS TO SCHOOL READINESS, TO REQUIRE PROVIDERS OF THE SOUTH CAROLINA CHILD EARLY READING DEVELOPMENT AND EDUCATION PROGRAM SHALL OFFER A COMPLETE EDUCATIONAL PROGRAM IN ACCORDANCE WITH AGE-APPROPRIATE INSTRUCTIONAL PRACTICE AND A RESEARCH-BASED PRESCHOOL CURRICULUM ALIGNED WITH SCHOOL SUCCESS, TO PROVIDE RELATED REQUIREMENTS, TO RECOGNIZE AND IMPROVE RELATIONSHIPS BETWEEN THE SKILLS AND PREPARATION OF PREKINDERGARTEN INSTRUCTORS AND THE EDUCATIONAL OUTCOMES OF STUDENTS, TO PROVIDE PUBLIC AND PRIVATE PROVIDERS ARE ELIGIBLE FOR TRANSPORTATION FUNDS PURSUANT TO CERTAIN CRITERIA AND REQUIREMENTS, TO PROVIDE SPECIFIC DUTIES OF THE READ TO SUCCEED OFFICE WITH RESPECT TO APPROVED PRIVATE PROVIDERS AND PUBLIC PROVIDERS, TO PROVIDE FUNDING FORMULAS, TO PROVIDE THE DEPARTMENT OF SOCIAL SERVICES SHALL MAINTAIN A LIST OF ALL APPROVED PUBLIC AND PRIVATE PROVIDERS AND PROVIDE THE DEPARTMENT OF EDUCATION AND THE OFFICE OF FIRST STEPS INFORMATION NECESSARY TO CARRY OUT THE REQUIREMENTS OF THIS CHAPTER, TO PROVIDE THE OFFICE OF FIRST STEPS TO SCHOOL READINESS IS RESPONSIBLE FOR THE COLLECTION AND MAINTENANCE OF DATA ON THE STATE-FUNDED PROGRAMS PROVIDED THROUGH PRIVATE PROVIDERS, AND TO MAKE THESE REQUIREMENTS CONTINGENT ON STATE FUNDING.

Whereas, the South Carolina General Assembly finds that national research has documented that students unable to comprehend grade-level text struggle in all their courses; and

Whereas, the South Carolina General Assembly finds that while reading typically has been assessed through standardized tests beginning in third grade, research has found that many struggling readers reach preschool or kindergarten with low oral language skills and limited print awareness. Once in school, they and other students fail to develop proficiency with reading and comprehension because of inadequate instruction and engaged practice; and

Whereas, the South Carolina General Assembly finds that research has also shown that students who have difficulty comprehending texts struggle academically in their content area courses but seldom receive effective instructional intervention during middle and high school to improve their reading comprehension. These are the students least likely to graduate; and

Whereas, the South Carolina General Assembly finds that one recent longitudinal study found that students reading below grade level at the end of third grade were six times more likely to leave school without a high school diploma; and

Whereas, the South Carolina General Assembly finds that reading proficiency is a fundamental life skill vital for the educational and economic success of our citizens and State. In accordance with the ruling of the South Carolina Supreme Court that all students must be given "an opportunity to acquire the ability to read, write, and speak the English language", the South Carolina General Assembly finds that all students must be given high quality instruction and engage in ample time actually reading and writing in order to learn to read, comprehend, write, speak, listen, and use language effectively across all content areas; and

Whereas, to guarantee that all students exhibit these abilities and behaviors, the State of South Carolina must implement a comprehensive and strategic approach to reading proficiency for students in prekindergarten through twelfth grade that begins when each student enters the public school system and continues until he or she graduates. Now, therefore,

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

South Carolina Read to Succeed Act

SECTION 1. Title 59 of the 1976 Code is amended by adding:

"CHAPTER 155

South Carolina Read to Succeed Act

Section 59-155-110. There is established within the South Carolina Department of Education the South Carolina Read to Succeed Office to implement a comprehensive, systemic approach to reading which will ensure that:

(1) classroom teachers use evidence-based reading instruction in prekindergarten through grade twelve, to include oral language, phonological awareness, phonics, fluency, vocabulary, and comprehension; administer and interpret valid and reliable assessments; analyze data to inform reading instruction; and provide evidence-based interventions as needed so that all students develop proficiency with literacy skills and comprehension;

(2) classroom teachers periodically reassess their curriculum and instruction to determine if they are helping each student progress as a proficient reader and make modifications as appropriate;

(3) each student who cannot yet comprehend grade-level text is identified and served as early as possible and at all stages of his or her educational process;

(4) each student receives targeted, effective, comprehension support from the classroom teacher and, if needed, supplemental support from a reading interventionist so that ultimately all students can comprehend grade-level texts;

(5) each student and his parent or guardian is continuously informed in writing of:

(a) the student's reading proficiency needs, progress, and ability to comprehend and write grade-level texts;

(b) specific actions the classroom teacher and other reading professionals have taken and will take to help the student comprehend and write grade-level texts; and

(c) specific actions that the parent or guardian can take to help the student comprehend grade-level texts by providing access to books, assuring time for the student to read independently, reading to students, and talking with the student about books;

(6) classroom teachers receive pre-service and in-service coursework which prepares them to help all students comprehend grade-level texts;

(7) all students develop reading and writing proficiency to prepare them to graduate and to succeed in their career and post-secondary education; and

(8) each school district publishes annually a comprehensive research-based reading plan that includes intervention options available to students and funding for these services.

Section 59-155-120. As used in this chapter:

(1) 'Board' means the State Board of Education.

(2) 'Department' means the State Department of Education.

(3) 'Discipline-specific literacy' means the ability to read, write, listen, and speak across various disciplines and content areas including, but not limited to, English/language arts, science, mathematics, social studies, physical education, health, the arts, and career and technology education.

(4) 'Readiness assessment' means assessments used to analyze students' literacy, mathematical, physical, social, and emotional-behavioral competencies in prekindergarten or kindergarten.

(5) 'Reading interventions' means individual or group assistance in the classroom and supplemental support based on curricular and instructional decisions made by classroom teachers who have proven effectiveness in teaching reading and an add-on literacy endorsement or reading/literacy coaches who meet the minimum qualifications established in guidelines published by the Department of Education.

(6) 'Reading portfolio' means an organized collection of evidence and assessments documenting that the student has demonstrated mastery of the state standards in reading equal to at least a level above the lowest achievement level on the state reading assessment.

(7) 'Reading proficiency' means the ability of students to meet state reading standards in kindergarten through grade twelve, demonstrated by readiness, formative, or summative assessments.

(8) 'Reading proficiency skills' means the ability to understand how written language works at the word, sentence, paragraph, and text level and mastery of the skills, strategies, and oral and written language needed to comprehend grade-level texts.

(9) 'Research-based formative assessment' means assessments used within the school year to analyze strengths and weaknesses in reading comprehension of students individually to adapt instruction to meet student needs, make decisions about appropriate intervention services, and inform placement and instructional planning for the next grade level.

(10) 'Substantially fails to demonstrate third-grade reading proficiency' means a student who does not demonstrate reading proficiency at the end of the third grade as indicated by scoring at the lowest achievement level on the statewide summative reading assessment that equates to Not Met 1 on the Palmetto Assessment of State Standards (PASS).

(11) 'Summative assessment' means state-approved assessments administered in grades three through eight and any statewide

assessment used in grades nine through twelve to determine student mastery of grade-level or content standards.

(12) 'Summer reading camp' means an educational program offered in the summer by each local school district or consortia of school districts for students who are unable to comprehend grade-level texts and who qualify for mandatory retention.

(13) 'Third-grade reading proficiency' means the ability to read grade-level texts by the end of a student's third grade year as demonstrated by the results of state-approved assessments administered to third grade students, or through other assessments as noted in this chapter and adopted by the board.

(14) 'Writing proficiency skills' means the ability to communicate information, analysis, and persuasive points of view effectively in writing.

Section 59-155-130. The Read to Succeed Office must guide and support districts and collaborate with university teacher training programs to increase reading proficiency through the following functions, including, but not limited to:

(1) providing professional development to teachers, school principals, and other administrative staff on reading and writing instruction and reading assessment that informs instruction;

(2) providing professional development to teachers, school principals, and other administrative staff on reading and writing in content areas;

(3) working collaboratively with institutions of higher learning offering courses in reading and writing and those institutions of higher education offering accredited master's degrees in reading-literacy to design coursework leading to a literacy teacher add-on endorsement by the State;

(4) providing professional development in reading and coaching for already certified reading/literacy coaches and literacy teachers;

(5) developing information and resources that school districts can use to provide workshops for parents about how they can support their children as readers and writers;

(6) assisting school districts in the development and implementation of their district reading proficiency plans for research-based reading instruction programs and assisting each of their schools to develop its own implementation plan aligned with the district and state plans;

(7) annually designing content and questions for and review and approve the reading proficiency plan of each district;

(8) monitor and report to the State Board of Education the yearly success rate of summer reading camps. Districts must provide statistical data to include the:

(a) number of students enrolled in camps;

(b) number of students by grade level who successfully complete the camps;

(c) number of third-graders promoted to fourth grade;

(d) number of third-graders retained; and

(e) total expenditure made on operating the camps by source of funds to include in-kind donations; and

(9) provide an annual report to the General Assembly regarding the implementation of the South Carolina Read to Succeed Act and the State and the district's progress toward ensuring that at least ninety-five percent of all students are reading at grade level.

Section 59-155-140. (A)(1) The department, with approval by the State Board of Education, shall develop, implement, evaluate, and continuously refine a comprehensive state plan to improve reading achievement in public schools. The State Reading Proficiency Plan must be approved by the board by February 1, 2015, and must include, but not be limited to, sections addressing the following components:

(a) reading process;

(b) professional development to increase teacher reading expertise;

(c) professional development to increase reading expertise and literacy leadership of principals and assistant principals;

(d) reading instruction;

(e) reading assessment;

(f) discipline-specific literacy;

(g) writing;

(h) support for struggling readers;

(i) early childhood interventions;

(j) family support of literacy development;

(k) district guidance and support for reading proficiency;

(l) state guidance and support for reading proficiency;

(m) accountability; and

(n) urgency to improve reading proficiency.

(2) The state plan must be based on reading research and proven-effective practices, applied to the conditions prevailing in reading-literacy education in this State, with special emphasis on addressing instructional and institutional deficiencies that can be remedied through faithful implementation of research-based practices.

The plan must provide standards, format, and guidance for districts to use to develop and annually update their plans, as well as to present and explain the research-based rationale for state-level actions to be taken. The plan must be updated annually and must incorporate a state reading proficiency progress report.

(3) The state plan must include specific details and explanations for all substantial uses of state, local, and federal funds promoting reading-literacy and best judgment estimates of the cost of research-supported, thoroughly analyzed proposals for initiation, expansion, or modification of major funding programs addressing reading and writing. Analyses of funding requirements must be prepared by the department for incorporation into the plan.

(B)(1) Beginning in Fiscal Year 2015-2016, each district must prepare a comprehensive annual reading proficiency plan for prekindergarten through twelfth grade consistent with the plan by responding to questions and presenting specific information and data in a format specified by the Read to Succeed Office. Each district's PK-12 reading proficiency plan must present the rationale and details of its blueprint for action and support at the district, school, and classroom levels. Each district shall develop a comprehensive plan for supporting the progress of students as readers and writers, monitoring the impact of its plan, and using data to make improvements and to inform its plan for the subsequent years. The district plan piloted in school districts in Fiscal Year 2013-2014 and revised based on the input of districts shall be used as the initial district reading plan framework in Fiscal Year 2014-2015 to provide interventions for struggling readers and fully implemented in Fiscal Year 2015-2016 to align with the state plan.

(2) Each district PK-12 reading proficiency plan shall:

(a) document the reading and writing assessment and instruction planned for all PK-12 students and the interventions in prekindergarten through twelfth grade to be provided to all struggling readers who are not able to comprehend grade-level texts. Supplemental instruction shall be provided by teachers who have a literacy teacher add-on endorsement and offered during the school day and, as appropriate, before or after school in book clubs, through a summer reading camp, or both;

(b) include a system for helping parents understand how they can support the student as a reader at home;

(c) provide for the monitoring of reading achievement and growth at the classroom, school, and district levels with decisions about intervention based on all available data;

(d) ensure that students are provided with wide selections of texts over a wide range of genres and written on a wide range of reading levels to match the reading levels of students;

(e) provide teacher training in reading and writing instruction; and

(f) include strategically planned and developed partnerships with county libraries, state and local arts organizations, volunteers, social service organizations, and school media specialists to promote reading.

(3)(a) The Read to Succeed Office shall develop the format for the plan and the deadline for districts to submit their plans to the office for its approval. A school district that does not submit a plan or whose plan is not approved shall not receive any state funds for reading until it submits a plan that is approved. All district reading plans must be reviewed and approved by the Read to Succeed Office. The office shall provide written comments to each district on its plan and to all districts on common issues raised in prior or newly submitted district reading plans.

(b) The Read to Succeed Office shall monitor the district and school plans and use their findings to inform the training and support the office provides to districts and schools.

(c) The department may direct a district that is persistently unable to prepare an acceptable PK-12 reading proficiency plan or to help all students comprehend grade-level texts to enter into a multidistrict or contractual arrangement to develop an effective intervention plan.

(C) Each school must prepare an implementation plan aligned with the district reading proficiency plan to enable the district to monitor and support implementation at the school level. The school plan must be a component of the school's strategic plan required by Section 59-18-1310. A school implementation plan shall be sufficiently detailed to provide practical guidance for classroom teachers. Proposed strategies for assessment, instruction, and other activities specified in the school plan must be sufficient to provide to classroom teachers and other instructional staff helpful guidance that can be related to the critical reading and writing needs of students in the school. In consultation with the School Improvement Council, each school must include in its implementation plan the training and support that will be provided to parents as needed to maximize their promotion of reading and writing by students at home and in the community.

Section 59-155-150. (A) With the enactment of this chapter, the State Superintendent of Education shall ensure that every student entering publically funded prekindergarten and kindergarten beginning in Fiscal Year 2014-2015 will be administered a readiness assessment by the forty-fifth day of the school year. Initially the assessment shall focus on early language and literacy development. Beginning in Fiscal Year 2016-2017, the assessment must assess each child's early language and literacy development, mathematical thinking, physical well-being, and social-emotional development. The assessment may include multiple assessments, all of which must be approved by the board. The approved assessments of academic readiness must be aligned with first and second grade standards for English/language arts and mathematics. The purpose of the assessment is to provide teachers and parents or guardians with information to address the readiness needs of each student, especially by identifying language, cognitive, social, emotional, health problems, and concerning appropriate instruction for each child. The results of the assessment and the developmental intervention strategies recommended to address the child's identified needs must be provided, in writing, to the parent or guardian. Reading instructional strategies and developmental activities for children whose oral language skills are assessed to be below the norm of their peers in the State must be aligned with the district's reading proficiency plan for addressing the readiness needs of each student. The results of each assessment also must be reported to the Read to Succeed Office.

(B) Any student enrolled in prekindergarten, kindergarten, first grade, second grade, or third grade who is substantially not demonstrating proficiency in reading, based upon formal diagnostic assessments or through teacher observations, must be provided intensive in-class and supplemental reading intervention immediately upon determination. The intensive interventions must be provided as individualized and small group assistance based on the analysis of assessment data. All sustained interventions must be aligned with the district's reading proficiency plan. These interventions must be at least thirty minutes in duration and be in addition to ninety minutes of daily reading and writing instruction provided to all students in kindergarten through grade three. The district must continue to provide intensive in-class intervention and at least thirty minutes of supplemental intervention until the student can comprehend and write text at grade-level independently. In addition, the parent or guardian of the student must be notified, in writing, of the child's inability to read grade-level texts, the interventions to be provided, and the child's

reading abilities at the end of the planned interventions. The results of the initial assessments and progress monitoring also must be provided to the Read to Succeed Office.

(C) Programs that focus on early childhood literacy development in the State are required to promote:

(1) parent training and support for parent involvement in developing children's literacy; and

(2) development of oral language, print awareness, and emergent writing; and are encouraged to promote community literacy including, but not limited to, primary health care providers, faith-based organizations, county libraries, and service organizations.

(D) Districts that fail to provide reports on summer reading camps pursuant to Section 59-15-130(8) are ineligible to receive state funding for summer reading camps for the following fiscal year; however, districts must continue to operate summer reading camps as defined in this act.

Section 59-155-160. (A) Beginning with the 2017-2018 School Year, a student must be retained in the third grade if the student fails to demonstrate reading proficiency at the end of the third grade as indicated by scoring at the lowest achievement level on the state summative reading assessment that equates to Not Met 1 on the Palmetto Assessment of State Standards (PASS). A student may be exempt for good cause from the mandatory retention but shall continue to receive instructional support and services and reading intervention appropriate for their age and reading level. Good cause exemptions include students:

(1) with limited English proficiency and less than two years of instruction in English as a Second Language program;

(2) with disabilities whose individual education plan indicates the use of alternative assessments or alternative reading interventions and students with disabilities whose Individual Education Plan or Section 504 Plan reflects that the student has received intensive remediation in reading for more than two years but still does not substantially demonstrate reading proficiency;

(3) who demonstrate third-grade reading proficiency on an alternative assessment approved by the board and which teachers may administer following the administration of the state assessment of reading;

(4) who have received two years of reading intervention and were previously retained;

(5) who through a reading portfolio document, the student's mastery of the state standards in reading equal to at least a level above the lowest achievement level on the state reading assessment. Such evidence must be an organized collection of the student's mastery of the state English/language arts standards that are assessed by the grade three state reading assessment. The Read to Succeed Office shall develop the assessment tool for the student portfolio; however, the student portfolio must meet the following minimum criteria:

(a) be selected by the student's English/language arts teacher or summer reading camp instructor;

(b) be an accurate picture of the student's ability and only include student work that has been independently produced in the classroom;

(c) include evidence that the benchmarks assessed by the grade three state reading assessment have been met. Evidence is to include multiple choice items and passages that are approximately sixty percent literary text and forty percent information text, and that are between one hundred and seven hundred words with an average of five hundred words. Such evidence could include chapter or unit tests from the district or school's adopted core reading curriculum that are aligned with the state English/language arts standards or teacher-prepared assessments;

(d) be an organized collection of evidence of the student's mastery of the English/language arts state standards that are assessed by the grade three state reading assessment. For each benchmark there must be at least three examples of mastery as demonstrated by a grade of seventy percent or above; and

(e) be signed by the teacher and the principal as an accurate assessment of the required reading skills; and

(6) who successfully participate in a summer reading camp at the conclusion of the third grade year and demonstrate through either a reading portfolio or through a norm-referenced, alternative assessment, selected from a list of norm-referenced, alternative assessments approved by the Read to Succeed Office for use in the summer reading camps, that the student's mastery of the state standards in reading is equal to at least a level above the lowest level on the state reading assessment.

(B) The superintendent of the local school district must determine whether a student in the district may be exempt from the mandatory retention by taking all of the following steps:

(1) The teacher of a student eligible for exemption must submit to the principal documentation on the proposed exemption and

evidence that promotion of the student is appropriate based on the student's academic record. This evidence must be limited to the student's individual education program, alternative assessments, or student reading portfolio. The Read to Succeed Office must provide districts with a standardized form to use in the process.

(2) The principal must review the documentation and determine whether the student should be promoted. If the principal determines the student should be promoted, the principal must submit a written recommendation for promotion to the district superintendent for final determination.

(3) The district superintendent's acceptance or rejection of the recommendation must be in writing and a copy must be provided to the parent or guardian of the child.

(4) A parent or legal guardian may appeal the decision to retain a student to the district superintendent if there is a compelling reason why the student should not be retained. A parent or legal guardian must appeal, in writing, within two weeks after the notification of retention. The letter must be addressed to the district superintendent and specify the reasons why the student should not be retained. The district superintendent shall render a decision and provide copies to the parent or legal guardian and the principal.

(C)(1) Students eligible for retention under the provisions in Section 59-155-160(A) may enroll in a summer reading camp provided by their school district or a summer reading camp consortium to which their district belongs prior to being retained the following school year. Summer reading camps must be at least six weeks in duration with a minimum of four days of instruction per week and four hours of instruction per day, or the equivalent minimum hours of instruction in the summer. The camps must be taught by compensated teachers who have at least an add-on literacy endorsement or who have documented and demonstrated substantial success in helping students comprehend grade level texts. The Read to Succeed Office shall assist districts that cannot find qualified teachers to work in the summer camps. Districts also may choose to contract for the services of qualified instructors or collaborate with one or more districts to provide a summer reading camp. Schools and school districts are encouraged to partner with county or school libraries, institutions of higher learning, community organizations, faith-based institutions, businesses, pediatric and family practice medical personnel, and other groups to provide volunteers, mentors, tutors, space, or other support to assist with the provision of the summer reading camps. A parent or guardian of a student who does not substantially demonstrate proficiency in comprehending texts

appropriate for his grade level must make the final decision regarding the student's participation in the summer reading camp.

(2) A district may include in the summer reading camps students who are not exhibiting reading proficiency at any grade and do not meet the good cause exemption. Districts may charge fees for these students to attend the summer reading camps based on a sliding scale pursuant to Section 59-19-90, except where a child is found to be reading below grade level in the first, second, or third grade and does not meet the good cause exemption.

(D) Retained students must be provided intensive instructional services and support, including a minimum of ninety minutes of daily reading and writing instruction, supplemental text-based instruction, and other strategies prescribed by the school district. These strategies may include, but are not limited to, instruction directly focused on improving the student's individual reading proficiency skills through small group instruction, reduced teacher-student ratios, more frequent student progress monitoring, tutoring or mentoring, transition classes containing students in multiple grade spans, and extended school day, week, or year reading support. The school must report to the Read to Succeed Office on the progress of students in the class at the end of the school year and at other times as required by the office based on the reading progression monitoring requirements of these students.

(E) If the student is not demonstrating third-grade reading proficiency by the end of the second grading period of the third grade:

(1)(a) his parent or guardian timely must be notified, in writing, that the student is being considered for retention and a conference with the parent or guardian must be held prior to a determination regarding retention is made, and conferences must be documented;

(b) within two weeks following the parent/teacher conference, copies of the conference form must be provided to the principal, parent or guardian, teacher and other school personnel who are working with the child on literacy, and summary statements must be sent to parents or legal guardians who do not attend the conference;

(c) following the parent/teacher retention conference, the principal, classroom teacher, and other school personnel who are working with the child on literacy must review the recommendation for retention and provide suggestions for supplemental instruction; and

(d) recommendations and observations of the principal, teacher, parent or legal guardian, and other school personnel who are working with the child on literacy must be considered when determining whether to retain the student.

(2) The parent or guardian may designate another person as an education advocate also to act on their behalf to receive notification and to assume the responsibility of promoting the reading success of the child. The parent or guardian of a retained student must be offered supplemental tutoring for the retained student in evidenced-based services outside the instructional day.

(F) For students in grades four and above who are substantially not demonstrating reading proficiency, interventions shall be provided by reading interventionists in the classroom and supplementally by teachers with a literacy teacher add-on endorsement or reading/literacy coaches. This supplemental support will be provided during the school day and, as appropriate, before or after school as documented in the district reading plan, and may include book clubs or summer reading camps.

Section 59-155-170. (A) To help students develop and apply their reading and writing skills across the school day in all the academic disciplines, including, but not limited to, English/language arts, mathematics, science, social studies, the arts, career and technology education, and physical and health education, teachers of these content areas at all grade levels must focus on helping students comprehend print and nonprint texts authentic to the content area. The Read to Succeed Program is intended to institutionalize in the public schools a comprehensive system to promote high achievement in the content areas described in this chapter through extensive reading and writing. Research-based practices must be employed to promote comprehension skills through, but not limited to:

(1) vocabulary;

(2) connotation of words;

(3) connotations of words in context with adjoining or prior text;

(4) concepts from prior text;

(5) personal background knowledge;

(6) ability to interpret meaning through sentence structure features;

(7) questioning;

(8) visualization; and

(9) discussion of text with peers.

(B) These practices must be mastered by teachers through high-quality training and addressed through well-designed and effectively executed assessment and instruction implemented with fidelity to research-based instructional practices presented in the state, district, and school reading plans. All teachers, administrators, and

support staff must be trained adequately in reading comprehension in order to perform effectively their roles enabling each student to become proficient in content area reading and writing.

(C) During Fiscal Year 2014-2015, the Read to Succeed Office shall establish a set of essential competencies that describe what certified teachers at the early childhood, elementary, middle or secondary levels must know and be able to do so that all students can comprehend grade-level texts. These competencies, developed collaboratively with the faculty of higher education institutions and based on research and national standards, must then be incorporated into the coursework required by Section 59-155-180. The Read to Succeed Office, in collaboration with South Carolina Educational Television, shall provide professional development courses to ensure that educators have access to multiple avenues of receiving endorsements.

Section 59-155-180. (A) As a student progresses through school, reading comprehension in content areas such as science, mathematics, social studies, English/language arts, career and technology education, and the arts is critical to the student's academic success. Therefore, to improve the academic success of all students in prekindergarten through grade twelve, the State shall strengthen its pre-service and in-service teacher education programs.

(B)(1) Beginning with students entering a teacher education program in the fall semester of the 2016-2017 School Year, all pre-service teacher education programs including MAT degree programs must require all candidates seeking certification at the early childhood or elementary level to complete a twelve credit hour sequence in literacy that includes a school-based practicum and ensures that candidates grasp the theory, research, and practices that support and guide the teaching of reading. The six components of the reading process that are comprehension, oral language, phonological awareness, phonics, fluency, and vocabulary will provide the focus for this sequence to ensure that all teacher candidates are skilled in diagnosing a child's reading problems and are capable of providing an effective intervention. All teacher preparation programs must be approved for licensure by the State Department of Education to ensure that all teacher education candidates possess the knowledge and skills to assist effectively all children in becoming proficient readers. The General Assembly is not mandating an increase in the number of credit hours required for teacher candidates, but is requiring that pre-service teacher education programs prioritize their missions and resources so

all early and elementary education teachers have the knowledge and skills to provide effective instruction in reading and numeracy to all students.

(2) Beginning with students entering a teacher education program in the fall semester of the 2016-2017 School Year, all pre-service teacher education programs, including MAT degree programs, must require all candidates seeking certification at the middle or secondary level to complete a six credit hour sequence in literacy that includes a course in the foundations of literacy and a course in content-area reading. All middle and secondary teacher preparation programs must be approved by the department to ensure that all teacher candidates possess the necessary knowledge and skills to assist effectively all adolescents in becoming proficient readers. The General Assembly is not mandating an increase in the number of semester hours required for teacher candidates but rather is requiring that pre-service teacher education programs prioritize their mission and resources so all middle and secondary education teachers have the knowledge and skills to provide effective instruction in reading and numeracy to all students.

(C)(1) To ensure that practicing professionals possess the knowledge and skills necessary to assist all children and adolescents in becoming proficient readers, multiple pathways are needed for developing this capacity.

(2) A reading/literacy coach shall be employed in each elementary school. Reading coaches shall serve as job-embedded, stable resources for professional development throughout schools in order to generate improvement in reading and literacy instruction and student achievement. Reading coaches shall support and provide initial and ongoing professional development to teachers based on an analysis of student assessment and the provision of differentiated instruction and intensive intervention. The reading coach shall:

(a) model effective instructional strategies for teachers by working weekly with students in whole, and small groups, or individually;

(b) facilitate study groups;

(c) train teachers in data analysis and using data to differentiate instruction;

(d) coaching and mentoring colleagues;

(e) work with teachers to ensure that research-based reading programs are implemented with fidelity;

(f) work with all teachers (including content area and elective areas) at the school they serve, and help prioritize time for those

teachers, activities, and roles that will have the greatest impact on student achievement, namely coaching and mentoring in the classrooms; and

(g) help lead and support reading leadership teams.

(3) The reading coach must not be assigned a regular classroom teaching assignment, must not perform administrative functions that deter from the flow of improving reading instruction and reading performance of students and must not devote a significant portion of his or her time to administering or coordinating assessments. By August 1, 2014, the department must publish guidelines that define the minimum qualifications for a reading coach. Beginning in Fiscal Year 2014-2015, reading/literacy coaches are required to earn the add-on certification within six years, except as exempted in items (4) and (5), by completing the necessary courses or professional development as required by the department for the add-on. During the six-year period, to increase the number of qualified reading coaches, the Read to Succeed Office shall identify and secure courses and professional development opportunities to assist educators in becoming reading coaches and in earning the literacy add-on endorsement. In addition, the Read to Succeed Office will establish a process through which a district may be permitted to use state appropriations for reading coaches to obtain in-school services from department-approved consultants or vendors, in the event that the school is not successful in identifying and directly employing a qualified candidate. Districts must provide to the Read to Succeed Office information on the name and qualifications of reading coaches funded by the state appropriations.

(4) Beginning in Fiscal Year 2015-2016, early childhood and elementary education certified classroom teachers, reading interventionists, and those special education teachers who provide learning disability and speech services to students who need to substantially improve their low reading and writing proficiency skills, are required to earn the literacy teacher add-on endorsement within ten years of their most recent certification by taking at least two courses or six credit hours every five years, or the equivalent professional development hours as determined by the South Carolina Read to Succeed Office, consistent with existing recertification requirements. Inservice hours earned through professional development for the literacy teacher endorsement must be used for renewal of teaching certificates in all subject areas. The courses and professional development leading to the endorsement must be approved by the State Board of Education and must include foundations, assessment, content

area reading and writing, instructional strategies, and an embedded or stand-alone practicum. Whenever possible these courses shall be offered at a professional development rate which is lower than the certified teacher rate. Early childhood and elementary education certified classroom teachers, reading specialists, and special education teachers who provide learning disability and speech services to students who need to improve substantially their reading and writing proficiency and who already possess their add-on reading teacher certification can take a content area reading course to obtain their literacy teacher add-on endorsement. Individuals who possess a literacy teacher add-on endorsement or who have earned a master's or doctorate degree in reading are exempt from this requirement. Individuals who have completed an intensive and prolonged professional development program like Reading Recovery, Project Read, the South Carolina Reading Initiative, or another similar program should submit their transcripts to the Office of Educator Licensure to determine if they have completed the coursework required for the literacy teacher add-on certificate.

(5) Beginning in Fiscal Year 2015-2016, middle and secondary licensed classroom teachers are required to take at least one course or three credit hours, or the equivalent professional development hours as determined by the South Carolina Read to Succeed Office, to improve reading instruction within five years of their most recent certification. The courses and professional development must be approved by the State Board of Education and include courses and professional development leading to the literacy teacher add-on endorsement. Coursework and professional development in reading must include a course in reading in the content areas. Whenever possible these courses will be offered at a professional development rate which is lower than the certified teacher rate. Individuals who possess a literacy teacher add-on endorsement or who have earned a master's or doctorate degree in reading are exempt from this requirement. Individuals who have completed an intensive, prolonged professional development program like Reading Recovery, Project Read, the South Carolina Reading Initiative, or another similar program should submit their transcripts the to the Office of Educator Licensure to determine if they have completed the coursework or professional development required for the literacy teacher add-on certificate.

(6) Beginning in Fiscal Year 2015-2016, principals and administrators who are responsible for reading instruction or intervention and school psychologists in a school district or school are required to take at least one course or three credit hours within five

years of their most recent certification, or the equivalent professional development hours as determined by the South Carolina Read to Succeed Office. The course or professional development shall include information about reading process, instruction, assessment, or content area literacy and shall be approved by the Read to Succeed Office.

(7) The Read to Succeed Office shall publish by August 1, 2014, the guidelines and procedures used in evaluating all courses and professional development, including virtual courses and professional development, leading to the literacy teacher add-on endorsement. Annually by January first, the Read to Succeed Office shall publish the approved courses and approved professional development leading to the literacy teacher add-on endorsement.

Section 59-155-190. Local school districts are encouraged to create family-school-community partnerships that focus on increasing the volume of reading, in school and at home, during the year and at home and in the community over the summer. Schools and districts should partner with county libraries, community organizations, local arts organizations, faith-based institutions, pediatric and family practice medical personnel, businesses, and other groups to provide volunteers, mentors, or tutors to assist with the provision of instructional supports, services, and books that enhance reading development and proficiency. A district shall include specific actions taken to accomplish the requirements of this section in its reading proficiency plan.

Section 59-155-200. The Read to Succeed Office and each school district must plan for and act decisively to engage the families of students as full participating partners in promoting the reading and writing habits and skills development of their children. With support from the Read to Succeed Office, districts and individual schools shall provide families with information about how children progress as readers and writers and how they can support this progress. This family support must include providing time for their child to read, as well as reading to the child. To ensure that all families have access to a considerable number and diverse range of books appealing to their children, schools should develop plans for enhancing home libraries and for accessing books from county libraries and school libraries and to inform families about their child's ability to comprehend grade-level texts and how to interpret information about reading that is sent home. The districts and schools shall help families learn about reading and writing through open houses, South Carolina Educational Television, video and audio tapes, websites, and school-family events and

collaborations that help link the home and school of the student. The information should enable family members to understand the reading and writing skills required for graduation and essential for success in a career. Each institution of higher learning may operate a year-round program similar to a summer reading camp to assist students not reading at grade level.

Section 59-155-210. The board and department shall translate the statutory requirements for reading and writing specified in this chapter into standards, practices, and procedures for school districts, boards, and their employees and for other organizations as appropriate. In this effort, they shall solicit the advice of education stakeholders who have a deep understanding of reading, as well as school boards, administrators, and others who play key roles in facilitating support for and implementation of effective reading instruction."

Child Early Reading Development and Education Program

SECTION 2. Title 59 of the 1976 Code is amended by adding:

"CHAPTER 156

Child Early Reading Development and Education Program

Section 59-156-110. There is created the South Carolina Child Early Reading Development and Education Program which is a full day, four-year-old kindergarten program for at-risk children which must be made available to qualified children in all public school districts within the State. The program must focus on:

(1) a comprehensive, systemic approach to reading that follows the State Reading Proficiency Plan and the district's comprehensive annual reading proficiency plan, both adopted pursuant to Chapter 155, Title 59;

(2) successfully completing the readiness assessment administered pursuant to Section 59-155-150;

(3) the developmental and learning support that children must have in order to be ready for school;

(4) incorporating parenting education, including educating the parents as to methods that may assist the child pursuant to Section 59-155-110, 59-155-130, and 59-155-140; and

(5) identifying community and civic organizations that can support early literacy efforts.

Section 59-156-120. (A)(1) The South Carolina Child Early Reading Development and Education Program first must be made available to eligible children from the following eight trial districts in Abbeville County School District et al vs. South Carolina: Allendale, Dillon 2, Florence 4, Hampton 2, Jasper, Lee, Marion 7, and Orangeburg 3.

(2) With any funds remaining after funding the eight trial districts, the program must be expanded to the remaining plaintiff school districts in Abbeville County School District et al vs. South Carolina and then expanded to eligible children residing in school districts with a poverty index of ninety percent or greater. Priority must be given to implementing the program first in those of the plaintiff districts which participated in the pilot program during the 2006-2007 School Year, then in the plaintiff districts having proportionally the largest population of underserved at-risk four-year-old children.

(3) With any funds remaining after funding the school districts delineated in items (1) and (2), the program must be expanded statewide. The General Assembly, in the annual general appropriations bill, shall set forth the priority schedule, the funding, and the manner in which the program is expanded.

(B) Unexpended funds from the prior fiscal year for this program shall be carried forward and shall remain in the program. In rare instances, students with documented kindergarten readiness barriers, especially reading barriers, may be permitted to enroll for a second year, or at age five, at the discretion of the Department of Education for students being served by a public provider or at the discretion of the Office of South Carolina First Steps to School Readiness for students being served by a private provider.

Section 59-156-130. (A) Each child residing in the program's district, who has attained the age of four years on or before September first of the school year and meets the at-risk criteria, is eligible for enrollment in the South Carolina Child Early Reading Development and Education Program for one year.

(B)(1) The parent of each eligible child may enroll the child in one of the following programs:

(a) a school-year four-year-old kindergarten program delivered by an approved public provider; or

(b) a school-year four-year-old kindergarten program delivered by an approved private provider.

(2) The parent enrolling a child must complete and submit an application to the approved provider of choice. The application must be submitted on forms and must be accompanied by a copy of the child's birth certificate, immunization documentation, and documentation of the student's eligibility as evidenced by family income documentation showing an annual family income of one hundred eighty-five percent or less of the federal poverty guidelines as promulgated annually by the United States Department of Health and Human Services or a statement of Medicaid eligibility.

(3) In submitting an application for enrollment, the parent agrees to comply with provider attendance policies during the school year. The attendance policy must state that the program consists of six and one-half hours of instructional time daily and operates for a period of not less than one hundred eighty days a year. Pursuant to program guidelines, noncompliance with attendance policies may result in removal from the program.

(C)(1) No parent is required to pay tuition or fees solely for the purpose of enrolling in or attending the program established under this chapter. Nothing in this chapter prohibits charging fees for childcare that may be provided outside the times of the instructional day provided in these programs.

(2) If by October first of the school year at least seventy-five percent of the total number of children eligible for the Child Early Reading Development and Education Program in a district or county are projected to be enrolled in that program, Head Start, or ABC Child Care Program as determined by the Department of Education and the Office of First Steps, Child Early Reading Development and Education Program providers may then enroll pay-lunch children who score at or below the twenty-fifth national percentile on two of the three DIAL-3 subscales and may receive reimbursement for these children if funds are available.

Section 59-156-140. (A) Public school providers participating in the South Carolina Child Early Reading Development and Education Program must submit an application to the Department of Education. Private providers participating in the South Carolina Child Early Reading Development and Education Program must submit an application to the Office of First Steps. The application must be submitted on the forms prescribed, contain assurances that the provider meets all program criteria set forth in this section, and will comply with all reporting and assessment requirements.

(B) Providers shall:

(1) comply with all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services;

(2) comply with all state and local health and safety laws and codes;

(3) comply with all state laws that apply regarding criminal background checks for employees and exclude from employment any individual not permitted by state law to work with children;

(4) be accountable for meeting the educational needs of the child and report at least quarterly to the parent or guardian on his progress;

(5) comply with all program, reporting, and assessment criteria required of providers;

(6) maintain individual student records for each child enrolled in the program, including, but not limited to, assessment data, health data, records of teacher observations, and records of parent or guardian and teacher conferences;

(7) designate whether extended day services will be offered to the parents and guardians of children participating in the program;

(8) be approved, registered, or licensed by the Department of Social Services; and

(9) comply with all state and federal laws and requirements specific to program providers.

(C) Providers may limit student enrollment based upon space available, but, if enrollment exceeds available space, providers shall enroll children with first priority given to children with the lowest scores on an approved prekindergarten readiness assessment. Private providers must not be required to expand their programs to accommodate all children desiring enrollment, but are encouraged to keep a waiting list for students they are unable to serve because of space limitations.

Section 59-156-150. The Department of Education, the Read to Succeed Office, and the Office of First Steps to School Readiness shall:

(1) develop the provider application form;

(2) develop the child enrollment application form;

(3) develop a list of approved research-based preschool curricula for use in the program based upon the South Carolina Content Standards, and provide training and technical assistance to support its effective use in approved classrooms serving children;

(4) develop a list of approved prekindergarten readiness assessments to be used in conjunction with the program, and provide

assessments and technical assistance to support assessment administration in approved classrooms serving children;

(5) establish criteria for awarding new classroom equipping grants;

(6) establish criteria for the parenting education program providers must offer;

(7) establish a list of early childhood related fields that may be used in meeting the lead teacher qualifications;

(8) develop a list of data-collection needs to be used in implementation and evaluation of the program;

(9) identify teacher preparation program options and assist lead teachers in meeting teacher program requirements;

(10) establish criteria for granting student retention waivers; and

(11) establish criteria for granting classroom-size requirements waivers.

Section 59-156-160. (A) Providers of the South Carolina Child Early Reading Development and Education Program shall offer a complete educational program in accordance with age-appropriate instructional practice and a research-based preschool curriculum aligned with school success. The program must focus on:

(1) a comprehensive, systemic approach to reading that follows the State Reading Proficiency Plan and the district's comprehensive annual reading proficiency plan, both adopted pursuant to Chapter 155, Title 59;

(2) successfully completing the readiness assessment administered pursuant to Section 59-155-150;

(3) the developmental and learning support that children must have in order to be ready for school;

(4) incorporating parenting education, including educating the parents as to methods that may assist the child pursuant to Section 59-155-110, 59-155-130, and 59-155-140, including strengthening parent involvement in the learning process with an emphasis on interactive literacy; and

(5) identifying community and civic organizations that can support early literacy efforts.

(B) Providers shall offer high-quality, center-based programs, including, but not limited to, the following:

(1) employ a lead teacher with a two-year degree in early childhood education or related field or be granted a waiver of this requirement from the Department of Education for public schools or from the Office of First Steps to School Readiness for private centers;

(2) employ an education assistant with pre-service or in-service training in early childhood education;

(3) maintain classrooms with at least ten four-year-old children, but no more than twenty four-year-old children, with an adult to child ratio of 1:10. With classrooms having a minimum of ten children, the 1:10 ratio must be a lead teacher to child ratio. Waivers of the minimum class size requirement may be granted by the South Carolina Department of Education for public providers or by the Office of First Steps to School Readiness for private providers on a case-by-case basis;

(4) offer a full day, center-based program with six and one-half hours of instruction daily for one hundred eighty school days;

(5) provide an approved research-based preschool curriculum that focuses on critical child development skills, especially early literacy, numeracy, and social and emotional development;

(6) engage parents' participation in their child's educational experience that shall include a minimum of two documented conferences for each year; and

(7) adhere to professional development requirements outlined in this chapter.

Section 59-156-170. (A) Every classroom providing services to four-year-old children established pursuant to this chapter must have a qualified lead teacher and an education assistant as needed to maintain an adult to child ratio of 1:10.

(B)(1) In classrooms in private centers, the lead teacher must have at least a two-year degree in early childhood education or a related field and who is enrolled and is demonstrating progress toward the completion of a teacher education program within four years.

(2) In classrooms in public schools, the lead teacher must meet state requirements pertaining to certification.

(C) All education assistants in private centers and public schools must have the minimum of a high school diploma or the equivalent, and at least two years of experience working with children under five years old. The assistant must have completed the Early Childhood Development Credential (ECD) 101 or enroll and complete this course within twelve months of hire. Providers may request waivers to the ECD 101 requirement for those assistants who have demonstrated sufficient experience in teaching children five years old and younger. The providers must request this waiver in writing to First Steps or the Department of Education, as applicable, and provide appropriate documentation as to the qualifications of the teaching assistant.

Section 59-156-180. The General Assembly recognizes there is a strong relationship between the skills and preparation of prekindergarten instructors and the educational outcomes of students. To improve these educational outcomes, participating providers shall require all personnel providing instruction and classroom support to students participating in the South Carolina Child Early Reading Development and Education Program to participate annually in a minimum of fifteen hours of professional development, including, teaching children from poverty. Professional development should provide instruction in strategies and techniques to address the age-appropriate progress of prekindergarten students in developing emergent literacy skills, including, but not limited to, oral communication, knowledge of print and letters, phonemic and phonological awareness, and vocabulary and comprehension development.

Section 59-156-190. Both public and private providers are eligible for transportation funds for the transportation of children to and from school. Nothing in this section prohibits providers from contracting with another entity to provide transportation services provided the entities adhere to the requirements of Section 56-5-195. Providers must not be responsible for transporting students attending programs outside the district lines. Parents choosing program providers located outside of their resident district shall be responsible for transportation. When transporting four-year-old child development students, providers shall make every effort to transport them with students of similar ages attending the same school. Of the amount appropriated for the program, not more than one hundred eighty-five dollars for each student may be retained by the Department of Education for the purposes of transporting four-year-old students. This amount annually must be increased by the same projected rate of inflation as determined by the Office of Research and Statistics of the State Budget and Control Board for the Education Finance Act.

Section 59-156-200. For all private providers approved to offer services pursuant to this chapter, the Office of First Steps to School Readiness shall:

(1) serve as the fiscal agent;

(2) verify student enrollment eligibility;

(3) recruit, review, and approve eligible providers. In considering approval of providers, consideration must be given to the provider's

availability of permanent space for program service and whether temporary classroom space is necessary to provide services to any children;

(4) coordinate oversight, monitoring, technical assistance, coordination, and training for classroom providers;

(5) serve as a clearing house for information and best practices related to four-year-old kindergarten programs;

(6) receive, review, and approve new classroom grant applications and make recommendations for approval based on approved criteria;

(7) coordinate activities and promote collaboration with other private and public providers in developing and supporting four-year-old kindergarten programs;

(8) maintain a database of the children enrolled in the program; and

(9) promulgate guidelines as necessary for the implementation of the program.

Section 59-156-210. For all public school providers approved to offer services pursuant to this chapter, the Department of Education shall:

(1) serve as the fiscal agent;

(2) verify student enrollment eligibility;

(3) recruit, review, and approve eligible providers. In considering approval of providers, consideration must be given to the provider's availability of permanent space for program service and whether temporary classroom space is necessary to provide services to any children;

(4) coordinate oversight, monitoring, technical assistance, coordination, and training for classroom providers;

(5) serve as a clearing house for information and best practices related to four-year-old kindergarten programs;

(6) receive, review, and approve new classroom grant applications and make recommendations for approval based on approved criteria;

(7) coordinate activities and promote collaboration with other private and public providers in developing and supporting four-year-old kindergarten programs;

(8) maintain a database of the children enrolled in the program; and

(9) promulgate guidelines as necessary for the implementation of the program.

Section 59-156-220. (A) Eligible students enrolling with private providers during the school year must be funded on a pro rata basis determined by the length of their enrollment.

(B) Private providers transporting eligible children to and from school must be eligible for a reimbursement of up to five hundred fifty dollars for each eligible child transported, funded on a pro rata basis determined by the length of the child's enrollment. Providers who are reimbursed are required to retain records as required by their fiscal agent.

(C) Providers enrolling between one and six eligible children must be eligible to receive up to one thousand dollars for each child in materials and equipment grant funding, with providers enrolling seven or more such children eligible for grants not to exceed ten thousand dollars.

(D) Providers receiving equipment grants are expected to participate in the program and provide high-quality, center-based programs for a minimum of three years. A provider who fails to participate for three years shall return a portion of the equipment allocation at a level determined by the Department of Education and the Office of First Steps to School Readiness. Funding to providers is contingent upon receipt of data as requested by the Department of Education and the Office of First Steps.

Section 59-156-230. The Department of Social Services shall:

(1) maintain a list of all approved public and private providers; and

(2) provide the Department of Education and the Office of First Steps information necessary to carry out the requirements of this chapter.

Section 59-156-240. The Office of First Steps to School Readiness is responsible for the collection and maintenance of data on the state-funded programs provided through private providers."

Time effective, contingent on funding

SECTION 3. This act takes effect upon approval by the Governor and is subject to the availability of state funding.

Ratified the 9th day of June, 2014.

Approved the 11th day of June, 2014.

No. 285

(R315, S999)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56-1-218 SO AS TO PROVIDE THAT A MEMBER OF THE ARMED FORCES OF THE UNITED STATES OR CERTAIN CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE PERFORMING DUTY OUTSIDE OF THE STATE WHOSE DRIVER'S LICENSE EXPIRES WHILE SERVING OUTSIDE OF THIS STATE OR WHOSE LICENSE EXPIRES WITHIN NINETY DAYS FROM THE BEGINNING OF SERVICE OUTSIDE OF THIS STATE MAY APPLY FOR AN EXTENSION UPON THE EXPIRATION OF THE DRIVER'S LICENSE THAT LASTS UNTIL NINETY DAYS AFTER THE MEMBER RETURNS TO THE STATE OR THE TIME THE MEMBER IS DISCHARGED FROM THE ARMED FORCES, TO PROVIDE THE APPLICATION PROCESS, AND TO SPECIFY TO WHOM EXTENSION ELIGIBILITY APPLIES.

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

Driver's license extensions

SECTION 1. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

"Section 56-1-218. (A) Notwithstanding any other provision of law, a member of the Armed Forces of the United States, who is deployed or mobilized outside of this State, or receives orders for a permanent change of station outside of this State, or a civilian employee of the Department of Defense performing temporary duty outside of the State in support of the armed forces, whose license expires while serving outside of this State or whose license expires within ninety days from the beginning of service outside of this State, may apply for an extension on the expiration of the license.

(B) The department must grant the extension if the service member, or a civilian employee of the Department of Defense, provides copies of the orders that require service outside of this State and a valid military identification card, or in the case of a civilian employee, the civilian employee's Department of Defense issued identification card,

or military orders supporting services outside of the State. The extension shall expire ninety days after the member is discharged from the service or returns to this State. If the orders do not specify a return date, the service member is deemed to have returned on the date that the commanding officer of the unit provides as the return date to the department. The license is deemed to expire only upon the expiration of the extension.

(C) The provisions of this section also apply to dependents residing with the service member.

(D) The department may prescribe forms and policies to implement the provisions of this section. The department must post the application form on its website, and the application must be able to be processed by mail or electronically."

Time effective

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

Ratified the 9th day of June, 2014.

Approved the 9th day of June, 2014.

JAMES H. HARRISON
Code Commissioner
P. O. Box 11489
Columbia, S.C. 29211