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2015 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

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James H. Harrison, Code Commissioner, P.O. Box 11489,
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ACTS

AND

JOINT RESOLUTIONS

OF THE

General Assembly

OF THE

State of South Carolina

NIKKI R. HALEY, Governor; HENRY D. MCMASTER, Lieutenant Governor and ex officio President of the Senate; HUGH K. LEATHERMAN, SR., President Pro Tempore of the Senate; JAMES H. LUCAS, Speaker of the House of Representatives; THOMAS E. POPE, Speaker Pro Tempore of the House of Representatives; JEFFREY S. GOSSETT, Clerk of the Senate; CHARLES F. REID, Clerk of the House of Representatives.

PART I

GENERAL AND PERMANENT LAWS

No. 1

(R1, S8)

AN ACT TO RATIFY AN AMENDMENT TO SECTION 7, ARTICLE VI OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE CONSTITUTIONAL OFFICERS OF THIS STATE, TO PROVIDE THAT UPON THE EXPIRATION OF THE TERM OF THE ADJUTANT GENERAL SERVING IN OFFICE ON THE DATE OF THE RATIFICATION OF THIS PROVISION THE ADJUTANT GENERAL MUST BE APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE SENATE FOR A TERM NOT COTERMINOUS WITH THE GOVERNOR, MAY BE REMOVED ONLY FOR CAUSE, AND THE GENERAL ASSEMBLY SHALL PROVIDE BY LAW FOR THE TERM, DUTIES, COMPENSATION, AND QUALIFICATIONS FOR OFFICE, THE PROCEDURES BY WHICH THE APPOINTMENT IS MADE, AND THE PROCEDURES BY WHICH THE ADJUTANT GENERAL MAY BE REMOVED FROM OFFICE; AND TO RATIFY AN AMENDMENT TO SECTION 4, ARTICLE XIII, RELATING TO THE ADJUTANT GENERAL AND HIS STAFF OFFICERS, TO UPDATE REFERENCES TO HIS TITLE AND PROVIDE THAT THE ADJUTANT GENERAL'S MILITARY RANK IS MAJOR GENERAL AS OPPOSED TO BRIGADIER GENERAL, AND TO PROVIDE THAT UPON THE EXPIRATION OF THE TERM OF THE ADJUTANT GENERAL SERVING IN OFFICE ON THE DATE OF THE RATIFICATION OF THIS PROVISION, HE MUST BE APPOINTED BY THE GOVERNOR IN THE MANNER REQUIRED BY SECTION 7, ARTICLE VI.

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

Appointment of Adjutant General ratified

SECTION 1. A. The amendment to Section 7, Article VI of the Constitution of South Carolina, 1895, prepared under the terms of Joint Resolution 297 of 2014, having been submitted to the qualified electors at the General Election of 2014 as prescribed in Section 1, Article XVI of the Constitution of South Carolina, 1895, and a favorable vote having been received on the amendment, is ratified and declared to be a part of

the Constitution so that Section 7, Article VI of the Constitution of this State be amended by adding the following new paragraph at the end:

"Beginning upon the expiration of the term of the Adjutant General serving in office on the date of the ratification of the provisions of this paragraph, the Adjutant General must be appointed by the Governor, upon the advice and consent of the Senate. The appointed Adjutant General shall serve for a term not coterminous with the Governor and may be removed only for cause. The General Assembly shall provide by law for the term, duties, compensation, and qualifications for office, the procedures by which the appointment is made, and the procedures by which the Adjutant General may be removed from office."

Rank and appointment of Adjutant General ratified

B. The amendment to Section 4, Article XIII of the Constitution of South Carolina, 1895, prepared under the terms of Joint Resolution 297 of 2014, having been submitted to the qualified electors at the General Election of 2014 as prescribed in Section 1, Article XVI of the Constitution of South Carolina, 1895, and a favorable vote having been received on the amendment, is ratified and declared to be a part of the Constitution so that Section 4, Article XIII of the Constitution of this State be amended to read:

"Section 4. There must be an Adjutant General. The position of Adjutant General is recognized as holding the rank of Major General, and the Adjutant General's duties and compensation must be prescribed by law. The Governor, by and with the advice and consent of the Senate, shall appoint staff officers as the General Assembly may direct.

Beginning upon the expiration of the term of the Adjutant General serving in office on the date of the ratification of the provisions of this paragraph, the Adjutant General must be appointed by the Governor, with the advice and consent of the Senate, in the manner provided in Section 7, Article VI."

Ratified the 5th day of March, 2015.

No. 2

(R3, S342)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-21-225 SO AS TO REQUIRE FILING OF AN ANNUAL ENTERPRISE RISK REPORT BY THE ULTIMATE CONTROLLING PERSON OF AN INSURANCE HOLDING COMPANY, AND TO PROVIDE SPECIFIC REQUIREMENTS FOR THE CONTENT OF THE REPORT; BY ADDING SECTION 38-21-285 SO AS TO ENABLE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE OR HIS DESIGNEE TO PARTICIPATE IN CERTAIN SUPERVISORY COLLEGES, TO PROVIDE RELATED POWERS AND DUTIES, AND TO PROVIDE FOR THE PAYMENT OF RELATED EXPENSES; TO AMEND SECTION 38-21-10, AS AMENDED, RELATING TO DEFINITIONS IN THE INSURANCE HOLDING COMPANY REGULATORY ACT, SO AS TO DEFINE THE TERM "ENTERPRISE RISK"; TO AMEND SECTION 38-21-60, RELATING TO THE STATEMENT REQUIRED BY A PERSON SEEKING TO ACQUIRE CONTROL OF AN INSURER, SO AS TO IMPOSE CERTAIN NOTICE REQUIREMENTS; TO AMEND SECTION 38-21-70, RELATING TO THE CONTENTS OF A STATEMENT THAT MUST BE FILED BY A PERSON SEEKING TO ACQUIRE CONTROL OF AN INSURER, SO AS TO REVISE THE CONTENT REQUIREMENTS; TO AMEND SECTION 38-21-90, RELATING TO APPROVAL BY THE DIRECTOR OF THE ACQUISITION OF CONTROL OF AN INSURER, SO AS TO PROVIDE SPECIFIC REQUIREMENTS FOR PUBLIC HEARINGS WHERE APPROVAL OF MORE THAN ONE COMMISSIONER IS REQUIRED, AND TO DEFINE THE TERM "COMMISSIONER"; TO AMEND SECTION 38-21-110, RELATING TO VIOLATIONS OF CERTAIN PROVISIONS OF THE ACT, SO AS TO INCLUDE EFFECTUATION OF THE DIVESTITURE OF A DOMESTIC INSURER WITHOUT APPROVAL BY THE DIRECTOR OR HIS DESIGNEE; TO AMEND SECTION 38-21-125, RELATING TO ACQUISITIONS OF INSURERS EXEMPT FROM THE ACT, SO AS TO REMOVE CERTAIN ACQUISITIONS SUBJECT TO APPROVAL OR DISAPPROVAL BY THE DIRECTOR OR HIS DESIGNEE FROM THESE EXEMPTIONS; TO AMEND SECTION 38-21-130,

RELATING TO THE REGISTRATION OF MEMBERS OF INSURANCE HOLDING COMPANY SYSTEMS, SO AS TO MAKE A TECHNICAL CORRECTION TO AN INCORRECT REFERENCE; TO AMEND SECTION 38-21-140, RELATING TO REQUIRED STATEMENTS OF REGISTERING MEMBERS OF INSURANCE HOLDING COMPANY SYSTEMS, SO AS TO ADD CERTAIN FINANCIAL STATEMENTS AND A STATEMENT CONCERNING THE GOVERNANCE AND INTERNAL CONTROLS OF THE INSURER BY ITS BOARD, AMONG OTHER THINGS; TO AMEND SECTION 38-21-220, RELATING TO DISCLAIMERS OF AFFILIATION, SO AS TO DELETE LANGUAGE REGARDING CERTAIN REGISTRATION AND REPORTING REQUIREMENTS, AND TO PROVIDE THAT A DISCLAIMER MUST BE CONSIDERED GRANTED ABSENT CERTAIN NOTIFICATION BY THE DIRECTOR, AND TO PROVIDE RELIEF FOR A DENIAL; TO AMEND SECTION 38-21-230, RELATING TO FAILURE TO TIMELY FILE A REGISTRATION STATEMENT OR AMENDMENT TO A REGISTRATION STATEMENT, SO AS TO INCLUDE ENTERPRISE RISK FILING; TO AMEND SECTION 38-21-250, RELATING TO STANDARDS FOR TRANSACTIONS BETWEEN REGISTERED INSUREDS AND THEIR AFFILIATES, SO AS TO PROVIDE THAT AGREEMENTS FOR COST-SHARING SERVICES AND MANAGEMENT MUST INCLUDE PROVISIONS REQUIRED BY REGULATION, TO INCLUDE AMENDMENTS OR MODIFICATIONS OF CERTAIN AFFILIATE AGREEMENTS AMONG TRANSACTIONS INVOLVING DOMESTIC INSURERS AND ANY PERSON IN AN INSURANCE HOLDING COMPANY SYSTEM THAT REQUIRES CERTAIN NOTICE TO THE DEPARTMENT, AND TO PROVIDE REQUIREMENTS FOR THIS NOTICE, AMONG OTHER THINGS; TO AMEND SECTION 38-21-280, RELATING TO THE POWER OF THE DIRECTOR TO COMPEL PRODUCTION OF CERTAIN INFORMATION FROM INSURERS, SO AS TO REVISE THE REQUIREMENTS; TO AMEND SECTION 38-21-290, RELATING TO CONFIDENTIAL INFORMATION, SO AS TO REVISE THE REQUIREMENTS TO MAKE THE INFORMATION PRIVILEGED AND NOT SUBJECT TO DISCOVERY OR THE FREEDOM OF INFORMATION ACT, AND TO PROVIDE FOR USE OF THIS INFORMATION BY THE DIRECTOR OR HIS DESIGNEE, AMONG OTHER THINGS,

AND TO PROVIDE NEITHER THE DIRECTOR NOR HIS DESIGNEE MAY BE REQUIRED TO TESTIFY ABOUT THIS INFORMATION IN A PRIVATE CIVIL ACTION; TO AMEND SECTION 38-21-340, RELATING TO CRIMINAL PROSECUTIONS AND VIOLATIONS, SO AS TO PROVIDE THAT CERTAIN VIOLATIONS MAY SERVE AS AN INDEPENDENT BASIS FOR THE DIRECTOR TO DISAPPROVE DIVIDENDS OR DISTRIBUTIONS AND FOR PLACING THE INSURER UNDER AN ORDER OF SUPERVISION; AND TO AMEND SECTION 38-90-160, AS AMENDED, RELATING TO THE APPLICABILITY OF CERTAIN PROVISIONS OF TITLE 38 TO RISK RETENTION GROUPS LICENSED AS A CAPTIVE INSURANCE COMPANY, SO AS TO MAKE CONFORMING CHANGES.

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

Annual risk report

SECTION 1. Chapter 21, Title 38 of the 1976 Code is amended by adding:

"Section 38-21-225. The ultimate controlling person of an insurer subject to registration also shall file an annual enterprise risk report. The report must, to the best of the ultimate controlling person's knowledge and belief, identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report must be filed with the lead state commissioner of the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the National Association of Insurance Commissioners."

Director of the Department of Insurance, participation in supervisory colleges

SECTION 2. Chapter 21, Title 38 of the 1976 Code is amended by adding:

"Section 38-21-285. (A) With respect to an insurer registered under Sections 38-21-130 through 38-21-240 and pursuant to subsection (C), the director or his designee also may participate in a supervisory college for a domestic insurer that is part of an insurance holding company

system with international operations to determine compliance by the insurer with this chapter. The powers of the director or his designee with respect to supervisory colleges include, but are not limited to:

(1) initiating the establishment of a supervisory college;

(2) clarifying the membership and participation of other supervisors in the supervisory college;

(3) clarifying the functions of the supervisory college and the role of other regulators, including the establishment of a group-wide supervisor;

(4) coordinating the ongoing activities of the supervisory college, including planning meetings, supervisory activities, and processes for information sharing; and

(5) establishing a crisis management plan.

(B) A registered insurer subject to this section must be liable for and shall pay the reasonable expenses, including reasonable travel expenses, for the participation of the director or his designee in a supervisory college pursuant to subsection (C). For purposes of this section, a supervisory college may be convened as either a temporary or permanent forum for communication and cooperation between the regulators charged with the supervision of the insurer or its affiliates, and the director or his designee may establish a regular assessment to the insurer for the payment of these expenses.

(C) In order to assess the business strategy, financial position, legal and regulatory position, risk exposure, risk management and governance processes, and as part of the examination of individual insurers in accordance with Section 38-21-280, the director or his designee may participate in a supervisory college with other regulators charged with supervision of the insurer or its affiliates, including other state, federal, and international regulatory agencies. The director or his designee may enter into agreements pursuant to Section 38-21-290(C) to provide the basis for cooperation between the director or his designee and the other regulatory agencies, and the activities of the supervisory college. Nothing in this section delegates the authority of the director or his designee to regulate or supervise the insurer or its affiliates within its jurisdiction to the supervisory college."

"Enterprise risk" defined

SECTION 3. Section 38-21-10 of the 1976 Code is amended by adding an item at the end to read:

"( ) 'Enterprise risk' means an activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, likely is to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including, but not limited to, anything that would cause the insurer's risk-based capital to fall into company action level as provided in Section 38-9-330 or would cause the insurer to be in hazardous financial condition as provided in Section 38-5-120."

Statements required to seek control of insurer, notice

SECTION 4. Section 38-21-60 of the 1976 Code is amended to read:

"Section 38-21-60. (A) No person, other than the issuer, may make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation of the agreement, the person would directly, indirectly, by conversion, or by exercise of any right to acquire, be in control of the insurer. No person may enter into an agreement to merge with or otherwise to acquire control of a domestic insurer unless, at the time the offer, request, or invitation is made or the agreement is entered into, or before the acquisition of the securities if no offer or agreement is involved, the person has filed with the department a statement containing the information required by this section and the offer, request, invitation, agreement, or acquisition has been approved by the director or his designee in the manner prescribed in this chapter.

(B) For purposes of this section, a controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer in any manner shall file confidential notice of its proposed divestiture with the director or his designee, with a copy to the insurer, at least thirty days before the cessation of control. The director or his designee shall determine those instances in which a party seeking to divest a controlling interest in an insurer shall file for and obtain approval of the transaction by the department. The information must remain confidential until the conclusion of the transaction, unless the director or his designee determines that confidential treatment will interfere with enforcement of this section. If the statement referred to in subsection (A) otherwise is filed, the provisions of this subsection do not apply.

(C) With respect to a transaction subject to this section, the acquiring person also must file a preacquisition notification with the director or his designee. This notification must include the information set forth in

Section 38-21-125(C)(2). A person who fails to file this notification may be subject to penalties specified in Section 38-21-125(E)(3).

(D) For purposes of this section, a domestic insurer includes any other person controlling a domestic insurer unless the other person as determined by the director or his designee is either directly or through its affiliates primarily engaged in business other than the business of insurance. As used in this section, 'person' does not include any securities broker holding, in the usual and customary brokers' function, less than twenty percent of the voting securities of an insurance company or of any person which controls an insurance company."

Statements required to seek control of insurer, content

SECTION 5. Section 38-21-70 of the 1976 Code is amended to read:

"Section 38-21-70. (A) The statement to be filed with the department, as prescribed in Section 38-21-60, must be made under oath or affirmation and must contain the following information:

(1) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in Section 38-21-60 is to be effected, hereinafter called 'acquiring party'; and

(a) if the acquiring party is an individual, his principal occupation and all offices and positions held during the past five years and any conviction of crimes other than minor traffic violations during the past ten years; or

(b) if the acquiring party is not an individual, a report of the nature of its business operations during the past five years or for a lesser period as the acquiring party and any predecessors have been in existence; an informative description of the business intended to be done by the acquiring party and its subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of the acquiring party or who perform or will perform functions appropriate to these positions. The list must include for each of these individuals the information required by subitem (a).

(2) The source, nature, and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction in which funds were or are to be obtained for this purpose, and the identity of persons furnishing the consideration. Where a source of the consideration is a loan made in the lender's ordinary course of business, the identity of the lender must remain confidential, if the person filing the statement so requests.

(3) Fully audited financial information concerning the earnings and financial condition for the preceding five fiscal years of an acquiring party or for a lesser period as the acquiring party and any of its predecessors have been in existence.

(4) Unaudited financial information of the earnings and financial condition of each acquiring party as of a date within ninety days before filing the statement.

(5) Any plans or proposals which an acquiring party may have to liquidate the insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management.

(6) The number of shares of a security referred to in Section 38-21-60 which each acquiring party proposes to acquire and the terms of the offer, request, invitation, agreement, or acquisition referred to in Section 38-21-60 and a statement as to the method by which the fairness of the proposal was arrived.

(7) The amount of each class of any security referred to in Section 38-21-60 which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.

(8) A full description of any contract, arrangement, or understanding with respect to a security referred to in Section 38-21-60 in which an acquiring party is involved, including, but not limited to, transfer of the security, joint venture, loan or option arrangement, put or call, guarantee of loan, guarantee against loss or guarantee of division of loss or profit, or the giving or withholding of a proxy. The description must identify the persons with whom the contract, arrangement, or understanding has been entered.

(9) A description of the purchase of a security referred to in Section 38-21-60 during the twelve calendar months preceding the filing of the statement, by an acquiring party, including the date of purchase, name of the purchaser, and consideration paid or agreed to be paid.

(10) A description of a recommendation to purchase a security referred to in Section 38-21-60 made during the twelve calendar months preceding the filing of the statement by an acquiring party, or by anyone based upon interviews or at the suggestion of an acquiring party.

(11) Copies of all tender offers for, requests or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in Section 38-21-60, if distributed, of additional soliciting material relating to them.

(12) The terms of an agreement, contract, or understanding made with any broker-dealer concerning solicitation of securities referred to in

Section 38-21-60 for tender, and the amount of a fee, commission, or other compensation to be paid the broker-dealer.

(13) An agreement by the person required to file the statement referred to in Section 38-21-60 that it will provide the annual report, specified in Section 38-21-225, for so long as control exists.

(14) An acknowledgement by the person required to file the statement referred to in Section 38-21-60 that the person and all subsidiaries within its control in the insurance holding company system will provide information to the director or his designee upon request as necessary to evaluate enterprise risk to the insurer.

(15) Any additional information the director may by regulation prescribe as necessary or appropriate for the protection of policyholders of the insurer or in the public interest.

(B) If the person required to file the statement referred to in Section 38-21-60 is a partnership, limited partnership, syndicate, or other group, the director or his designee may require that the information required in this section be given with respect to each partner of the partnership or limited partnership, each member of the syndicate or group, and each person who controls the partner or member. If this partner, member, or person is a corporation or the person required to file the statement referred to in Section 38-21-60 is a corporation, the director or his designee may require that the information required in this section be given with respect to the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of more than ten percent of the outstanding voting securities of the corporation.

(C) If a material change occurs in the facts set forth in the statement filed with the department and sent to the insurer pursuant to this section, an amendment setting forth the change, together with copies of all documents and other material relevant to the change, must be filed with the department and sent to the insurer within two business days after the person learns of the change."

Public hearings before acquisition approval, definition revised

SECTION 6. Section 38-21-90 of the 1976 Code is amended to read:

"Section 38-21-90. (A) The director or his designee shall approve a merger or other acquisition of control in Section 38-21-60 unless, after a public hearing, he finds that:

(1) After the change of control the domestic insurer referred to in Section 38-21-60 is not able to satisfy the requirements for the issuance

of a license to write the line or lines of insurance for which it is presently licensed.

(2) The effect of the merger or other acquisition of control would substantially lessen competition in insurance in this State or tend to create a monopoly. In applying the competitive standard in this item:

(a) The information requirements and standards of Section 38-21-125(C) and (D) apply.

(b) The merger or other acquisition must not be approved if the director or his designee finds that at least one of the situations in Section 38-21-125(D) exists.

(c) The director or his designee may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time.

(3) The financial condition of the acquiring party might jeopardize the financial stability of the insurer or prejudice the interest of its policyholders.

(4) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets, or consolidate or merge it with a person or to make another material change in its business or corporate structure or management are unfair and unreasonable to policyholders of the insurer and not in the public interest.

(5) The competence, experience, and integrity of those persons who would control the operation of the insurer are such that it is not in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control.

(6) The acquisition is likely to be hazardous or prejudicial to the insurance-buying public.

(B) The public hearing referred to in subsection (A) must be held within thirty days after the statement required by Section 38-21-60 is filed, and at least twenty days' notice must be given by the director or his designee to the person filing the statement, to the insurer, and to other persons designated by the director or his designee. The director or his designee shall make a determination within thirty days after the conclusion of the hearing. At the hearing, the person filing the statement, the insurer, a person to whom notice of hearing was sent, and other persons whose interests are affected may present evidence, examine and cross-examine witnesses, and offer oral and written arguments and are entitled to conduct discovery proceedings in the same manner allowed in the circuit courts of this State. Discovery proceedings must be concluded not later than three days before the public hearing.

(C)(1) If the proposed acquisition of control will require the approval of more than one commissioner, the public hearing provided in

subsections (A) and (B) may be held on a consolidated basis upon request of the person filing the statement referred to in Section 38-21-60 if he files the statement with the National Association of Insurance Commissioners (NAIC) within five days after making the request for a public hearing. The director or his designee may opt out of a consolidated hearing, but shall provide notice of its decision of the opt out to the applicant within ten days after receipt of the statement. A hearing conducted on a consolidated basis must be public and held within the United States before the commissioners of the states in which the insurers are domiciled. These commissioners shall hear and receive evidence. The director or his designee may attend the hearing in person or by means of telecommunication.

(2) For purposes of this subsection, 'commissioner' means the:

(a) insurance commissioner, director, or other chief insurance official of a state, territory, or the District of Columbia;

(b) deputy of a commissioner; and

(c) insurance department of a state, territory, or District of Columbia, as appropriate.

(D) The director may retain at the acquiring person's expense attorneys, actuaries, accountants, and other experts not otherwise a part of the department's staff reasonably necessary to assist the director or his designee in reviewing the proposed acquisition of control."

Violations

SECTION 7. Section 38-21-110 of the 1976 Code is amended to read:

"Section 38-21-110. The following are violations of Sections 38-21-60 to 38-21-120:

(1) the failure to file a statement, amendment, or other material required to be filed pursuant to Section 38-21-60 or 38-21-70; or

(2) the effectuation or an attempt to effectuate an acquisition or control of, divestiture of, or merger with a domestic insurer, unless the director or his designee has given his approval."

Director approval of acquisition, exemptions

SECTION 8. Section 38-21-125(B)(2) of the 1976 Code is amended to read:

"(2) This section does not apply to:

(a) a purchase of securities solely for investment purposes so long as the securities are not used by voting or otherwise to cause or attempt to cause the substantial lessening of competition in an insurance market in this State. If a purchase of securities results in a presumption of control under Section 38-21-10(2), it is not solely for investment purposes unless the commissioner of the insurer's state of domicile accepts a disclaimer of control or affirmatively finds that control does not exist, and the disclaimer action or affirmative finding is communicated by the domiciliary commissioner to the director or his designee;

(b) the acquisition of a person by another person when both persons are neither directly nor through affiliates primarily engaged in the business of insurance if preacquisition notification is filed with the department in accordance with subsection (C)(1) thirty days before the proposed effective date of the acquisition. However, preacquisition notification is not required for exclusion from this section if the acquisition would be excluded by other provisions of this subsection;

(c) the acquisition of already affiliated persons;

(d) an acquisition if, as an immediate result of the acquisition:

(i) in any market the combined market share of the involved insurers does not exceed five percent of total market;

(ii) there is not an increase in a market share, or in any market the combined market share of the involved insurers does not exceed twelve percent of the total market, and the market share does not increase by more than two percent of the total market. For the purpose of this subsubitem a market means direct written insurance premium in this State for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this State;

(e) an acquisition for which a preacquisition notification would be required pursuant to this section due solely to the resulting effect on the ocean marine insurance line of business;

(f) an acquisition of an insurer whose domiciliary commissioner affirmatively finds that:

(i) the insurer is in failing condition;

(ii) there is a lack of feasible alternatives to improving the condition;

(iii) the public benefits of improving the insurer's condition through the acquisition exceed the public benefits that would arise from not lessening competition; and

(iv) the findings are communicated by the domiciliary commissioner to the director or his designee."

Registration of insurance holding company systems members

SECTION 9. Section 38-21-130 of the 1976 Code is amended to read:

"Section 38-21-130. (A) An insurer authorized to do business in this State and who is a member of an insurance holding company system shall register with the department, except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in this chapter.

(B) An insurer who is subject to registration under this chapter shall register within fifteen days after it becomes subject to registration, and annually thereafter by March first of each year for the previous calendar year, unless the director or his designee for good cause shown extends the time for registration, and then within the extended time. The director or his designee may require any authorized insurer which is a member of an insurance holding company system which is not subject to registration under this section to furnish a copy of the registration statement or other information filed by the insurance company with the insurance regulatory authority of its domiciliary jurisdiction."

Financial statements

SECTION 10. Section 38-21-140 of the 1976 Code is amended to read:

"Section 38-21-140. Every insurer subject to registration shall file the registration statement with the director or his designee on a form and in a format prescribed by the director or his designee which must contain the following current information:

(1) capital structure, general financial condition, ownership, and management of the insurer and a person controlling the insurer;

(2) identity and relationship of every member of the insurance holding company system;

(3) the following agreements in force and transactions currently outstanding or which have occurred during the last calendar year between the insurer and its affiliates:

(a) loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(b) purchases, sales, or exchanges of assets;

(c) transactions not in the ordinary course of business;

(d) guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(e) management agreements, service contracts, and cost-sharing arrangements;

(f) reinsurance agreements;

(g) dividends and other distributions to shareholders; and

(h) consolidated tax allocation agreements;

(4) pledge of the insurer's stock, including stock of a subsidiary or controlling affiliate, for a loan made to a member of the insurance holding company system;

(5) financial statements of or within an insurance holding company system, including all affiliates, if requested by the director or his designee including, but not limited to, annual audited financial statements filed with the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, which may be satisfied by providing the director or his designee with the most recently filed parent corporation financial statements that have been filed with the Securities and Exchange Commission;

(6) other matters concerning transactions between registered insurers and affiliates included in registration forms adopted or approved by the director or his designee;

(7) statements that the insurer's board of directors is responsible for and oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures; and

(8) any other information required by the director or his designee by regulation."

Disclaimers of affiliation

SECTION 11. Section 38-21-220 of the 1976 Code is amended to read:

"Section 38-21-220. A person may file with the department a disclaimer of affiliation with an authorized insurer or a disclaimer may be filed by an insurer or a member of an insurance holding company system. The disclaimer fully shall disclose all material relationships and bases for affiliation between the person and the insurer as well as the

basis for disclaiming this affiliation. A disclaimer of affiliation must be considered to have been granted unless the director or his designee, within thirty days following receipt of a complete disclaimer, notifies the filing party the disclaimer is disallowed. In the event of a disallowance, the disclaiming party may request an administrative hearing, which the department must grant. The disclaiming party must be relieved of its duty to register under Sections 38-21-130 through 38-21-240 if approval of the disclaimer is granted by the director or his designee, or if the disclaimer is considered approved."

Failure to timely file registration statement

SECTION 12. Section 38-21-230 of the 1976 Code is amended to read:

"Section 38-21-230. The failure to file a registration statement or any summary of such registration or enterprise risk filing as required by this chapter within the time specified for filing constitutes a violation of these sections."

Cost-sharing service and management agreements

SECTION 13. Section 38-21-250 of the 1976 Code is amended to read:

"Section 38-21-250. (A) Transactions within an insurance holding company system to which an insurer subject to registration is a party are subject to the following standards:

(1) The terms must be fair and reasonable.

(2) Agreements for cost-sharing services and management must include provisions required by regulation promulgated by the department.

(3) Charges or fees for services performed must be reasonable.

(4) Expenses incurred and payment received must be allocated to the insurer in conformity with customary insurance accounting practices consistently applied.

(5) The books, accounts, and records of each party to all transactions must be so maintained as to clearly and accurately disclose the nature and details of the transactions including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties.

(6) The insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates must be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(B) The following transactions involving a domestic insurer and any person in its insurance holding company system, including amendments or modifications of affiliate agreements previously filed pursuant to this section, which are subject to any materiality standards contained in items (1) through (7) may not be entered into unless the insurer has notified the department in writing of its intention to enter into the transaction at least thirty days prior, or such shorter period as the director or his designee may permit, and the director or his designee has not disapproved it within such period. The notice for amendments or modifications must include the reasons for the charge and the financial impact on the domestic insurer. Informal notice must be reported within thirty days after termination of a previously filed agreement to the director or his designee for determination of the type of filing required, if any.

(1) Sales, purchases, exchanges, loans, or extensions of credit, guarantees, or investments if the transactions are equal to or exceed:

(a) with respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or twenty-five percent of surplus as regards policyholders;

(b) with respect to life insurers, three percent of the insurer's admitted assets, each as of the thirty-first day of December next preceding.

(2) Loans or extensions of credit to any person who is not an affiliate, where the insurer makes the loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to purchase assets of, or make investments in, any affiliate of the insurer making the loans or extensions of credit as long as such transactions are equal to or exceed:

(a) with respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or twenty-five percent of surplus as regards policyholders;

(b) with respect to life insurers, three percent of the insurer's admitted assets, each as of the thirty-first day of December next preceding.

(3) Reinsurance agreements or modifications, including:

(a) all reinsurance pooling agreements; and

(b) agreements in which the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or a change to the insurer's liabilities in any of the next three years, equals or exceeds five percent of the insurer's surplus as regards policyholders, as of the thirty-first day of December next preceding, including those agreements which may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the insurer.

(4) All management agreements, service contracts, tax allocation agreements, and all cost-sharing arrangements.

(5) Guarantees when made by a domestic insurer; provided, however, that a guarantee which is quantifiable as to amount is not subject to the notice requirements of this item unless it exceeds the lesser of one-half of one percent of the insurer's admitted assets or ten percent of surplus as regards policyholders as of the thirty-first day of December next preceding. Further, all guarantees which are not quantifiable as to amount are subject to the notice requirements of this item.

(6) Direct or indirect acquisitions or investments in a person that controls the insurer or in an affiliate of the insurer in an amount which, together with its present holdings in such investments, exceeds two and one-half percent of the insurer's surplus to policyholders. Direct or indirect acquisitions or investments in subsidiaries acquired pursuant to Sections 38-21-20 through 38-21-50, or authorized under any other section of this chapter, or in nonsubsidiary insurance affiliates that are subject to the provisions of this chapter, are exempt from this requirement.

(7) Any material transactions, specified by regulation of the department, which the director or his designee determines may adversely affect the interests of the insurer's policyholders. Nothing herein authorizes or permits any transactions which, in the case of an insurer, not a member of the same insurance holding company system, would be otherwise contrary to law.

(C) A domestic insurer may not enter into transactions, which are part of a plan or series of like transactions with persons within the insurance holding company system, if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the director or his designee determines that such separate transactions were entered into over any twelve-month period for such purpose, he may exercise his authority under Section 38-21-340.

(D) The director or his designee, in reviewing transactions pursuant to subsection (B), shall consider whether the transactions comply with the standards set forth in subsection (A) and whether they may adversely affect the interests of policyholders.

(E) The department must be notified within thirty days of any investment of the domestic insurer in any one corporation if the total investment in the corporation by the insurance holding company system exceeds ten percent of the corporation's voting securities."

Compulsory production of information

SECTION 14. Section 38-21-280 of the 1976 Code is amended to read:

"Section 38-21-280. (A) In addition to his powers relating to examinations or investigations of insurers, the director or his designee has the power to examine an insurer registered pursuant to Sections 38-21-130 through 38-21-240 and its affiliates to ascertain the financial condition of the insurer, including the enterprise risk to the insurer by the ultimate controlling party, or by an entity or combination of entities within the insurance holding company system, or by the insurance holding company system on a consolidated basis.

(B) The director or his designee may order an insurer registered under Sections 38-21-130 through 38-21-240 to produce records, books, or other information papers in the possession of the insurer or its affiliates as considered necessary to determine the legality of its conduct or compliance with this chapter.

(C) To determine the legality of its conduct or compliance with this chapter, the director or his designee may order any insurer registered under Sections 38-21-130 through 38-21-240 to produce information not in the possession of the insurer if the insurer can obtain access to such information pursuant to contractual relationships, statutory obligations, or other method. If the insurer cannot obtain the information requested by the director or his designee, the insurer shall provide the director or his designee a detailed explanation of the reason that the insurer cannot obtain the information and the identity of the holder of information. When it appears to the director or his designee that the detailed explanation is without merit, the director or his designee may require, after notice and hearing, the insurer to pay a penalty of one thousand dollars for each day's delay, or may suspend or revoke the insurer's license.

(D) The director may retain at the registered insurer's expense attorneys, actuaries, accountants, and other experts not otherwise a part of the department's staff reasonably necessary to assist in the conduct of the examination under subsection (A). A person so retained is under the direction and control of the director or his designee and must act in a purely advisory capacity.

(E) A registered insurer producing for examination records, books, and papers pursuant to this section is liable for and must pay the expense of the examination.

(F) If the insurer fails to comply with an order, the director or his designee has, in addition to powers prescribed in Section 38-21-340, the power to examine the affiliates to obtain this information. The director or his designee also shall have the power to issue subpoenas, to administer oaths, and to examine under oath any person for purposes of determining compliance with this section. Upon the failure or refusal of any person to obey a subpoena, the director or his designee may petition the Administrative Law Court, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order is punishable as contempt of court. Every person is obliged to attend as a witness at the place specified in the subpoena, when subpoenaed, anywhere in this State, and is entitled to the same fees and mileage, if claimed, as a witness commanded to appear in the Court of Common Pleas, which fees, mileage, and actual expense, if any, necessarily incurred in securing the attendance of witnesses, and their testimony, must be itemized and charged against and be paid by the company being examined."

Confidential information

SECTION 15. Section 38-21-290 of the 1976 Code is amended to read:

"Section 38-21-290. (A) Documents, materials, or other information in the possession or control of the department that are obtained by or disclosed to the director or his designee or any other person in the course of an examination or investigation made pursuant to Section 38-21-280 and all information reported pursuant to Section 38-21-70(A)(13) and (14) and Sections 38-21-130 through 38-21-270 must be confidential by law and privileged, shall not be subject to disclosure, may not be subject to subpoena, and may not be disclosed under the Freedom of Information Act and may not be subject to discovery or admissible in evidence in any private civil action. However,

the director or his designee may use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of his official duties. The director or his designee otherwise shall not make the documents, materials, or other information public without obtaining the prior written consent of the insurer to which it pertains unless the director or his designee, after giving the insurer and its affiliates who would be affected by it, notice and opportunity to be heard, determines that the interest of policyholders, shareholders, or the public will be served by the publication of it, in which event the director or his designee may publish all or any part.

(B) Neither the director or his designee nor a person who received documents, materials, or other information while acting under the authority of the director or his designee or with whom such documents, materials, or other information are shared pursuant to this chapter may be permitted or required to testify in a private civil action concerning any confidential documents, materials, or information subject to subsection (A).

(C) In order to assist in the performance of the director or his designee's duties, the director or his designee:

(1) may share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (A), with other state, federal, and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, including members of any supervisory college described in Section 38-21-285, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information, and has verified in writing the legal authority to maintain confidentiality;

(2) only may share confidential and privileged documents, material, or information reported pursuant to Section 38-21-225 with commissioners of states having statutes or regulations substantially similar to subsection (A) and who have agreed in writing not to disclose such information;

(3) may receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information from the NAIC and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the

jurisdiction that is the source of the document, material, or information; and

(4) shall enter into written agreements with the NAIC governing sharing and use of information provided pursuant to this chapter consistent with this subsection that shall:

(a) specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC and its affiliates and subsidiaries pursuant to this chapter, including procedures and protocols for sharing by the NAIC with other state, federal, or international regulators;

(b) specify that ownership of information shared with the NAIC and its affiliates and subsidiaries pursuant to this chapter remains with the director or his designee and the NAIC's use of the information is subject to the direction of the director or his designee;

(c) require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC pursuant to this chapter is subject to a request or subpoena to the NAIC for disclosure or production; and

(d) require the NAIC and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the NAIC and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the NAIC and its affiliates and subsidiaries pursuant to this chapter.

(D) The sharing of information by the director or his designee pursuant to this chapter may not constitute a delegation of regulatory authority or rulemaking, and the director or his designee is solely responsible for the administration, execution, and enforcement of the provisions of this chapter.

(E) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the director or his designee under this section or as a result of sharing as authorized in subsection (C).

(F) Documents, materials, or other information in the possession or control of the NAIC pursuant to this chapter shall be confidential by law and privileged, may not be disclosed under the Freedom of Information Act, may not be subject to subpoena, and may not be subject to discovery or admissible in evidence in a private civil action."

Disapproval of dividends or distributions, suspensions

SECTION 16. Section 38-21-340 of the 1976 Code is amended to read:

"Section 38-21-340. (A) An insurer failing, without just cause, to file any registration statement or summary of it as required in this chapter is required, after notice and hearing, to pay a penalty of one thousand dollars for each day's delay, to be recovered by the director or his designee, and the penalty so recovered must be paid into the general fund of the State. The maximum penalty under this section is thirty thousand dollars. The director or his designee may reduce the penalty if the insurer demonstrates to the director or his designee that the imposition of the penalty would constitute a financial hardship to the insurer.

(B) A director or officer of an insurance holding company system who knowingly violates, participates in, or assents to, or who knowingly permits any of the officers or agents of the insurer to engage in transactions or make investments which have not been properly reported or submitted pursuant to this chapter or which violate this chapter, shall pay, in their individual capacity, a civil forfeiture of not more than ten thousand dollars per violation, after notice and hearing before the director or his designee. In determining the amount of the civil forfeiture, the director or his designee shall take into account the appropriateness of the forfeiture with respect to the gravity of the violation, the history of previous violations, and other matters as justice may require.

(C) When it appears to the director or his designee that an insurer subject to this chapter or a director, officer, employee, or agent of it has engaged in a transaction or entered into a contract which is subject to Sections 38-21-250 through 38-21-270 and which would not have been approved had the approval been requested, the director or his designee may order the insurer to cease and desist immediately any further activity under that transaction or contract. After notice and hearing, the director or his designee may also order the insurer to void any such contracts and restore the status quo if such action is in the best interest of the policyholders, creditors, or the public.

(D) When it appears to the director or his designee that an insurer or a director, officer, employee, or agent of it has committed a wilfull violation of this chapter, the director or his designee may, in addition to other powers prescribed in this section, cause criminal proceedings to be instituted in the circuit court for the county in which the principal office of the insurer is located or, if the insurer has no such office in the State, then in the Circuit Court for Richland County against the insurer or the responsible director, officer, employee, or agent of it. An insurer which wilfully violates this chapter may be fined not more than fifty thousand dollars. An individual who wilfully violates this chapter is guilty of a misdemeanor and, upon conviction, must be fined an amount not to

exceed ten thousand dollars or be imprisoned for a term not to exceed two years, or both.

(E) An officer, director, or employee of an insurance holding company system who wilfully and knowingly subscribes to or makes or causes to be made any false statements or false reports or false filings with the intent to deceive the director or his designee in the performance of his duties under this chapter is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than two years, fined ten thousand dollars, or both. A fine imposed must be paid by the officer, director, or employee in his individual capacity.

(F) When it appears to the director or his designee that a person has committed a violation of Sections 38-21-60 through 38-21-120 and which prevents the full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding company system, the violation may serve as an independent basis for disapproving dividends or distributions and for placing the insurer under an order of supervision in accordance with Chapter 26, Title 38.

(G) When it appears to the director or his designee that an insurer has committed a violation of this chapter, or that any person has committed a violation of this chapter which makes continued operation of the insurer contrary to the interests of policyholders or the public, the director or his designee may, after giving notice and an opportunity to be heard, determine to suspend, revoke, or refuse to renew the insurer's license or authority to do business in this State for a period as he finds is required for the protection of policyholders or the public. This determination must be accompanied by specific findings of fact and conclusions of law."

Captive insurance companies

SECTION 17. Section 38-90-160(C) of the 1976 Code is amended to read:

"(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, 38-21-80, 38-21-90, 38-21-95, 38-21-100, 38-21-110, 38-21-120, 38-21-130, 38-21-140, 38-21-150, 38-21-160, 38-21-170, 38-21-220, 38-21-225, 38-21-230, 38-21-250, 38-21-270, 38-21-280, 38-21-285, 38-21-290, 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."

Severability

SECTION 18. 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 19. This act takes effect upon approval by the Governor or January 1, 2016, if later.

Ratified the 5th day of March, 2015.

Approved the 9th day of March, 2015.

No. 3

(R5, H3519)

AN ACT TO RATIFY AN AMENDMENT TO SECTION 7, ARTICLE XVII OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE PROHIBITION ON LOTTERIES AND THE EXCEPTIONS TO THIS PROHIBITION, SO AS TO PROVIDE THAT THE GENERAL ASSEMBLY MAY AUTHORIZE RAFFLES TO BE OPERATED AND CONDUCTED BY RELIGIOUS, CHARITABLE, OR NONPROFIT ORGANIZATIONS FOR RELIGIOUS, CHARITABLE, OR ELEEMOSYNARY PURPOSES, AND BY GENERAL LAW MUST DEFINE THE TYPE OF ORGANIZATION AUTHORIZED TO CONDUCT RAFFLES, TO

PROVIDE THE STANDARDS FOR THEIR CONDUCT AND MANAGEMENT, TO PROVIDE PENALTIES FOR VIOLATIONS, AND TO PROVIDE FOR ANY OTHER LAW NECESSARY TO ENSURE THE PROPER FUNCTIONING, HONESTY, INTEGRITY, AND CHARITABLE PURPOSES FOR WHICH THE RAFFLES ARE CONDUCTED.

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

Constitutional amendment allowing certain raffles ratified

SECTION 1. The amendment to Article XVII of the Constitution of South Carolina, 1895, prepared under the terms of Joint Resolution 102 of 2013, having been submitted to the qualified electors at the General Election of 2014 as prescribed in Section 1, Article XVI of the Constitution of South Carolina, 1895, and a favorable vote having been received on the amendment, is ratified and declared to be a part of the Constitution so that Section 7 of Article XVII is amended to read:

"Section 7. Only the State may conduct lotteries, and these lotteries must be conducted in the manner that the General Assembly provides by law. The revenue derived from the lotteries must be used first to pay all operating expenses and prizes for the lotteries. The remaining lottery revenues must be credited to a separate fund in the state treasury styled the 'Education Lottery Account', and the earnings on this account must be credited to it. Education Lottery Account proceeds may be used only for educational purposes as the General Assembly provides by law.

The game of bingo, when conducted by charitable, religious, or fraternal organizations exempt from federal income taxation or when conducted at recognized annual state and county fairs, is not considered a lottery prohibited by this section.

A raffle, if provided for by general law and conducted by a nonprofit organization for charitable, religious, fraternal, educational, or other eleemosynary purposes, is not a lottery prohibited by this section. The general law must define the type of nonprofit organization authorized to operate and conduct a raffle, provide standards for the operation and conduct of raffles, provide for the use of proceeds for religious, charitable, fraternal, educational, or other eleemosynary purposes, provide penalties for violations, and provide for other laws necessary to ensure the proper functioning, honesty, and integrity of the raffles. If a general law on the conduct and operation of a nonprofit raffle for charitable purposes, including the type of organization allowed to

conduct raffles, is not enacted, then the raffle is a lottery prohibited by this section."

Ratified the 5th day of March, 2015.

No. 4

(R6, S177)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 19-5-520 SO AS TO ALLOW FOR CERTIFICATION, INSTEAD OF REQUIRING EXTRINSIC EVIDENCE, OF THE AUTHENTICITY OF CERTAIN DOMESTIC AND FOREIGN BUSINESS RECORDS OF REGULARLY CONDUCTED ACTIVITY FOR THE RECORDS TO BE ADMISSIBLE AND TO REQUIRE A CRIMINAL PENALTY FOR FALSE CERTIFICATION.

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

Admissibility of certified business records

SECTION 1. Article 9, Chapter 5, Title 19 of the 1976 Code is amended by adding:

"Section 19-5-520. In addition to those matters provided by Rule 902, South Carolina Rules of Evidence, extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

(A) The original or a copy of a domestic record that meets the requirements of Rule 803(6), South Carolina Rules of Evidence, as shown by a certification of the custodian or another qualified person that complies with a state statute or a court rule. Before the trial or hearing, the proponent shall give an adverse party reasonable written notice of the intent to offer the record and shall make the record and certification available for inspection so that the party has a fair opportunity to challenge the record.

(B) In a civil case, the original or a copy of a foreign record that is certified by the custodian or another qualified person and otherwise meets the requirements of subsection (A), modified as follows: the

certification, rather than complying with a state statute or court rule, must be signed in a manner that, if falsely made, would subject the maker to a criminal penalty in the jurisdiction where the certification is signed. The proponent also shall meet the notice requirements of subsection (A)."

Time effective

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

Ratified the 25th day of March, 2015.

Approved the 27th day of March, 2015.

No. 5

(R7, S397)

AN ACT TO AMEND SECTION 12-6-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE APPLICATION OF THE INTERNAL REVENUE CODE TO STATE INCOME TAX LAWS, SO AS TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE TO THE YEAR 2014 AND TO PROVIDE THAT IF THE INTERNAL REVENUE CODE SECTIONS ADOPTED BY THIS STATE ARE EXTENDED, THEN THESE SECTIONS ALSO ARE EXTENDED FOR SOUTH CAROLINA INCOME TAX PURPOSES.

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

Internal Revenue Code conformity

SECTION 1. Section 12-6-40(A)(1)(a) and (c) of the 1976 Code, as last amended by Act 126 of 2014, is further amended to read:

"(a) Except as otherwise provided, 'Internal Revenue Code' means the Internal Revenue Code of 1986, as amended through December 31, 2014, and includes the effective date provisions contained in it.

(c) If Internal Revenue Code sections adopted by this State which expired or portions thereof expired on December 31, 2014, are extended, but otherwise not amended, by congressional enactment during 2015, these sections or portions thereof also are extended for South Carolina income tax purposes in the same manner that they are extended for federal income tax purposes."

Time effective

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

Ratified the 25th day of March, 2015.

Approved the 27th day of March, 2015.

No. 6

(R8, S411)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 53-3-200 SO AS TO DESIGNATE THE MONTH OF OCTOBER OF EVERY YEAR AS "ITALIAN AMERICAN HERITAGE MONTH" IN SOUTH CAROLINA.

Whereas, since our nation's inception and throughout our history, more than five million brave men, women, and children from Italy made the journey to America looking for freedom and opportunity; and

Whereas, today there are more than twenty-six million Americans of Italian descent living in the United States, which makes them the fifth largest ethnic group in the country; and

Whereas, as South Carolinians, we find it important to recognize the determinations and achievements of Italians in our State during the month of October; and

Whereas, Italian Americans have helped shape and develop our nation and play a vital role in the political, social, and economic system of our State. Now, therefore,

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

Italian American Heritage Month designated

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

"Section 53-3-200. The month of October of every year is designated 'Italian American Heritage Month' in South Carolina in order to recognize Italian Americans for their many contributions to our State and nation."

Time effective

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

Ratified the 25th day of March, 2015.

Approved the 27th day of March, 2015.

No. 7

(R16, S196)

AN ACT TO AMEND SECTION 14-7-1610, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE GRAND JURY SYSTEM AND LEGISLATIVE FINDINGS AND APPLICABILITY, SO AS TO INCLUDE CRIMES INVOLVING TRAFFICKING IN PERSONS IN THE PURVIEW OF THE STATUTE; TO AMEND SECTION 14-7-1630, AS AMENDED, RELATING TO JURISDICTION OF THE STATE GRAND JURY, SO AS TO INCLUDE CRIMES INVOLVING TRAFFICKING IN PERSONS IN THE PURVIEW OF THE STATUTE; TO AMEND SECTION 16-3-2010, RELATING TO DEFINITIONS FOR PURPOSES OF TRAFFICKING IN PERSONS, SO AS TO REVISE THE DEFINITION OF "SEX TRAFFICKING"; BY ADDING SECTION 16-3-2100 SO AS TO REQUIRE THE POSTING OF INFORMATION REGARDING THE NATIONAL HUMAN

TRAFFICKING RESOURCE CENTER HOTLINE IN CERTAIN BUSINESS ESTABLISHMENTS, PROVIDE LANGUAGE FOR THE POSTING, AND PROVIDE FOR A FINE FOR THE FAILURE TO POST THE INFORMATION AS REQUIRED; TO AMEND SECTION 16-3-2050, RELATING TO THE INTERAGENCY TASK FORCE FOR THE PREVENTION OF TRAFFICKING IN PERSONS, SO AS TO REVISE THE MEMBERSHIP OF THE TASK FORCE; AND TO AMEND SECTION 8-30-10, RELATING TO RECORDING AND REPORTING ALLEGATIONS OF FEDERAL IMMIGRATION LAW VIOLATIONS, SECTION 16-1-60, AS AMENDED, RELATING TO CRIMES DEFINED AS VIOLENT, SECTION 17-25-45, AS AMENDED, RELATING TO CRIMES DEFINED AS MOST SERIOUS AND SERIOUS FOR PURPOSES OF TWO STRIKES AND THREE STRIKES PROVISIONS, SECTIONS 23-3-430, 23-3-490, AND 23-3-540, ALL AS AMENDED, RELATING TO THE SEX OFFENDER REGISTRY, AND SECTION 44-53-370, AS AMENDED, RELATING TO THE ILLEGAL POSSESSION, MANUFACTURE, AND DISTRIBUTION OF CERTAIN CONTROLLED SUBSTANCES, ALL SO AS TO CORRECT CODE SECTION REFERENCES TO TRAFFICKING IN PERSONS OFFENSES TO REFLECT THE CODE SECTION OF 16-3-2020.

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

State Grand Jury applicability, inclusion of trafficking in persons

SECTION 1. Section 14-7-1610(A) and (H) of the 1976 Code, as last amended by Act 82 of 2007, is further amended to read:

"(A) It is the intent of the General Assembly to enhance the grand jury system and to improve the ability of the State to detect and eliminate criminal activity. The General Assembly recognizes the great importance of having the federal authorities available for certain investigations. The General Assembly finds that crimes involving narcotics, dangerous drugs, or controlled substances, trafficking in persons, as well as crimes involving obscenity, often transpire or have significance in more than one county of this State. When this occurs, these crimes are most effectively detected and investigated by a grand jury system with the authority to cross county lines.

(H) Accordingly, the General Assembly concludes that a state grand jury should be allowed to investigate certain crimes related to narcotics, dangerous drugs, or controlled substances, criminal gang activity, trafficking in persons, and obscenity and also should be allowed to investigate crimes involving public corruption, election laws, and environmental offenses."

State Grand Jury jurisdiction, inclusion of trafficking in persons

SECTION 2. Section 14-7-1630(A) of the 1976 Code, as last amended by Act 280 of 2008, is further amended to read:

"(A) The jurisdiction of a state grand jury impaneled pursuant to this article extends throughout the State. The subject matter jurisdiction of a state grand jury in all cases is limited to the following offenses:

(1) a crime involving narcotics, dangerous drugs, or controlled substances, or a crime arising out of or in connection with a crime involving narcotics, dangerous drugs, or controlled substances, including, but not limited to, money laundering as specified in Section 44-53-475, obstruction of justice, perjury or subornation of perjury, or any attempt, aiding, abetting, solicitation, or conspiracy to commit one of the aforementioned crimes, if the crime is of a multi-county nature or has transpired or is transpiring or has significance in more than one county of this State;

(2) a crime involving criminal gang activity or a pattern of criminal gang activity pursuant to Article 3, Chapter 8, Title 16;

(3) a crime, statutory, common law or other, involving public corruption as defined in Section 14-7-1615, a crime, statutory, common law or other, arising out of or in connection with a crime involving public corruption as defined in Section 14-7-1615, and any attempt, aiding, abetting, solicitation, or conspiracy to commit a crime, statutory, common law or other, involving public corruption as defined in Section 14-7-1615;

(4) a crime involving the election laws, including, but not limited to, those named offenses specified in Title 7, or a common law crime involving the election laws if not superseded, or a crime arising out of or in connection with the election laws, or any attempt, aiding, abetting, solicitation, or conspiracy to commit a crime involving the election laws;

(5) a crime involving computer crimes, pursuant to Chapter 16, Title 16, or a conspiracy or solicitation to commit a crime involving computer crimes;

(6) a crime involving terrorism, or a conspiracy or solicitation to commit a crime involving terrorism. Terrorism includes an activity that:

(a) involves an act dangerous to human life that is a violation of the criminal laws of this State;

(b) appears to be intended to:

(i) intimidate or coerce a civilian population;

(ii) influence the policy of a government by intimidation or coercion; or

(iii) affect the conduct of a government by mass destruction, assassination, or kidnapping; and

(c) occurs primarily within the territorial jurisdiction of this State;

(7) a crime involving a violation of Chapter 1, Title 35 of the Uniform Securities Act, or a crime related to securities fraud or a violation of the securities laws;

(8) a crime involving obscenity, including, but not limited to, a crime as provided in Article 3, Chapter 15, Title 16, or any attempt, aiding, abetting, solicitation, or conspiracy to commit a crime involving obscenity;

(9) a crime involving the knowing and wilful making of, aiding and abetting in the making of, or soliciting or conspiring to make a false, fictitious, or fraudulent statement or representation in an affidavit regarding an alien's lawful presence in the United States, as defined by law, if the number of violations exceeds twenty or if the public benefit received by a person from a violation or combination of violations exceeds twenty thousand dollars;

(10) a crime involving financial identity fraud or identity fraud involving the false, fictitious, or fraudulent creation or use of documents used in an immigration matter as defined in Section 16-13-525, if the number of violations exceeds twenty, or if the value of the ascertainable loss of money or property suffered by a person or persons from a violation or combination of violations exceeds twenty thousand dollars;

(11) a crime involving the knowing and wilful making of, aiding or abetting in the making of, or soliciting or conspiring to make a false, fictitious, or fraudulent statement or representation in a document prepared or executed as part of the provision of immigration assistance services in an immigration matter, as defined by law, if the number of violations exceeds twenty, or if a benefit received by a person from a violation or combination of violations exceeds twenty thousand dollars;

(12) a knowing and wilful crime involving actual and substantial harm to the water, ambient air, soil or land, or both soil and land. This crime includes a knowing and wilful violation of the Pollution Control

Act, the Atomic Energy and Radiation Control Act, the State Underground Petroleum Environmental Response Bank Act, the State Safe Drinking Water Act, the Hazardous Waste Management Act, the Infectious Waste Management Act, the Solid Waste Policy and Management Act, the Erosion and Sediment Control Act, the South Carolina Mining Act, and the Coastal Zone Management Act, or a knowing and wilful crime arising out of or in connection with environmental laws, or any attempt, aiding, abetting, solicitation, or conspiracy to commit a knowing and wilful crime involving the environment if the anticipated actual damages, including, but not limited to, the cost of remediation, is two million dollars or more, as certified by an independent environmental engineer who must be contracted by the Department of Health and Environmental Control. If the knowing and wilful crime is a violation of federal law, a conviction or an acquittal pursuant to federal law for the same act is a bar to the impaneling of a state grand jury pursuant to this section; and

(13) a crime involving or relating to the offense of trafficking in persons, as defined in Section 16-3-2020, when a victim is trafficked in more than one county or a trafficker commits the offense of trafficking in persons in more than one county."

Trafficking in persons, definition of "sex trafficking" revised

SECTION 3. Section 16-3-2010(7) of the 1976 Code, as added by Act 258 of 2012, is amended to read:

"(7) 'Sex trafficking' means the recruitment, harboring, transportation, provision, or obtaining of a person for one of the following when it is induced by force, fraud, or coercion or the person performing the act is under the age of eighteen years and anything of value is given, promised to, or received, directly or indirectly, by another person:

(a) criminal sexual conduct pursuant to Section 16-3-651;

(b) criminal sexual conduct in the first degree pursuant to Section 16-3-652;

(c) criminal sexual conduct in the second degree pursuant to Section 16-3-653;

(d) criminal sexual conduct in the third degree pursuant to Section 16-3-654;

(e) criminal sexual conduct with a minor pursuant to Section 16-3-655;

(f) engaging a child for sexual performance pursuant to Section 16-3-810;

(g) producing, directing, or promoting sexual performance by a child pursuant to Section 16-3-820;

(h) sexual battery pursuant to Section 16-3-651;

(i) sexual conduct pursuant to Section 16-3-800; or

(j) sexual performance pursuant to Section 16-3-800."

Trafficking in persons, posting of information regarding the National Human Trafficking Resource Center Hotline in certain establishments, fine for failure to post required notice

SECTION 4. Article 19, Chapter 3, Title 16 of the 1976 Code is amended by adding:

"Section 16-3-2100. (A) The following establishments are required to post the information contained in subsection (B) regarding the National Human Trafficking Resource Center Hotline:

(1) an establishment which has been declared a nuisance for prostitution pursuant to Chapter 43, Title 15;

(2) an adult business, including a nightclub, bar, restaurant, or another similar establishment in which a person appears in a state of sexually explicit nudity, as defined in Section 16-15-375, or seminudity, as defined in Section 57-25-120;

(3) businesses and establishments that offer massage or bodywork services by any person who is not licensed under Chapter 30, Title 40;

(4) emergency rooms within any hospital;

(5) urgent care centers;

(6) any hotel, motel, room, or accommodation furnished to transients for which fees are charged in this State;

(7) all agricultural labor contractors and agricultural labor transporters as defined pursuant to Section 41-27-120; and

(8) all airports, train stations, bus stations, rest areas, and truck stops.

(B) The information must be posted in each public restroom for the business or establishment and a prominent location conspicuous to the public at the entrance of the establishment where posters and notices are customarily posted on a poster no smaller than eight and one-half by eleven inches in size and must state in both English and Spanish on the same poster information relevant to the hotline, including the following or language substantially similar:

'If you or someone you know is being forced to engage in any activity and cannot leave, whether it is commercial sex, housework, farm work, or any other activity, call the National Human Trafficking Resource Center Hotline at 1-888-373-7888 to access help and services. Victims of human trafficking are protected under federal law and the laws of South Carolina. The hotline is:

(1) available twenty-four hours a day, seven days a week;

(2) operated by a nonprofit, nongovernmental organization;

(3) anonymous and confidential;

(4) accessible in one hundred seventy languages;

(5) able to provide help, referral to services, training, and general information.'

(C) The Department of Revenue, the State Law Enforcement Division, and the Department of Transportation, as appropriate depending on the regulatory control or authority the respective department exercises over the establishment, are directed to provide each establishment with the notice required to be posted by this section. The departments shall post on the departments' websites a sample of the notice required to be posted which must be accessible for download. The business must download and post the notice in not less than sixteen point font.

(D) The Department of Revenue, the State Law Enforcement Division, or the Department of Transportation, as appropriate, is authorized to issue a written warning to an establishment which fails to post the required notice provided in this section and may assess a fine of not more than fifty dollars for each subsequent violation. Each day that the establishment remains in violation of this section is considered a separate and distinct violation and the establishment may be fined accordingly.

(E) The South Carolina Human Trafficking Task Force, Department of Revenue, and Department of Transportation are directed to collaborate on the design of the required notice to be posted and may partner to develop materials, and shall have the design finalized no later than one hundred twenty days after the effective date of this section. Establishments required to post the notice must be in compliance no later than six months after the effective date of this action.

(F) This section does not apply to establishments providing entertainment in theatres, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances when the performances presented are expressing matters of serious literary, artistic, scientific, or political value."

Interagency Task Force for the Prevention of Trafficking in Persons, membership revised

SECTION 5. Section 16-3-2050(B) and (C) of the 1976 Code, as added by Act 258 of 2012, is amended to read:

"(B) The task force shall consist of, at a minimum, representatives from:

(1) the Office of the Attorney General, who must be chair;

(2) the South Carolina Department of Labor, Licensing and Regulation;

(3) the South Carolina Police Chiefs Association;

(4) the South Carolina Sheriffs' Association;

(5) the State Law Enforcement Division;

(6) the Department of Health and Environmental Control Board;

(7) the State Office of Victim Assistance;

(8) the South Carolina Commission on Prosecution Coordination;

(9) the Department of Social Services;

(10) a representative from the Office of the Governor;

(11) a representative from the Department of Employment and Workforce; and

(12) two persons appointed by the Attorney General from nongovernmental organizations, especially those specializing in trafficking in persons, those representing diverse communities disproportionately affected by trafficking, agencies devoted to child services and runaway services, and academic researchers dedicated to the subject of trafficking in persons.

(C) The Attorney General shall invite representatives of the United States Department of Labor, the United States Attorneys' offices, and federal law enforcement agencies' offices within the State, including the Federal Bureau of Investigations and the United States Immigration and Customs Enforcement office, to be members of the task force."

Conforming changes

SECTION 6. A. Section 8-30-10(A) of the 1976 Code, as added by Act 280 of 2008, is amended to read:

"(A) The Executive Director of the State Commission for Minority Affairs, or a designee, shall establish and maintain a twenty-four hour toll free telephone number and electronic website to receive, record, collect, and report allegations of violations of federal immigration laws

or related provisions of South Carolina law by any non-United States citizen or immigrant, and allegations of violations of any federal immigration laws or related provisions in South Carolina law against any non-United States citizen or immigrant. Such violations shall include, but are not limited to, E-Verify or other federal work authorization program violations, violations of Chapter 83, Title 40 of this code relating to immigration assistance services, or any regulations enacted governing the operation of immigration assistance services, false or fraudulent statements made or documents filed in relation to an immigration matter, as defined by Section 40-83-20, violation of human trafficking laws, as defined in Section 16-3-2020, landlord tenant law violations, or violations of any law pertaining to the provision or receipt of public assistance benefits or public services."

B. Section 16-1-60 of the 1976 Code, as last amended by Act 255 of 2012, is further amended to read:

"Section 16-1-60. For purposes of definition under South Carolina law, a violent crime includes the offenses of: murder (Section 16-3-10); attempted murder (Section 16-3-29); assault and battery by mob, first degree, resulting in death (Section 16-3-210(B)), criminal sexual conduct in the first and second degree (Sections 16-3-652 and 16-3-653); criminal sexual conduct with minors, first, second, and third degree (Section 16-3-655); assault with intent to commit criminal sexual conduct, first and second degree (Section 16-3-656); assault and battery with intent to kill (Section 16-3-620); assault and battery of a high and aggravated nature (Section 16-3-600(B)); kidnapping (Section 16-3-910); trafficking in persons (Section 16-3-2020); voluntary manslaughter (Section 16-3-50); armed robbery (Section 16-11-330(A)); attempted armed robbery (Section 16-11-330(B)); carjacking (Section 16-3-1075); drug trafficking as defined in Section 44-53-370(e) or trafficking cocaine base as defined in Section 44-53-375(C); manufacturing or trafficking methamphetamine as defined in Section 44-53-375; arson in the first degree (Section 16-11-110(A)); arson in the second degree (Section 16-11-110(B)); burglary in the first degree (Section 16-11-311); burglary in the second degree (Section 16-11-312(B)); engaging a child for a sexual performance (Section 16-3-810); homicide by child abuse (Section 16-3-85(A)(1)); aiding and abetting homicide by child abuse (Section 16-3-85(A)(2)); inflicting great bodily injury upon a child (Section 16-3-95(A)); allowing great bodily injury to be inflicted upon a child (Section 16-3-95(B)); criminal domestic violence of a high and aggravated nature (Section 16-25-65);

abuse or neglect of a vulnerable adult resulting in death (Section 43-35-85(F)); abuse or neglect of a vulnerable adult resulting in great bodily injury (Section 43-35-85(E)); taking of a hostage by an inmate (Section 24-13-450); detonating a destructive device upon the capitol grounds resulting in death with malice (Section 10-11-325(B)(1)); spousal sexual battery (Section 16-3-615); producing, directing, or promoting sexual performance by a child (Section 16-3-820); sexual exploitation of a minor first degree (Section 16-15-395); sexual exploitation of a minor second degree (Section 16-15-405); promoting prostitution of a minor (Section 16-15-415); participating in prostitution of a minor (Section 16-15-425); aggravated voyeurism (Section 16-17-470(C)); detonating a destructive device resulting in death with malice (Section 16-23-720(A)(1)); detonating a destructive device resulting in death without malice (Section 16-23-720(A)(2)); boating under the influence resulting in death (Section 50-21-113(A)(2)); vessel operator's failure to render assistance resulting in death (Section 50-21-130(A)(3)); damaging an airport facility or removing equipment resulting in death (Section 55-1-30(3)); failure to stop when signaled by a law enforcement vehicle resulting in death (Section 56-5-750(C)(2)); interference with traffic-control devices, railroad signs, or signals resulting in death (Section 56-5-1030(B)(3)); hit and run resulting in death (Section 56-5-1210(A)(3)); felony driving under the influence or felony driving with an unlawful alcohol concentration resulting in death (Section 56-5-2945(A)(2)); putting destructive or injurious materials on a highway resulting in death (Section 57-7-20(D)); obstruction of a railroad resulting in death (Section 58-17-4090); accessory before the fact to commit any of the above offenses (Section 16-1-40); and attempt to commit any of the above offenses (Section 16-1-80). Only those offenses specifically enumerated in this section are considered violent offenses."

C. Section 17-25-45(C)(1) of the 1976 Code is amended to read:

"(1) 'Most serious offense' means:

16-1-40	Accessory, for any offense enumerated in this item
16-1-80	Attempt, for any offense enumerated in this item
16-3-10	Murder
16-3-29	Attempted Murder
16-3-50	Voluntary manslaughter
16-3-85(A)(1)	Homicide by child abuse

16-3-85(A)(2) Aiding and abetting homicide by child abuse
16-3-210 Lynching, First degree
16-3-210(B) Assault and battery by mob, First degree
16-3-620 Assault and battery with intent to kill
16-3-652 Criminal sexual conduct, First degree
16-3-653 Criminal sexual conduct, Second degree
16-3-655 Criminal sexual conduct with minors, except where evidence presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16-3-655(3)
16-3-656 Assault with intent to commit criminal sexual conduct, First and Second degree
16-3-910 Kidnapping
16-3-920 Conspiracy to commit kidnapping

16-3-1075 Carjacking
16-3-2020 Trafficking in persons
16-11-110(A) Arson, First degree
16-11-311 Burglary, First degree
16-11-330(A) Armed robbery
16-11-330(B) Attempted armed robbery
16-11-540 Damaging or destroying building, vehicle, or other property by means of explosive incendiary, death results
24-13-450 Taking of a hostage by an inmate
25-7-30 Giving information respecting national or state defense to foreign contacts during war
25-7-40 Gathering information for an enemy
43-35-85(F) Abuse or neglect of a vulnerable adult resulting in death
55-1-30(3) Unlawful removing or damaging of airport facility or equipment when death results
56-5-1030(B)(3) Interference with traffic-control devices or railroad signs or signals prohibited when death results from violation
58-17-4090 Obstruction of railroad, death results."

D. Section 23-3-430(C)(17) of the 1976 Code, as last amended by Act 289 of 2010, is further amended to read:

"(17) trafficking in persons (Section 16-3-2020) except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;"

E. Section 23-3-490(D)(1)(h) of the 1976 Code, as last amended by Act 289 of 2010, is further amended to read:

"(h) trafficking in persons (Section 16-3-2020) except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense."

F. Section 23-3-540(G)(1)(i) of the 1976 Code, as last amended by Act 255 of 2012, is further amended to read:

"(i) trafficking in persons (Section 16-3-2020) of a person under eighteen years of age except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense; or"

G. Section 44-53-370(f)(2) of the 1976 Code, as last amended by Act 289 of 2010, is further amended to read:

"(2) trafficking in persons, Section 16-3-2020;"

Savings clause

SECTION 7. 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 8. This act takes effect upon approval by the Governor.

Ratified the 1st day of April, 2015.

Approved the 2nd day of April, 2015.

No. 8

(R18, H3035)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 54 TO TITLE 48 SO AS TO ENACT THE "TAKE PALMETTO PRIDE WHERE YOU LIVE ACT", TO CREATE THE TAKE PALMETTO PRIDE WHERE YOU LIVE ACT COMMISSION UNDER THE AUSPICES OF, AND STAFFED BY, THE DEPARTMENT OF NATURAL RESOURCES AND TO PROVIDE FOR ITS MEMBERS, POWERS, AND DUTIES; TO PROVIDE THAT THE COMMISSION SHALL DEVELOP A STRATEGIC STATE PLAN FOR LITTER REMOVAL, REDUCTION AND PREVENTION, AND LITTER LAW ENFORCEMENT THROUGH THE COORDINATION AND COOPERATION OF STATE AGENCIES, LOCAL GOVERNMENTS, PRIVATE PROFIT AND NONPROFIT ORGANIZATIONS, BUSINESS, AND INDUSTRY TO PROVIDE FOR THE COMPONENTS OF THE PLAN; TO AMEND SECTION 24-23-115, RELATING TO PUBLIC SERVICE WORK AS A CONDITION OF PROBATION OR SUSPENSION OF A SENTENCE, SO AS TO DEFINE "PUBLIC SERVICE WORK" AS PARTICIPATING IN A LITTER REMOVAL PROGRAM OR ANOTHER LITTER PROGRAM UNDER THE COMMISSION UNLESS THE COURT FINDS THAT PARTICIPATION IN SUCH A PROGRAM IS NOT APPROPRIATE FOR THE OFFENDER; AND TO REPEAL CHAPTER 67, TITLE 44 RELATING TO THE "LITTER CONTROL ACT OF 1978" UNDER THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL.

Whereas, South Carolina has historically spent tens of millions of dollars to remove litter from our highways and roadsides and if the State were to stay on that course to deal with litter, it would be likely to spend an ever-increasing amount of resources; and

Whereas, additionally, over the years, many groups, organizations, and agencies have used numerous methods to create and sustain a clean environment in which to live, work, and play; despite their best efforts, litter continues to occur and in great volume in our State; and

Whereas, litter results in significant social, environmental, and economic costs. It is aesthetically displeasing, presents a range of threats to human and ecologic health, impedes the attraction of new business to the State, and affects the quality of life for the citizens of South Carolina; and

Whereas, litter increases the risk of fire, personal injury, the spread of disease, pollutes waterways, and threatens wildlife. The impacts are real, the issue is genuine, and litter is increasingly being recognized as an important problem in South Carolina; and

Whereas, in an effort to improve the quality of life, the public health and environment, and the economy, this legislation proposes to establish a permanent commission to address the issues of litter removal, reduction and prevention, under the Department of Natural Resources with the responsibility to develop a balanced, comprehensive strategy to effectively address this statewide issue through the coordination and cooperation of state agencies, local governments, and private profit and nonprofit organizations in this State. Now, therefore,

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

Citation of act

SECTION 1. This act may be cited as the "Take Palmetto Pride in Where You Live Act".

Take Palmetto Pride in Where You Live

SECTION 2. Title 48 of the 1976 Code is amended by adding:

"CHAPTER 54

Take Palmetto Pride in Where You Live

Section 48-54-10. (A) There is established the Take Palmetto Pride in Where You Live Commission under the auspices of, and staffed by,

the Department of Natural Resources. The commission shall serve as the lead agency for statewide litter removal, litter reduction and prevention, and litter law enforcement through facilitating communication, cooperation and coordination of the efforts and resources of state agencies, local governments, the private profit and nonprofit sectors, business, and industry.

(B) The commission is comprised of:

(1) the Director of the Department of Natural Resources, or his designee, who shall serve as the chairperson of the commission;

(2) the Director of the Department of Transportation, or his designee, who shall serve as the vice chairperson of the commission;

(3) the Director of the Department of Corrections or his designee;

(4) the Director of the Department of Probation, Parole and Pardon Services, or his designee;

(5) the Director of the Department of Public Safety, or his designee;

(6) the Director of Court Administration, or his designee;

(7) the Director of Palmetto Pride, or his designee;

(8) the Director of Keep America Beautiful South Carolina, or his designee;

(9) the Executive Director of the Municipal Association of South Carolina, or his designee;

(10) the Executive Director of the South Carolina Association of Counties, or his designee;

(11) the Executive Director of the South Carolina Sheriff's Association, or his designee; and

(12) the President of the South Carolina Trucking Association, or his designee.

(C) The members of the commission shall serve ex officio and payment of any mileage, per diem, or subsistence is the responsibility of the department or organization the member represents.

(D) The commission must be staffed by the Department of Natural Resources and shall meet at least twice a year and at any time upon the call of the chair.

(E) In carrying out its responsibilities pursuant to this chapter, the commission may convene ad hoc committees as it considers necessary and utilize the assistance and expertise of other agencies, organizations, and resources to improve litter removal, reduction and prevention, and litter law enforcement in this State.

(F) All agencies of the State and local governments shall cooperate with the commission in carrying out its responsibilities pursuant to this chapter.

Section 48-54-20. The commission shall survey the incidence of litter violations and the primary type and locations of litter in this State; the system, frequency, method, and personnel used in the removal of litter; the existence and sponsorship of litter reduction and prevention programs and campaigns; and the incidence of litter law enforcement and prosecution in this State. The commission also shall evaluate ongoing public and private programs and campaigns addressing these litter issues including the value, effectiveness, and duplication of these programs and campaigns. This data must be utilized in developing the Strategic State Plan for Litter, as provided for in Section 48-54-30, and as a baseline for measuring the effectiveness of programs and campaigns undertaken pursuant to this plan.

Section 48-54-30. (A) To provide effective, statewide litter removal, reduction and prevention, and litter law enforcement, the commission shall develop a Strategic State Plan for Litter, which must be balanced and comprehensive, but flexible and dynamic in order to be revised and expanded to encompass new innovations, methods, and resources.

(B)(1) The plan must address the overall goal of reducing litter through developing coordinated, cost-effective, and efficient methods of litter removal, litter reduction and prevention, and litter law enforcement.

(2) To perform litter removal activities, the plan must:

(a) identify and prioritize sites for litter removal and determine ways to expand the pool of individuals performing litter removal;

(b) identify and coordinate state agencies, local governments, and private profit and nonprofit organizations that will engage in litter removal and identify their roles and responsibilities in the performance of litter removal including the responsibility of removal of animal carcasses;

(c) facilitate the development of policies and procedures to be utilized by state agencies, local governments, and private profit and nonprofit organizations for litter removal including, but not limited to, scheduling and coordinating litter removal, providing transportation and supervision of individuals performing litter removal, and determining methods and systems for the litter removal process, including the pickup of collected, removed litter; and

(d) develop and facilitate the use of interagency agreements or memoranda of agreements under which state agencies, local governments, and private profit and nonprofit organizations can

coordinate and cooperate in fulfilling their litter removal obligations under the plan.

(3) To carry out litter reduction and prevention, the plan must:

(a) identify and evaluate existing public education and awareness programs and campaigns for continuation, modification, or consolidation;

(b) publicize and promote participation in litter reduction and prevention programs and campaigns; facilitate the communication, coordination, and cooperation among state agencies, local governments, private profit and nonprofit organizations, business, and industry participating in litter reduction and prevention programs and campaigns; and

(c) conduct research on the development of new and innovative public awareness and education programs including the development of litter programs for schools and community organizations and the development of public awareness through media outlets and other public means.

(4) To increase the enforcement of litter law violations, the plan must:

(a) educate law enforcement and the judiciary about the detrimental impact of litter in this State and the role and importance of enforcing litter laws;

(b) publicize and promote existing methods of effective reporting of litter law violations;

(c) conduct research and evaluate how other states and jurisdictions have increased enforcement of litter laws.

(5) The plan must include the awarding of meaningful recognition and effective incentives to promote and encourage participation in appropriate litter removal, reduction and prevention, and litter law enforcement programs and campaigns.

Section 48-54-40. (A) Biennially, the commission shall review and evaluate its Strategic State Plan for Litter to identify areas of progress and improvement in attaining the overall goal of reducing litter in this State and barriers to achieving this goal. Accordingly, the commission shall revise the plan to incorporate its findings.

(B) The commission biennially, following its review and evaluation of its Strategic State Plan for Litter, shall submit a report in writing to the General Assembly before November sixteenth in even numbered years, beginning in 2016. The report must include, but is not limited to, the extent programs and campaigns for litter removal, reduction and prevention, and litter law enforcement have made progress in reaching

the overall goal of litter reduction in this State; the extent the commission has been successful in facilitating the coordination and cooperation among state agencies, local governments, and private profit and nonprofit organizations in the development and implementation of programs and campaigns undertaken pursuant to the Strategic State Plan for Litter; whether the incidence of litter violations have decreased and whether the enforcement of litter laws and prosecutions have increased; measurements of the effectiveness of litter removal, reduction and prevention, and litter law enforcement programs and campaigns; new programs implemented; and recommendations for legislative changes needed to assist the commission in achieving the overall goal of litter reduction and in carrying out its duties and responsibilities under this chapter."

Public service work defined

SECTION 3. Section 24-23-115 of the 1976 Code is amended by adding a new paragraph at the end to read:

"For purposes of this section, 'public service work' includes participating in a litter removal program on or along the roadways of this State or participating in another program for the removal, reduction, or prevention of littering, as provided for in Chapter 54, Title 48, unless a court of competent jurisdiction determines that participation in such a program is not appropriate for the offender."

Repeal

SECTION 4. Chapter 67, Title 44 of the 1976 Code is repealed.

Time effective

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

Ratified the 1st day of April, 2015.

Approved the 2nd day of April, 2015.

No. 9

(R21, S358)

AN ACT TO AMEND SECTION 56-5-70, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SUSPENSION OF VEHICULAR REQUIREMENTS DURING A DECLARED STATE OF EMERGENCY, SO AS TO PROVIDE FOR AN EXTENSION OF THE TIME PERIOD FOR UP TO ONE HUNDRED TWENTY DAYS RELATING TO SUSPENSIONS OF REGISTRATION, PERMITTING, LENGTH, WIDTH, WEIGHT, AND LOAD ON NONINTERSTATE ROUTES FOR CERTAIN VEHICLES, AND TO MAKE SUSPENSIONS OF TIME OF SERVICE REQUIREMENTS FOR THIRTY DAYS UNLESS EXTENDED BY FEDERAL REGULATION FOR BOTH INTERSTATE AND NONINTERSTATE ROUTES FOR CERTAIN VEHICLES.

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

State of emergency

SECTION 1. Section 56-5-70(A) of the 1976 Code, as last amended by Act 250 of 2010, is further amended to read:

"(A)(1) Notwithstanding any provision of this chapter or any other provision of law, during a state of emergency declared by the Governor and in the course of responding to the state of emergency:

(a) requirements relating to registration, permitting, length, width, weight, and load are suspended for commercial and utility vehicles traveling on noninterstate routes for up to one hundred twenty days, provided the vehicles do not exceed a gross weight of ninety thousand pounds and do not exceed a width of twelve feet;

(b) requirements relating to time of service suspensions for commercial and utility vehicles traveling on interstate and noninterstate routes are suspended for up to thirty days, unless extended for additional periods in accordance with 49 C.F.R. 390-399.

(2) All vehicles operated upon the public highways of this State under the authority of this section must:

(a) be operated in a safe manner;

(b) maintain required limits of insurance; and

(c) be clearly identified as a utility vehicle or provide appropriate documentation indicating it is a commercial vehicle responding to the emergency."

Time effective

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

Ratified the 7th day of May, 2015.

Approved the 7th day of May, 2015.

No. 10

(R22, S376)

AN ACT TO AMEND SECTION 55-1-80, RELATING TO COUNTY AVIATION COMMISSIONS, SO AS TO ALLOW FOR INCREASED MEMBERSHIP ON CERTAIN COUNTY AVIATION COMMISSIONS, TO PROVIDE FOR THE APPOINTMENT OF THE NEW MEMBERS, TO PROVIDE THAT MAYORS OF CERTAIN MUNICIPALITIES SHALL SERVE EX OFFICIO ON CERTAIN AVIATION COMMISSIONS OR AUTHORITIES, AND TO PROVIDE THAT THIS PROVISION DOES NOT APPLY TO A MULTICOUNTY AVIATION COMMISSION OR AUTHORITY; AND TO REPEAL ACT 130 OF 2007 RELATING TO THE INCREASE OF CHARLESTON COUNTY AVIATION AUTHORITY BY TWO MEMBERS.

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

County aviation commissions and authorities

SECTION 1. Section 55-1-80 of the 1976 Code is amended to read:

"Section 55-1-80. (A) Any county aviation commission or like authority may be increased by two members, one of whom must be appointed by the House of Representatives' delegation of the county and one of whom must be appointed by the Senatorial delegation of the

county. The additional members shall serve terms of the same length as other members of the commission or like authority.

(B) Any county governing body who has the authority to appoint members to the aviation commission or like authority may add two members for terms as provided in this section.

(C) In counties that have two municipalities with a population in excess of fifty thousand persons according to the latest official United States Census, and the county has an aviation commission or like authority, then the mayors of such municipalities having a population in excess of the fifty thousand persons shall serve, ex officio, as members of the commission or authority.

(D) The provisions of this section do not apply in the case of any multicounty aviation commission or authority."

Repeal

SECTION 2. Act 130 of 2007 is repealed.

Time effective

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

Ratified the 7th day of May, 2015.

Approved the 7th day of May, 2015.

No. 11

(R23, S391)

AN ACT TO AMEND SECTION 59-112-50, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO IN-STATE TUITION RATES FOR MILITARY PERSONNEL AND THEIR DEPENDENTS UNDER CERTAIN CONDITIONS, SO AS TO PROVIDE THAT ACTIVE DUTY MILITARY PERSONNEL MAY BE CHARGED LESS THAN THE UNDERGRADUATE TUITION RATE FOR SOUTH CAROLINA RESIDENTS FOR COURSES THAT ARE PRESENTED ON A DISTANCE BASIS, REGARDLESS OF RESIDENCY, AND TO PROVIDE FOR THE MANNER IN WHICH AND CONDITIONS

UNDER WHICH CERTAIN VETERANS RECEIVING SPECIFIED FEDERAL EDUCATIONAL BENEFITS AND ENROLLED IN A STATE INSTITUTION AND PERSONS RELATED TO THE VETERAN RECEIVING SPECIFIED FEDERAL EDUCATIONAL BENEFITS AND ENROLLED IN A STATE INSTITUTION ARE ENTITLED TO RECEIVE IN-STATE TUITION RATES WITHOUT REGARD TO THE LENGTH OF TIME THE INDIVIDUAL HAS RESIDED IN THE STATE.

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

Tuition rates for active duty personnel and for certain veterans and their relations

SECTION 1. Section 59-112-50(B) of the 1976 Code, as last amended by Act 133 of 2012, is further amended to read:

"(B)(1) Active duty military personnel may be charged less than the undergraduate tuition rate for South Carolina residents for courses that are presented on a distance basis, regardless of residency.

(2) For purposes of this section, 'active duty military personnel' includes, but is not limited to, active duty guardsmen and active duty reservists.

(C)(1) Notwithstanding any other provision of law, a covered individual enrolled in a public institution of higher education and receiving educational assistance under Chapter 30 and Chapter 33, Title 38 of the United States Code are entitled to pay in-state tuition and fees without regard to the length of time the covered individual has resided in this State.

(2) For purposes of this subsection, a covered individual is defined as:

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

(b) a person who is entitled to and receiving assistance under Section 3311(b)(9) or 3319, Title 38 of the United States Code by virtue of the person's relationship to the veteran described in subitem (a).

(3) A covered individual must live in this State while enrolled at the in-state institution.

(4) At the conclusion of the applicable three year period in subsection (C)(2)(a), a covered individual shall remain eligible for in-state rates as long as he remains continuously enrolled in an in-state institution or transfers to another in-state institution during the term or semester, excluding summer terms, immediately following his enrollment at the previous in-state institution. In the event of a transfer, the in-state institution receiving the covered individual shall verify the covered individual's eligibility for in-state rates with the covered individual's prior in-state institution. It is the responsibility of the transferring covered individual to ensure all documents required to verify both the previous and present residency decisions are provided to the in-state institution."

Time effective

SECTION 2. This act takes effect on July 1, 2015.

Ratified the 7th day of May, 2015.

Approved the 7th day of May, 2015.

No. 12

(R24, S578)

AN ACT TO AMEND SECTION 48-39-170, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PENALTIES FOR A VIOLATION OF THE CHAPTER ON COASTAL TIDELANDS AND WETLANDS, SO AS TO PROVIDE A THREE-YEAR STATUTE OF LIMITATIONS ON ENFORCEMENT VIOLATIONS RELATING TO MINOR DEVELOPMENT ACTIVITIES EXCEPT IN INSTANCES WHERE THE ALLEGED VIOLATOR KNOWINGLY OR INTENTIONALLY WITHHELD INFORMATION RELATING TO THE ALLEGED VIOLATION, TO DESCRIBE ACTS OF CONCEALMENT, AND TO APPLY THIS ACT TO ALL FUTURE ENFORCEMENT ACTIONS AND ENFORCEMENT ACTIONS PENDING AS OF JANUARY 1, 2015.

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

Providing a statute of limitations on enforcement violations

SECTION 1. Section 48-39-170(C) of the 1976 Code is amended to read:

"(C) Any person who is determined to be in violation of any provision of this chapter by the department shall be liable for, and may be assessed by the department for, a civil penalty of not less than one hundred dollars nor more than one thousand dollars per day of violation. Whenever the department determines that any person is in violation of any permit, regulation, standard, or requirement under this chapter, the department may issue an order requiring such person to comply with such permit, regulation, standard, or requirement, including an order requiring restoration when deemed environmentally appropriate by the department; in addition, the department may bring a civil enforcement action under this section as well as seeking an appropriate injunctive relief under Section 48-39-160. The department shall be required to assert violations of any provision of this chapter relating to minor development activities within three years of the date of the violation, except if the department's failure to assert the alleged violation resulted from a knowing or intentional attempt to withhold or conceal information relating to the alleged violation by the person against whom the violation is alleged. Failure to make application for, and subsequently receive, the required permit, permit modification, or permit amendment before commencing these activities shall be deemed to be an act of concealment. The provisions of this section apply to all enforcement actions pending as of January 1, 2015, and all future enforcement actions."

Time effective

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

Ratified the 7th day of May, 2015.

Approved the 7th day of May, 2015.

No. 13

(R25, S588)

AN ACT TO AMEND SECTION 7-7-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN AIKEN COUNTY, SO AS TO ADD FIVE PRECINCTS, AND TO REDESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE.

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

Aiken County voting precincts revised

SECTION 1. Section 7-7-40 of the 1976 Code, as last amended by Act 130 of 2014, is further amended to read:

"Section 7-7-40. (A) In Aiken County there are the following voting precincts:
Aiken No. 1
Aiken No. 2
Aiken No. 3
Aiken No. 4
Aiken No. 5
Aiken No. 6
Aiken No. 47
Anderson Pond No. 69
Ascauga Lake
Ascauga Lake No. 84
Bath
Beech Island
Belvedere No. 9
Belvedere No. 44
Belvedere No. 62
Belvedere No. 74
Breezy Hill
Carolina Heights
Cedar Creek No. 64
China Springs
Clearwater

College Acres
Couchton
Eureka
Fox Creek No. 58
Fox Creek No. 73
Gem Lakes No. 60
Gem Lakes No. 77
Gloverville
Graniteville
Hammond
Hammond No. 81
New Holland
Hitchcock No. 66
Hollow Creek
Jackson
Langley
Levels No. 52
Levels No. 72
Levels No. 83
Lynwood
Midland Valley No. 51
Midland Valley No. 71
Millbrook
Misty Lakes
Monetta
Montmorenci No. 22
Montmorenci No. 78
New Ellenton
North Augusta No. 25
North Augusta No. 26
North Augusta No. 27
North Augusta No. 28
North Augusta No. 29
North Augusta No. 54
North Augusta No. 55
North Augusta No. 67
North Augusta No. 68
North Augusta No. 80
Oak Grove
Perry
Redds Branch
Salley

Sandstone No. 70
Sandstone No. 79
Shaws Fork
Shiloh
Silver Bluff
Six Points No. 35
Six Points No. 46
Sleepy Hollow No. 65
South Aiken No. 75
South Aiken No. 76
Tabernacle
Talatha
Pine Forest
Vaucluse
Wagener
Ward
Warrenville
White Pond
Willow Springs
Windsor
Windsor No. 82

(B) Precinct lines defining the precincts provided in subsection (A) of this section are as shown on the official map prepared by and on file with the Revenue and Fiscal Affairs Office designated as document P-03-15 and as shown on certified copies of the official map provided by the office to the State Election Commission and the Board of Voter Registration and Elections of Aiken County.

(C) Polling places for the precincts provided in subsection (A) of this section must be established by the Board of Voter Registration and Elections of Aiken County with the approval of a majority of the county legislative delegation."

Time effective

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

Ratified the 7th day of May, 2015.

Approved the 7th day of May, 2015.

No. 14

(R27, S673)

AN ACT TO AMEND SECTION 4-9-82, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TRANSFER OF ASSETS BY A HOSPITAL PUBLIC SERVICE DISTRICT, SO AS TO SPECIFY THAT THE PROVISIONS OF THE SECTION DO NOT APPLY TO A TRANSACTION THAT INCLUDES THE HOSPITAL PUBLIC SERVICE DISTRICT'S ENTRY INTO A LEASE OF ANY OR ALL OF ITS REAL PROPERTY ASSOCIATED WITH THE DELIVERY OF HOSPITAL SERVICES REGARDLESS OF THE LENGTH OF THE TERM OF THE REAL PROPERTY LEASE OR WHETHER OR NOT THE TRANSACTION ALSO INCLUDES THE SALE OR LEASE OF OTHER ASSETS OF THE DISTRICT, AND TO PROVIDE APPLICATION LIMITATIONS.

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

Transfer of assets by a hospital public service district, exception for leases

SECTION 1. Section 4-9-82 of the 1976 Code, as last amended by Act 94 of 1999, is further amended by adding an appropriately lettered subsection at the end to read:

"( ) Notwithstanding any other provision of law, the provisions of this section do not apply to any transaction that includes the hospital public service district's entry into a lease of any or all of its real property associated with the delivery of hospital services regardless of:

(1) the length of the term of the real property lease; or

(2) whether or not the transaction also includes the sale or lease of other assets of the district."

Applicability limitations

SECTION 2. Section 4-9-82(C) of the 1976 Code, as added by Act 94 of 1999, is amended to read:

"(C) Provided, however, that the requirements of subsection (B) do not apply to a transfer by a hospital public service district that owns or

controls less than one hundred forty-five licensed or otherwise authorized acute care hospital beds and is located entirely within a county with a population of less than forty thousand persons, and the:

(1) transfer is to a not-for-profit entity whose governing board is appointed by the Governor, upon the recommendation of the legislative delegation from the county where the hospital public service district is located, and which otherwise is in compliance with subsection (A); or

(2) transfer is to an entity created pursuant to the provisions of Chapter 31, Title 33, or the provisions of Chapter 35, Title 33, or the provisions of Articles 15 and 16, Chapter 7, Title 44, and whose governing board is appointed by the Governor, upon recommendation of the legislative delegation from the county where the hospital public service district is located; or

(3) transfer is to another governmental entity."

Time effective

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

Ratified the 7th day of May, 2015.

Approved the 7th day of May, 2015.

No. 15

(R29, H3323)

AN ACT TO AMEND CHAPTER 23, TITLE 46, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE "SOUTH CAROLINA NOXIOUS WEED ACT" SO AS TO DELETE THE TERM "COMMISSIONER" AND REPLACE IT WITH THE TERM "COMMISSION", TO REVISE THE DEFINITION OF THE TERMS "COMMISSION", "AUTHORIZED INSPECTOR", AND "NOXIOUS WEED", TO PROVIDE A DEFINITION FOR THE TERM "DIRECTOR", TO MAKE TECHNICAL CHANGES, AND TO DELETE THE TERM "SOUTH CAROLINA DEPARTMENT OF AGRICULTURE" AND REPLACE IT WITH THE TERM "DIVISION OF REGULATORY AND PUBLIC SERVICE PROGRAMS, CLEMSON UNIVERSITY", AND TO ESTABLISH THE POWERS AND DUTIES OF THE STATE

CROP PEST COMMISSION AND THE DIRECTOR OF THE REGULATORY AND PUBLIC SERVICE PROGRAMS, CLEMSON UNIVERSITY.

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

Noxious Weed Act

SECTION 1. Chapter 23, Title 46 of the 1976 Code is amended to read:

"CHAPTER 23

Noxious Weeds

Section 46-23-10. This chapter may be cited as the 'South Carolina Noxious Weed Act'.

Section 46-23-20. As used in this chapter:

(a) 'Commission' means the State Crop Pest Commission of South Carolina or any other person to whom authority may be delegated to act in its stead.

(b) 'Authorized inspector' means an employee of the Division of Regulatory and Public Service Programs, Clemson University or an employee of a cooperating agency specifically authorized to enforce the provisions of the federal Noxious Weed Act.

(c) 'Noxious weed' means any living stage of any plant including seed or reproductive parts thereof or parasitic plants or parts thereof which is determined by the State Crop Pest Commission to be directly or indirectly injurious to public health, crops, livestock, or agriculture including, but not limited to, waterways and irrigation canals.

(d) 'Move' means to ship, offer for shipment, offer for entry, import, receive for transportation or transport by a common carrier or carry, transport, move or allow to be moved by any means.

(e) 'Director' means the Director of the Division of Regulatory and Public Service Programs, Clemson University.

Section 46-23-30. (a) The commission may, when it deems it necessary as an emergency measure in order to prevent the introduction into or the dissemination within South Carolina of any noxious weed new to or not theretofore widely prevalent or distributed within and throughout the State, seize, quarantine, treat, destroy, apply other remedial measures to, export, return to shipping point, or otherwise

dispose of in such a manner as it deems appropriate, any noxious weed or any product or article of any character whatsoever or any means of conveyance which it has reason to believe contains or is contaminated with any noxious weed, offered for movement, moving, or has moved into or through the State or intrastate. Provided, that no such noxious weed, product, article, or means of conveyance shall be destroyed, exported, or returned to the shipping point or so ordered to be destroyed, exported, or returned to the shipping point, unless in the opinion of the commission, there is no less drastic action which would be adequate to prevent the introduction or dissemination of noxious weeds.

(b) The commission may order the owner or person in possession of any new or not theretofore widely prevalent noxious weed, or any product, article, or means of conveyance, or his agent to treat, apply other remedial measures to, destroy, export, return to shipping point, or make other disposition of such noxious weed, product, article, or means of conveyance without cost to the State or agency cooperating with the State in such a manner as the commission deems appropriate. The commission may apply to a court of competent jurisdiction in which such person resides or transacts business or in which the noxious weed, product, article, or means of conveyance is found for enforcement of such order by injunction, mandatory or otherwise. Process in any such case may be served in any judicial district wherein the defendant resides or transacts business or may be found, and subpoena for witnesses who are required to attend a court in any judicial district in such a case shall have force and effect in any other judicial district.

(c) The owner of any noxious weed, product, article, or means of conveyance, destroyed or otherwise disposed of by the commission under this section, may bring an action against the State within one year after such destruction or disposal, and recover just compensation for the destruction or disposal of such noxious weed, product, article, or means of conveyance (not including compensation for loss due to delays incident to determining eligibility for movement into or through South Carolina or for intrastate movement) if the owner establishes that such action was not warranted under this section. Any judgment rendered in favor of such owner shall be paid out of the money appropriated for noxious weed control.

(d) The commission may promulgate such emergency regulations as it deems necessary to prevent the introduction into or the dissemination within the State of noxious weeds.

Section 46-23-40. (a) The commission is authorized and directed to quarantine any county, or any portion thereof, when it deems that such

quarantine is necessary to prevent the spread of any noxious weed. Before such quarantine is established, the commission shall give due notice of hearing under such regulations as it may prescribe. At such hearing, any interested party may appear and be heard, either in person or by attorney.

(b) The commission is directed to give notice of quarantine or amendments thereto through publication in the county newspaper.

(c) No persons shall ship or offer for shipment to any common carrier, nor shall any common carrier receive for transportation or transport, nor shall any person carry or transport from any quarantined county or any quarantined portion thereof, into or through any other county, any noxious weed or any other product, article, or means of conveyance of any character whatsoever except as specified in the regulations issued by the commission.

(d) The commission shall make and promulgate rules and regulations governing the inspection, disinfection, certification, and methods and manner of movement of noxious weeds and any carriers thereof specified in the notice of the quarantine.

Section 46-23-50. The commission is authorized to carry out operations or measures necessary to detect, eradicate, suppress, control, or prevent the spread of noxious weeds new to or not heretofore widely prevalent or distributed within and throughout the State. The commission is authorized to promulgate rules and regulations to accomplish the purposes of this chapter.

Section 46-23-60. Any authorized inspector shall have authority to stop and inspect without a warrant any person or means of conveyance moving into the State and any noxious weed, and any product or article of any character whatsoever which it has reason to believe contains or is contaminated with any noxious weed, to determine whether such person, product, article, or means of conveyance contains or is carrying any noxious weed contrary to this chapter or the regulations promulgated thereunder, and whether any such noxious weed, product, article, or means of conveyance contains or is contaminated with any noxious weed or is moving in violation of this chapter or any regulation promulgated thereunder; to stop and inspect, without a warrant, any person, product, article, or means of conveyance moving intrastate and any noxious weed, when it has reason to believe that such means of conveyance, product, or article contains any noxious weed, is contaminated thereby, or is moving contrary to the provisions of this chapter or any regulation promulgated thereunder; and to enter, with a warrant, any premises in

the State to make any inspections and seizures necessary under this chapter. Any judge of a court of competent jurisdiction in South Carolina may, within his respective jurisdiction upon proper oath or affirmation showing probable cause to believe that there are on certain premises any noxious weeds, products, articles, or means of conveyance, regulated, or subject to disposal under this chapter, issue warrants for the entry of such premises to make any inspections or seizures under this chapter. Such warrants may be executed by any authorized employee of the Division of Regulatory and Public Service Programs, Clemson University.

Section 46-23-70. The commission is authorized to cooperate with the federal government, state agencies, farmers' organizations, other groups, and individuals in the conduction of those operations necessary to accomplish the purposes of this chapter. The commission is further authorized to cooperate with the governments of other states in carrying out necessary surveys, control operations, or quarantine measures, deemed necessary to eradicate, suppress, control, or retard the spread of noxious weeds, whenever the commission determines that such cooperation with the officials in other states is necessary or desirable to protect the interests of this State.

Section 46-23-80. Any person who violates any provision of this chapter, or any regulation promulgated thereunder, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding one year, or both.

Section 46-23-90. The commission shall delegate the duties provided in this chapter and other applicable chapters of this title to the director who may administer and enforce the provisions and promulgate related regulations. The director is the final decision authority in the designation and management of noxious weeds in the State. The director may hold public hearings at appropriate geographical locations after providing thirty days public notice in at least one newspaper of general circulation in the area. In making final decisions, the director may rely on the findings of any federal or state agencies involved."

Time effective

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

Ratified the 7th day of May, 2015.

Approved the 7th day of May, 2015.

No. 16

(R34, H3547)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 25-1-2350 SO AS TO PROVIDE THAT THE REEMPLOYMENT RIGHTS AND PROTECTIONS GRANTED TO MEMBERS OF THE SOUTH CAROLINA NATIONAL GUARD AND SOUTH CAROLINA STATE GUARD WHO SERVE STATE DUTY SHALL APPLY ALSO TO A PERSON WHO IS EMPLOYED IN SOUTH CAROLINA BUT IS A MEMBER OF ANOTHER STATE'S NATIONAL GUARD OR STATE GUARD.

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

Reemployment rights of South Carolinians serving in another state's national or state guard

SECTION 1. Article 18, Chapter 1, Title 25 of the 1976 Code is amended by adding:

"Section 25-1-2350. The provisions of this article granting reemployment rights to members of the South Carolina National Guard and to members of the South Carolina State Guard who, at the discretion of the Governor or by his authority, enter state duty and are honorably released from that duty shall apply also to a person who is employed in South Carolina but is a member of another state's national or state guard who, at the discretion of the other state's Governor or by his authority, enters into state duty and is honorably released from that duty."

Time effective

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

Ratified the 7th day of May, 2015.

Approved the 7th day of May, 2015.

No. 17

(R35, H3662)

AN ACT TO AMEND SECTION 6-9-55, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PROHIBITION ON THE ENFORCEMENT OF SECTION 501.3 OF THE 2012 INTERNATIONAL RESIDENTIAL CODE, SO AS TO REMOVE PROVISIONS ALLOWING ENFORCEMENT OF THE CODE AFTER A CERTAIN DATE.

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

International Residential Business Code enforcement, exception

SECTION 1. Section 6-9-55(C) of the 1976 Code, as added by Act 65 of 2013, is amended to read:

"(C) Notwithstanding subsection (A), Section 501.3 of the 2012 International Residential Code must not be enforced."

Time effective

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

Ratified the 7th day of May, 2015.

Approved the 7th day of May, 2015.

No. 18

(R37, H3668)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-11-365 SO AS TO PROVIDE THAT ALL NONEXEMPT PERSONS MUST WEAR A HAT, COAT, OR VEST OF SOLID VISIBLE INTERNATIONAL ORANGE WHILE ON WILDLIFE MANAGEMENT AREA LANDS DURING DEER HUNTING SEASON.

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

Wearing of international orange clothing on Wildlife Management Area lands

SECTION 1. Article 3, Chapter 11, Title 50 of the 1976 Code is amended by adding:

"Section 50-11-365. All nonexempt persons must wear a hat, coat, or vest of solid international orange while on Wildlife Management Area lands during deer hunting season."

Time effective

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

Ratified the 7th day of May, 2015.

Approved the 7th day of May, 2015.

No. 19

(R38, H3683)

AN ACT TO AMEND SECTION 25-1-350, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE GENERAL POWERS AND DUTIES OF THE ADJUTANT GENERAL, SO AS TO REQUIRE THE ADJUTANT GENERAL

TO SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY.

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

Adjutant General's annual report to Governor and General Assembly

SECTION 1. Section 25-1-350(2) of the 1976 Code is amended to read:

"(2) keep rosters of all active, reserve, and retired officers of the militia of the State, keep in his office all records and papers required to be kept and filed in his office and submit to the Governor and General Assembly each year an annual Report of the Adjutant General of the State of South Carolina that includes the operations and conditions of the National Guard of South Carolina;"

Time effective

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

Ratified the 7th day of May, 2015.

Approved the 7th day of May, 2015.

No. 20

(R39, H3762)

AN ACT TO AMEND SECTION 50-11-2460, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ANIMAL TRAPS THAT ARE ALLOWED FOR TRAPPING, SO AS TO PROVIDE THAT A TRAP MAY BEAR ITS OWNER'S DEPARTMENT OF NATURAL RESOURCES-ISSUED CUSTOMER NUMBER; AND TO REPEAL SECTION 50-11-2550 RELATING TO THE TRANSPORTATION OF SKINS, FURS, PELTS, OR HIDES OF FURBEARING ANIMALS OUT OF STATE.

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

Animal traps

SECTION 1. Section 50-11-2460(C) of the 1976 Code, as last amended by Act 257 of 2012, is further amended to read:

"(C) All traps must bear the owner's name and address or department-issued customer number either directly thereon or by an attached identification tag."

Repeal

SECTION 2. Section 50-11-2550 of the 1976 Code is repealed.

Time effective

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

Ratified the 7th day of May, 2015.

Approved the 7th day of May, 2015.

No. 21

(R40, H3890)

AN ACT TO AMEND SECTION 59-1-425, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REQUIREMENT THAT ALL SCHOOL DAYS MISSED FOR SCHOOL CLOSINGS NECESSITATED BY WEATHER CONDITIONS OR OTHER DISRUPTIONS MUST BE MADE UP, SO AS TO PROVIDE WHEN DESIGNATED MAKE-UP DAYS ARE USED OR ARE NO LONGER AVAILABLE IN A DISTRICT, THE DISTRICT BOARD OF TRUSTEES BY MAJORITY VOTE MAY WAIVE THE MAKE-UP REQUIREMENT FOR THREE OR FEWER ADDITIONAL MISSED DAYS; TO PROVIDE THAT AFTER THE 2014-2015 SCHOOL YEAR THIS WAIVER MAY NOT BE GRANTED FOR A SCHOOL IN THE DISTRICT UNTIL THE SCHOOL HAS MADE UP THREE FULL DAYS OR THE EQUIVALENT

NUMBER OF HOURS MISSED; TO EXTEND WAIVERS TO ALL CHARTER SCHOOLS AND HOME SCHOOLING PROGRAMS LOCATED IN THE DISTRICT; TO PROVIDE CONDITIONS IN WHICH THE STATE BOARD MAY WAIVE ADDITIONAL MISSED DAYS AND TO IMPOSE A REPORTED REQUIREMENT; AND TO DELETE PROVISIONS AUTHORIZING THE GENERAL ASSEMBLY TO WAIVE MISSED DAYS.

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

School closing make-up day waivers

SECTION 1. Section 59-1-425(B) and (C) of the 1976 Code, as added by Act 260 of 2006, is amended to read:

"(B) Notwithstanding any other provisions of law to the contrary, all school days missed because of snow, extreme weather conditions, or other disruptions requiring schools to close must be made up. All school districts shall designate annually at least three days within their school calendars to be used as make-up days in the event of these occurrences. If those designated days have been used or are no longer available, the local school board of trustees may lengthen the hours of school operation by no less than one hour per day for the total number of hours missed, operate schools on Saturday, or may waive up to three days. A waiver granted by the local board of trustees of the requirement for making up the three or fewer days missed only may be authorized by a majority vote of the local school board, and, after the completion of the 2014-2015 school year, may not be granted for a school in the district until the school has made up three full days, or the equivalent number of hours, missed due to snow, extreme weather, or other disruptions requiring the school to close during the same school year in which the waiver is sought. When a district waives a make-up day pursuant to this section, the make-up day also is waived for all charter schools located in the district and for all students participating in a home schooling program approved by the board of trustees of the district in which the student resides. Schools operating on a four-by-four block schedule shall make every effort to make up the time during the semester in which the days are missed. A plan to make up days by lengthening the school day must be approved by the Department of Education before implementation. Tutorial instruction for grades 7 through 12 may be taught on Saturday at the direction of the local school board. If a local school board

authorizes make-up days on Saturdays, tutorial instruction normally offered on Saturday for seventh through twelfth graders must be scheduled at an alternative time.

(C) The State Board of Education may waive the requirements of making up days beyond the three days forgiven by the local school district, not to exceed three additional days missed because of snow, extreme weather conditions, or other disruptions requiring schools to close. Such a waiver only may be considered and granted upon the request of the local board of trustees through a majority vote of that local school board. The State Department annually before July first shall provide the General Assembly with a detailed report of information from each district listing the number of:

(1) days missed and the reason, regardless of whether any were missed;

(2) days made up; and

(3) days waived."

Time effective

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

Ratified the 7th day of May, 2015.

Approved the 7th day of May, 2015.

No. 22

(R43, S133)

AN ACT TO AMEND SECTION 17-22-910, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO APPLICATIONS FOR THE EXPUNGEMENT OF CRIMINAL RECORDS, SO AS TO ESTABLISH LIMITATIONS ON THE COURT'S RIGHT TO CONSIDER OFFENSES FOR WHICH A PERSON COULD HAVE BEEN CHARGED, WHEN DETERMINING ELIGIBILITY; AND TO AMEND SECTION 63-19-2050, RELATING TO EXPUNGEMENT OF JUVENILE RECORDS, TO PROVIDE FOR CERTAIN RIGHTS TO AND REQUIREMENTS FOR EXPUNGEMENT OF RECORDS OF

STATUS OFFENSES AND OF NONVIOLENT CRIMINAL OFFENSES COMMITTED BY A JUVENILE.

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

Applications for expungement of criminal records

SECTION 1. Section 17-22-910 of the 1976 Code, as last amended by Act 276 of 2014, is further amended to read:

"Section 17-22-910. (A) 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 63-19-2050, 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.

(B) A person's eligibility for expungement of an offense contained in this section, or authorized by any other provision of law, must be based on the offense that the person pled guilty to or was convicted of committing and not on an offense for which the person may have been charged."

Juvenile expungements

SECTION 2. Section 63-19-2050 of the 1976 Code is amended to read:

"Section 63-19-2050. (A)(1) A person who has been taken into custody for, charged with, or adjudicated delinquent for having committed a status offense or a nonviolent crime, as defined in Section 16-1-70, may petition the court for an order expunging all official records relating to:

(a) being taken into custody;
(b) the charges filed against the person;
(c) the adjudication; and
(d) the disposition.

(2) A person may not petition the court if the person has a prior adjudication for an offense that would carry a maximum term of imprisonment of five years or more if committed by an adult.

(B) A prosecution or law enforcement agency may file an objection to the expungement. If an objection is filed, the expungement must be heard by the court. The prosecution or law enforcement agency's reason for objecting must be that the person has other charges pending or the charges are not eligible for expungement. The prosecution or law enforcement agency shall notify the person of the objection. The notice must be given in writing at the most current address on file with the court, or through the person's counsel of record.

(C)(1) If the person has been taken into custody for, charged with, or adjudicated delinquent for having committed a status offense, the court shall grant the expungement order. If the person has been taken into custody for, charged with, or adjudicated delinquent for having committed multiple status offenses, the court may grant an expungement order for the multiple status offenses.

(2) If the person has been taken into custody for, charged with, or adjudicated delinquent for having committed a nonviolent crime, as defined in Section 16-1-70, the court may grant the expungement order.

(3) The court shall not grant the expungement order unless the court finds that the person is at least seventeen years of age, has successfully completed any dispositional sentence imposed, has not been subsequently adjudicated for or convicted of any criminal offense, and does not have any criminal charges pending in family court or general sessions court. If the person was found not guilty in an adjudicatory hearing in the family court, the court shall grant the expungement order regardless of the person's age and the person must not be charged a fee for the expungement. An adjudication for a violent crime, as defined in Section 16-1-60, must not be expunged.

(D) If the expungement order is granted by the court, the records must be destroyed or retained by any law enforcement agency or municipal, county, state agency, or department pursuant to the provisions of Section 17-1-40.

(E) The effect of the expungement order is to restore the person in the contemplation of the law to the status the person occupied before being taken into custody. No person to whom the expungement order has been entered may be held thereafter under any provision of law to be

guilty of perjury or otherwise giving false statement by reason of failing to recite or acknowledge the charge or adjudication in response to an inquiry made of the person for any purpose.

(F) For purposes of this section, an adjudication is considered a previous adjudication only if the adjudication occurred prior to the date the subsequent offense was committed.

(G) The judge, at the time of adjudication, shall notify the person of the person's ability to have the person's record expunged, the conditions that must be met, as well as the process for receiving an expungement in the particular jurisdiction pursuant to this section."

Time effective

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

Ratified the 28th day of May, 2015.

Approved the 1st day of June, 2015.

No. 23

(R44, S153)

AN ACT TO AMEND SECTION 12-37-220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PROPERTY TAX EXEMPTION ON TWO PRIVATE PASSENGER VEHICLES OWNED OR LEASED BY A DISABLED VETERAN, SO AS TO ALLOW THE EXEMPTION TO THE SURVIVING SPOUSE OF THE PERSON ON ONE PRIVATE PASSENGER VEHICLE OWNED OR LEASED BY THE SPOUSE FOR THE SPOUSE'S LIFETIME OR UNTIL THE REMARRIAGE OF THE SURVIVING SPOUSE.

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

Disabled veteran vehicle exemption extended to surviving spouse

SECTION 1. Section 12-37-220(B)(3) of the 1976 Code is amended to read:

"(3) two private passenger vehicles owned or leased by any disabled veteran designated by the veteran for which special license tags have been issued by the Department of Motor Vehicles under the provisions of Sections 56-3-1110 to 56-3-1130 or, in lieu of the license, if the veteran has a certificate signed by the county service officer or the Veterans Administration of the total and permanent disability which must be filed with the Department of Motor Vehicles. The exemption extends to the surviving spouse of the person on one private passenger vehicle owned or leased by the spouse for their lifetime or until the remarriage of the surviving spouse;"

Time effective

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

Ratified the 28th day of May, 2015.

Approved the 1st day of June, 2015.

No. 24

(R45, S154)

AN ACT TO AMEND SECTION 59-39-160, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ELIGIBILITY TO PARTICIPATE IN INTERSCHOLASTIC ACTIVITIES, SO AS TO PROVIDE THE STATE BOARD OF EDUCATION MAY GRANT A WAIVER OF THE REQUIREMENTS IF A STUDENT'S INELIGIBILITY TO PARTICIPATE IN INTERSCHOLASTIC ACTIVITIES IS DUE TO A LONG-TERM ABSENCE AS A RESULT OF A MEDICAL CONDITION, BUT THE STUDENT HAS BEEN MEDICALLY CLEARED TO PARTICIPATE OR FOR ANY OTHER REASONABLE CIRCUMSTANCE AS DETERMINED BY THE STATE BOARD OF EDUCATION.

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

Waivers expanded

SECTION 1. Section 59-39-160 of the 1976 Code is amended to read:

"Section 59-39-160. (A) To participate in interscholastic activities, students in grades nine through twelve must achieve an overall passing average and either:

(1) pass at least four academic courses, including each unit the student takes that is required for graduation; or

(2) pass a total of five academic courses. Students must satisfy these conditions in the semester preceding participation in the interscholastic activity, if the interscholastic activity occurs completely within one semester or in the semester preceding the first semester of participation in an interscholastic activity if the interscholastic activity occurs over two consecutive semesters and is under the jurisdiction of the South Carolina High School League.

(B) Academic courses are those courses of instruction for which credit toward high school graduation is given. These may be required or approved electives. All activities currently under the jurisdiction of the South Carolina High School League remain in effect. The monitoring of all other interscholastic activities is the responsibility of the local boards of trustees. Those students diagnosed as handicapped in accordance with the criteria established by the State Board of Education and satisfying the requirements of their Individual Education Plan (IEP) as required by Public Law 94-142 are permitted to participate in interscholastic activities. A local school board of trustees may impose more stringent standards than those contained in this section for participation in interscholastic activities by students in grades nine through twelve.

(C) The State Board of Education may grant a waiver of the requirements of this section.

(1) This waiver may be granted when a written statement from a school district superintendent and athletic director has been received stating circumstances, including, but not limited to:

(a) a student's ineligibility to participate in interscholastic activities is due to misinformation concerning eligibility requirements being provided by district personnel;

(b) a student's ineligibility to participate in interscholastic activities is due to a long-term absence as a result of a medical condition, but the student has been medically cleared to participate by his health care practitioner; or

(c) any reasonable circumstance as determined by the State Board of Education.

(2) The State Board of Education shall establish guidelines to administer this section."

Time effective

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

Ratified the 28th day of May, 2015.

Approved the 1st day of June, 2015.

No. 25

(R47, S304)

AN ACT TO AMEND SECTION 6-23-110, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA 1976, RELATING TO CONTRACTS TO BUY POWER BETWEEN A JOINT POWER AND ENERGY AGENCY AND ITS CONSTITUENT MUNICIPALITIES, SO AS TO PROVIDE FOR THE RENEWAL OR EXTENSION OF CONTRACTS TO BUY POWER FOR ADDITIONAL PERIODS NOT TO EXCEED FIFTY YEARS FROM THE DATE OF THE RENEWAL OR EXTENSION.

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

Findings

SECTION 1. The General Assembly finds and determines that:

(a) in 1978, the General Assembly enacted the Joint Municipal Electric Power and Energy Act, codified as Chapter 23, Title 6, Code of Laws of South Carolina, 1976, as amended, for the purpose of authorizing municipalities to form joint agencies to undertake joint planning, financing, development, ownership, and operation of electric generation and transmission facilities and that such joint undertakings would be for a public use and for public purposes and would be a means of achieving economies, adequacy and reliability in the generation of electric power and energy and in the meeting of future needs of this State and its inhabitants;

(b) since the passage of the joint agency act in 1978, much has changed in the generation of electric power, including, but not limited to, the extension of the useful life of electric generating facilities by the applicable regulatory authorities;

(c) since their inception, member municipalities and joint agencies have sought to match the useful life of generating facilities to the length of the contracts for the purchase of electric power from the joint agency;

(d) there is presently a need to amend the joint agency act to more clearly state the method for extending and renewing contracts between joint agencies and member municipalities so they can better determine the appropriate duration of their contracts; and

(e) the passage of this act is for a public purpose and is in the best interests of the State and its citizens.

Municipal contracts to purchase power

SECTION 2. The second paragraph of Section 6-23-110 of the 1976 Code, as last amended by Act 210 of 2004, is further amended to read:

"Notwithstanding the provisions of any other law to the contrary, the initial term for any such contracts with respect to the sale or purchase of capacity, output, power, or energy from a project may be for a period not to exceed the later of either fifty years from the date of the contract or fifty years from the date a project is estimated to be placed in normal continuous operation. Such contracts may be renewed or extended by the joint agency and the member municipality, upon such terms and conditions as the joint agency and the member municipality may agree, for an additional period not to exceed fifty years from the date of the renewal or extension. The execution and effectiveness of those contracts, or renewals or extensions of those contracts, are not subject to any authorizations or approvals by the State or any agency, commission, or instrumentality, or political subdivision thereof."

Time effective

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

Ratified the 28th day of May, 2015.

Approved the 1st day of June, 2015.

No. 26

(R49, S361)

AN ACT TO AMEND SECTION 38-73-736, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO AUTOMOBILE INSURANCE RATE REDUCTIONS FOR NONYOUTHFUL OPERATORS, SO AS TO DELETE REFERENCES TO APPROVED DRIVER TRAINING REFRESHER COURSES AND TO REDUCE FROM SIX HOURS TO FOUR HOURS THE AMOUNT OF CLASSROOM TRAINING REQUIRED FOR APPROVED DRIVER TRAINING COURSES.

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

Refresher courses eliminated, required classroom hours reduced

SECTION 1. Section 38-73-736 of the 1976 Code is amended to read:

"Section 38-73-736. (A) As used in this section:

(1) 'Approved driver training course' means a driver's training course that:

(a) is approved by the Department of Motor Vehicles or exempt pursuant to Chapter 23, Title 56;

(b) is administered by a driver's training school that is licensed or approved by the Department of Motor Vehicles or exempt pursuant to Chapter 23, Title 56;

(c) is conducted by a person holding a valid driver's instructor permit pursuant to Chapter 23, Title 56; and

(d) includes a minimum of four hours of classroom instruction.

(2) 'Satisfactory evidence of course completion' means a certificate signed by an official of the licensed driver's training school or the Department of Motor Vehicles, which certifies that:

(a) the person has successfully completed the course; and

(b) the course is an approved driver training course and meets the requirements of Chapter 23, Title 56.

(3) 'Youthful operator' means a person under the age of twenty-five for which premium rates charged for liability coverages and collision coverage under a private passenger automobile insurance policy are determined by a youthful driver classification.

(B) Premium rates charged for liability coverages and collision coverage under a private passenger automobile insurance policy are subject to an appropriate driver training course credit once satisfactory evidence of course completion is presented by an applicant for the credit that is the named insured or principal operator of the vehicle and is not a youthful operator. The amount of the credit may be determined by each individual insurer based upon factually or statistically supported data and is subject to prior approval or review by the director. The credit must be afforded for a minimum of thirty-six months from the date the approved driver training course was completed. The insurer may require, as a condition of providing and maintaining the credit, that the applicant not be involved in an accident for which the applicant is at fault for a three-year period after course completion. The credit must be afforded by each insurer in a nondiscriminatory manner to all applicants, other than those considered youthful operators.

(C) Only the vehicle driven by an applicant that has completed successfully an approved driver training course qualifies for the insurance credit required by this section. Other vehicles under the private passenger automobile insurance policy do not qualify for the insurance credit required by this section unless the named insured or principal operator of the additional vehicle has successfully completed an approved driver training course.

(D) The insurer must provide the driver training course credit upon receipt of satisfactory evidence of course completion. Nothing in this section may be construed so as to require the insurer to provide the credit for any period of time before the date of receipt of satisfactory evidence of course completion.

(E) An applicant qualifying for the insurance credit required by this section only may claim the credit for successful completion of one approved driver training course during any private passenger automobile insurance policy period.

(F) Only an approved driver training course taken on a voluntary basis qualifies for the insurance credit. A driver training course taken as a requirement of a driving offense including, but not limited to, ADSAP or driver training courses taken to reduce the number of traffic violation points against a driver's license, do not qualify for the insurance credit provided in this section.

(G) A schedule of rates, rate classification, or rating plan for private passenger automobile insurance must provide for an appropriate reduction in premium charges for an insured person who is not a youthful operator and who qualifies as provided in this section."

Time effective

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

Ratified the 28th day of May, 2015.

Approved the 1st day of June, 2015.

No. 27

(R50, S373)

AN ACT TO AMEND SECTIONS 9-1-1620 AND 9-11-150, BOTH AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE OPTIONAL FORMS OF RETIREMENT ALLOWANCES FOR MEMBERS OF THE SOUTH CAROLINA RETIREMENT SYSTEM AND THE SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM, RESPECTIVELY, SO AS TO ALLOW A MEMBER TO CHANGE THE FORM OF MONTHLY PAYMENT WITHIN FIVE YEARS OF A CHANGE IN MARITAL STATUS, INSTEAD OF ONE YEAR.

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

SCRS extension for changing retirement option

SECTION 1. Section 9-1-1620(B)(1) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

"(1) A retired member, within five years after a change in marital status, may revoke the form of monthly payment elected and elect a new form of monthly payment, which must be the actuarial equivalent of the maximum retirement allowance payable to the member under law. The new form of monthly payment is effective on the first day of the month in which the election of the new form of monthly payment is received by the system and must be calculated based upon the ages of the retired member and the member's beneficiary or beneficiaries as of that effective date."

SCPORS extension for changing retirement option

SECTION 2. Section 9-11-150(B)(1) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

"(1) A retired member, within five years after a change in marital status, may revoke the form of monthly payment elected and elect a new form of monthly payment, which must be the actuarial equivalent of the maximum retirement allowance payable to the member under law. The new form of monthly payment is effective on the first day of the month in which the election of the new form of monthly payment is received by the system and must be calculated based upon the ages of the retired member and the member's beneficiary or beneficiaries as of that effective date."

Time effective

SECTION 3. This act takes effect upon approval by the Governor and applies to any new form of monthly payment elected thereafter due to a change in marital status.

Ratified the 28th day of May, 2015.

Approved the 1st day of June, 2015.

No. 28

(R51, S375)

AN ACT TO AMEND SECTION 6-5-15, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SECURING DEPOSITS OF FUNDS BY LOCAL ENTITIES, SO AS TO ALLOW A LOCAL ENTITY TO DEPOSIT ALL OR A PORTION OF SURPLUS PUBLIC FUNDS IN ITS CONTROL OR POSSESSION IN ACCORDANCE WITH CERTAIN CONDITIONS.

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

Authorized depositories of local entities' surplus funds

SECTION 1. Section 6-5-15 of the 1976 Code, as last amended by Act 231 of 2008, is further amended to read:

"Section 6-5-15. (A) As used in this section, 'local entity' means the governing body of a municipality, county, school district, other local government unit or political subdivision, or a county treasurer.

(B) A qualified public depository, as defined in subsection (G), upon the deposit of funds by a local entity, must secure these deposits by deposit insurance, surety bonds, investment securities, or letters of credit to protect the local entity against loss in the event of insolvency or liquidation of the institution or for any other cause.

(C) To the extent that these deposits exceed the amount of insurance coverage provided by the Federal Deposit Insurance Corporation, the qualified public depository at the time of deposit must:

(1) furnish an indemnity bond in a responsible surety company authorized to do business in this State; or

(2) pledge as collateral:

(a) obligations of the United States;

(b) obligations fully guaranteed both as to principal and interest by the United States;

(c) general obligations of this State or any political subdivision of this State; or

(d) obligations of the Federal National Mortgage Association, the Federal Home Loan Bank, Federal Farm Credit Bank, or the Federal Home Loan Mortgage Corporation; or

(3) provide an irrevocable letter of credit issued by the Federal National Mortgage Association, the Federal Home Loan Bank, Federal Farm Credit Bank, or the Federal Home Loan Mortgage Corporation, in which the local entity is named as beneficiary and the letter of credit otherwise meets the criteria established and prescribed by the local entity.

(D) The local entity must exercise prudence in accepting collateral securities or other forms of deposit security.

(E)(1) A qualified public depository has the following options:

(a) to secure all or a portion of uninsured funds under the Dedicated Method where all or a portion of the uninsured funds are secured separately. The qualified public depository shall maintain a record of all securities pledged, with the record being an official record of the qualified public depository and made available to examiners or

representatives of all regulatory agencies. The local entity shall maintain a record of the securities pledged for monitoring purposes;

(b) to secure all or the remainder of uninsured funds under the Pooling Method where a pool of collateral is established by the qualified public depository under the direction of the State Treasurer for the benefit of local entities. The depository shall obtain written approval from each entity before pooling an entity's collateral. The depository shall maintain a record of all securities pledged, with the record being an official record of the qualified public depository and made available to examiners or representatives of all regulatory agencies. The State Treasurer shall determine the requirements and operating procedures for this pool. The State Treasurer is responsible for monitoring and ensuring a depository's compliance and providing monthly reports to each local entity in the pool.

(2) Notwithstanding the provisions of item (1), the local entity, when other federal or state law applies, may require a qualified public depository to secure all uninsured funds separately under the Dedicated Method.

(F) A qualified public depository shall not accept or retain any funds that are required to be secured unless it has deposited eligible collateral equal to its required collateral with some proper depository pursuant to this chapter.

(G) 'Qualified public depository' means a national banking association, state banking association, federal savings and loan association, or federal savings bank located in this State and a bank, trust company, or savings institution organized under the law of this State that receives or holds funds that are secured pursuant to this chapter.

(H) In addition to the investments authorized for local entities in Section 6-5-10 and notwithstanding another provision of law, a local entity may deposit all or a portion of surplus public funds in its control or possession in accordance with the following conditions:

(1) the funds are initially deposited in a qualified public depository selected by the local entity;

(2) the selected qualified public depository arranges for depositing the funds in one or more federally insured banks or savings and loan associations, wherever located, for the account of the local entity;

(3) the full amount of the principal and accrued interest of each deposit is insured by the Federal Deposit Insurance Corporation; and

(4) the selected qualified public depository acts as custodian for the local entity with respect to each deposit."

Time effective

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

Ratified the 28th day of May, 2015.

Approved the 1st day of June, 2015.

No. 29

(R52, S413)

AN ACT TO AMEND SECTION 40-43-190, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROTOCOL FOR PHARMACISTS TO ADMINISTER INFLUENZA VACCINES AND CERTAIN MEDICATIONS, SO AS TO PROVIDE A PROCEDURE FOR CREATING PROTOCOL THROUGH WHICH PHARMACISTS MAY ADMINISTER CERTAIN ADDITIONAL VACCINES WITHOUT A WRITTEN ORDER OR PRESCRIPTION FROM A PRACTITIONER, TO PROVIDE CIRCUMSTANCES IN WHICH A PHARMACY INTERN MAY ADMINISTER VACCINES, TO REVISE RECORDKEEPING REQUIREMENTS TO EXTEND THE PERIOD FOR MAINTAINING RECORDS AND SPECIFY THE MANNER OF DETERMINING THE DATE FROM WHICH THIS PERIOD IS MEASURED, AND TO PROVIDE FOR THE ELECTRONIC STORAGE OF CERTAIN DOCUMENTS, RECORDS, AND COPIES; AND TO AMEND SECTION 40-43-200, RELATING TO THE JOINT PHARMACIST ADMINISTERED INFLUENZA VACCINES COMMITTEE, SO AS TO PROVIDE THIS COMMITTEE SHALL ASSIST AND ADVISE THE BOARD OF MEDICAL EXAMINERS IN DETERMINING WHETHER A SPECIFIC VACCINE IS APPROPRIATE FOR ADMINISTRATION BY A PHARMACIST WITHOUT A WRITTEN ORDER OR PRESCRIPTION, AND TO MAKE CONFORMING CHANGES, AMONG OTHER THINGS.

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

Protocol concerning necessity of written orders or prescriptions, revised

SECTION 1. Section 40-43-190 of the 1976 Code, as added by Act 224 of 2010, is amended to read:

"Section 40-43-190. (A)(1) Upon recommendation of the Joint Pharmacist Administered Vaccines Committee, the Board of Medical Examiners shall determine whether a specific vaccine is appropriate for administration by a pharmacist without a written order or prescription of a practitioner pursuant to this section. If a vaccine is approved, the Board of Medical Examiners shall issue a written protocol for the administration of vaccines by pharmacists without an order or prescription of a practitioner.

(2) The administration of vaccines as authorized in this section must not be to a person under the age of eighteen years; provided, however, that:

(a) the influenza vaccine may be administered to a person twelve years of age or older pursuant to protocol issued by the Board of Medical Examiners; and

(b) a pharmacist who has completed the training described in subsection (B)(1) may administer a vaccine approved by the Centers for Disease Control to a person of any age pursuant to a written order or prescription of a practitioner for a specific patient of that practitioner.

(3) The written protocol must further authorize pharmacists to administer without an order or prescription of a practitioner those medications necessary in the treatment of adverse events. These medications must be used only in the treatment of adverse events and must be limited to those delineated within the written protocol.

(4) The Board of Medical Examiners must issue the written protocol upon its approval of the vaccine for administration pursuant to this section.

(5) A pharmacist who has completed the training described in subsection (B)(1) may administer a vaccine approved by the Centers for Disease Control pursuant to written order or prescription of a practitioner for a specific patient of that practitioner.

(B) The written protocol must provide that:

(1) A pharmacist seeking authorization to administer a vaccine approved pursuant to this section shall successfully complete a course of training accredited by the Accreditation Council for Pharmacy Education or a similar health authority or professional body approved by the Board of Pharmacy and the Board of Medical Examiners. Training

must comply with current Centers for Disease Control guidelines and must include study materials, hands-on training, and techniques for administering vaccines and must provide instruction and experiential training in the following content areas:

(a) mechanisms of action for vaccines, contraindications, drug interactions, and monitoring after vaccine administration;

(b) standards for adult vaccination practices;

(c) basic immunology and vaccine protection;

(d) vaccine-preventable diseases;

(e) recommended vaccination schedules;

(f) vaccine storage management;

(g) biohazard waste disposal and sterile techniques;

(h) informed consent;

(i) physiology and techniques for vaccine administration;

(j) prevaccine and postvaccine assessment and counseling;

(k) vaccination record management;

(l) management of adverse events, including identification, appropriate response, emergency procedures, documentation, and reporting;

(m) understanding of vaccine coverage by federal, state, and local entities;

(n) needle stick management.

(2) A pharmacist administering vaccinations without an order or prescription of a practitioner pursuant to this section shall:

(a) obtain the signed written consent of the person being vaccinated or that person's guardian;

(b) maintain a copy of the vaccine administration in that person's record and provide a copy to the person or the person's guardian;

(c) notify that person's designated physician or primary care provider of a vaccine administered;

(d) report administration of all vaccinations to the South Carolina Immunization Registry in compliance with regulations established by the Department of Health and Environmental Control as the department may require; provided, however, that the phase-in schedule provided in Regulation 61-120 for reporting vaccinations does not apply to vaccinations administered pursuant to this section;

(e) maintain a current copy of the written protocol at each location at which a vaccination is administered pursuant to this section.

(3) A pharmacist may not delegate the administration of vaccines to a pharmacy technician or certified pharmacy technician.

(4) A pharmacy intern may administer vaccinations under the direct supervision, as defined in Section 40-43-84(C), of a pharmacist who has completed vaccination training as required by item (1) if the pharmacy intern:

(a) is certified through a basic life support or CPR provider-level course that is jointly approved by the Board of Medical Examiners and the Board of Pharmacy; and

(b) completes this course of training described in item (1).

(5) A pharmacist administering vaccinations shall, as part of the current continuing education requirements pursuant to Section 40-43-130, complete no less than one hour of continuing education each license year regarding administration of vaccinations.

(C) Informed consent must be documented in accordance with the written protocol for vaccine administration issued pursuant to this section.

(D) All records required by this section must be maintained in the pharmacy for a period of at least ten years from the date of the last vaccination for adults and at least thirteen years from the date of the last vaccination for minors.

(E) All documentation, records, and copies required by this section may be stored electronically."

Joint Pharmacist Administered Vaccines Committee, recommendation duties

SECTION 2. Section 40-43-200 of the 1976 Code, as added by Act 224 of 2010, is amended to read:

"Section 40-43-200. (A) There is created a Joint Pharmacist Administered Vaccines Committee as a committee to the Board of Medical Examiners which consists of seven members with experience regarding vaccines. The committee is comprised of two physicians selected by the Board of Medical Examiners, two pharmacists selected by the Board of Pharmacy, and two advanced practice nurse practitioners selected by the Board of Nursing. One member of the Department of Health and Environmental Control designated by the director of the department also shall serve on the committee. Members of the committee may not be compensated for their service on the board and may not receive mileage, per diem, and subsistence as otherwise authorized by law for members of state boards, committees, and commissions.

(B) The committee shall meet at least once annually and at other times as may be necessary. Five members constitute a quorum for all

meetings. At its initial meeting, and at the beginning of each year thereafter, the committee shall elect from its membership a chairperson to serve for a one year term.

(C) The committee shall assist and advise the Board of Medical Examiners in determining whether a specific vaccine is appropriate for administration by a pharmacist without a written order or prescription of a practitioner pursuant to Section 40-43-190. For a specific vaccine recommended by the committee to the Board of Medical Examiners, the committee also must submit a proposed written protocol for the purpose of authorizing pharmacists to administer the vaccine as authorized by Section 40-43-190. The committee must submit its initial recommendations to the board no later than four months after the passage of this act, and periodically thereafter as determined by the committee."

Time effective

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

Ratified the 28th day of May, 2015.

Approved the 1st day of June, 2015.

No. 30

(R53, S426)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "MENTAL HEALTH COURT PROGRAM ACT"; BY ADDING CHAPTER 31 TO TITLE 14 SO AS TO ESTABLISH A MENTAL HEALTH COURT PROGRAM, TO PROVIDE FOR A SYSTEM THAT DIVERTS MENTALLY ILL OFFENDERS TO APPROPRIATE TREATMENT PROGRAMS RATHER THAN INCARCERATION, TO DEFINE NECESSARY TERMS, TO PROVIDE FOR ELIGIBILITY TO PARTICIPATE IN MENTAL HEALTH COURT, TO PROVIDE THAT EXISTING MENTAL HEALTH COURTS ESTABLISHED PURSUANT TO AN ADMINISTRATIVE ORDER OF THE SUPREME COURT SHALL CONTINUE IN EXISTENCE, TO PROVIDE THAT EACH SOLICITOR MAY ESTABLISH A PROGRAM, TO

PROVIDE FOR QUALIFICATIONS FOR SERVICE AS A MENTAL HEALTH COURT JUDGE, TO PROVIDE THAT MENTAL HEALTH COURT JUDGES HAVE THE SAME PROTECTIONS FROM CIVIL LIABILITY AND IMMUNITY AS OTHER JUDICIAL OFFICERS IN THIS STATE, AND TO PROVIDE THAT SOLICITORS WHO ACCEPT STATE FUNDING FOR THE PROGRAM MUST ESTABLISH THE PROGRAM WITHIN ONE HUNDRED EIGHTY DAYS OF THE RECEIPT OF FUNDING.

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

Mental Health Court Program Act established

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

"CHAPTER 31

Mental Health Court Program

Section 14-31-10. This chapter may be cited as the 'Mental Health Court Program Act'.

Section 14-31-20. The purpose of this chapter is to divert qualifying mentally ill 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. Offenders with a diagnosed, or diagnosable mental illness generally recognized in the psychiatric community, qualify for participation in a mental health court program.

Section 14-31-30. The following definitions shall apply to this chapter:

(1) 'Pre-adjudicatory mental health court program' means a program that allows an offender to expedite the offender's criminal case before conviction and requires successful completion of the mental health court program as part of the agreement.

(2) 'Post-adjudicatory mental health court program' means a program in which an offender has admitted guilt or has been found guilty and agrees to enter a mental health court program as part of the offender's sentence.

(3) 'Combination mental health court program' means a mental health court program that includes a pre-adjudicatory mental health court program and a post-adjudicatory mental health court program.

Section 14-31-40. (A)(1)(a) Except as provided in item (2), each circuit solicitor may establish a mental health court program under one of the formats defined in Section 14-31-30. An offender arrested or convicted for any charges, except those excluded under the provisions of Section 16-1-130, who are suffering from a diagnosed, or diagnosable mental illness, including those with a co-concurring disorder of substance abuse, may be eligible for referral to a mental health court program. In cases involving victims, proper notice shall be given to victims pursuant to Section 16-3-1525. Proper notice to a victim is not achieved unless reasonable attempts are made to contact the victim and the victim is either nonresponsive or cannot be located after a reasonable search.

(b) Each circuit solicitor that accepts state funding for the implementation of a mental health treatment court program must establish and administer at least one mental health 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.

(2) Mental health court programs established pursuant to an administrative order issued by the Chief Justice of the South Carolina Supreme Court shall continue to operate pursuant to the terms and conditions of the court's orders pertaining to that mental health court program. To the extent that provisions contained in this chapter conflict with provisions contained in those Supreme Court administrative orders, the provisions of the administrative orders shall control.

(B) The Chief Justice of the South Carolina Supreme Court shall appoint all mental health court judges for mental health courts operating pursuant to subsection (A)(1) and (2). Service as a mental health court judge shall be at the pleasure of the Chief Justice and shall be subject to any limitations and directives issued by the Chief Justice. In order to be appointed as a mental health court judge, a person must be a probate judge, a summary court judge, or an active or retired member of the state's unified judicial system. Service as a mental health court judge is voluntary.

(C) Mental health court judges are entitled to the same protections from civil liability and immunities as judicial office holders in this State."

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 clause

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 28th day of May, 2015.

Approved the 1st day of June, 2015.

No. 31

(R54, S441)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 30 TO TITLE 37 SO AS TO ENACT THE "GUARANTEED ASSET PROTECTION ACT", TO PROVIDE A FRAMEWORK WITHIN WHICH GUARANTEED ASSET PROTECTION WAIVERS ARE DEFINED AND MAY BE OFFERED WITHIN THIS STATE, TO PROVIDE REQUIREMENTS FOR OFFERING GUARANTEED ASSET PROTECTION WAIVERS, TO PROVIDE THE DISCLOSURES REQUIRED, TO PROVIDE FOR CANCELLATION OF GUARANTEED ASSET PROTECTION WAIVERS, TO PROVIDE FOR ENFORCEMENT OF THIS CHAPTER, AND TO PROVIDE FOR CIVIL REMEDIES.

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

Citation

SECTION 1. This act may be cited as the "Guaranteed Asset Protection Act".

Guaranteed Asset Protection Act

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

"CHAPTER 30

Guaranteed Asset Protection

Section 37-30-100. (A) The purpose of this chapter is to provide a framework within which guaranteed asset protection (GAP) waivers are defined and may be offered within this State.

(B) This chapter does not apply to:

(1) an insurance policy offered by an insurer under Title 38; or

(2) a debt cancellation or debt suspension contract being offered by any national or state-chartered bank or federal or state-chartered credit union in compliance with 12 C.F.R. Part 37, or 12 C.F.R. Part 721, or any other federal law.

(C) GAP waivers governed under this chapter are not insurance and are exempt from the provisions of Title 38, as are persons administering, marketing, selling, or offering to sell GAP waivers to borrowers.

(D) GAP waivers only may be offered in conjunction with a loan that is unrelated to the purchase of a motor vehicle if:

(1) the consumer loan has an original repayment term of more than twelve months; and

(2) the principal loan amount is greater than four thousand dollars.

Section 37-30-110. For purposes of this chapter:

(1) 'Borrower' means a debtor, retail buyer, or lessee under a finance agreement.

(2) 'Creditor' means a person, who in connection with the initial financing of the sale, or leasing, of a motor vehicle, is:

(a) a lender in a loan or credit transaction;

(b) a lessor in a lease transaction; or

(c) a dealer of motor vehicles that provides credit to a borrower, provided that the entity complies with the provisions of this chapter.

(3) 'Finance agreement' means a loan, lease, or retail installment sales contract for the purchase or lease of a motor vehicle.

(4) 'Free-look period' means the period of time from the effective date of the GAP waiver until the date the borrower may cancel the contract without penalty, fees, or costs to the borrower. This period of time must be at least thirty days.

(5) 'Guaranteed asset protection waiver' or 'GAP waiver' means a contractual agreement in which a creditor agrees for a separate charge to cancel or waive all or part of amounts due on a borrower's finance agreement in the event of a total physical damage loss or unrecovered theft of the motor vehicle, which agreement must be part of, or a separate addendum to, the finance agreement.

(6) 'Insurer' means an insurance company licensed, registered, or otherwise authorized to do business under Title 38.

(7) 'Manager' means a person, by any title, other than an insurer or creditor that performs administrative or operational functions with respect to GAP waivers.

(8) 'Motor vehicle' means self-propelled or towed vehicles designed for personal use including, but not limited to, automobiles, trucks, motorcycles, recreational vehicles, all-terrain vehicles, snowmobiles, campers, boats, personal watercraft, and trailers for motorcycles, boats, campers, and personal watercraft.

(9) 'Person' means an individual, company, association, organization, partnership, business trust, corporation, and every form of legal entity.

Section 37-30-120. (A) The offering and sale of GAP waivers in this State are subject to the provisions of this chapter.

(B) GAP waivers, at the option of the creditor, may be sold for a single payment or may be offered with a monthly or periodic payment option.

(C) Notwithstanding another provision of law, any cost to the borrower for a GAP waiver subject to the Truth in Lending Act, 15 U.S.C. 1601, and its implementing regulations, as amended, or subject to Title 37, is a permissible additional charge pursuant to Sections 37-2-202 and 37-3-202 that must be separately stated and is not to be considered a finance or credit service charge or interest. This subsection also applies to any bank or credit union offering a debt cancellation or debt suspension contract in compliance with 12 C.F.R. Part 37, or 12 C.F.R. Part 721, or any other federal law.

(D) A motor vehicle dealer shall insure its GAP waiver obligations under a contractual liability or another insurance policy issued by an insurer. However, dealers of motor vehicles that are lessors on motor vehicles are not required to insure obligations related to GAP waivers on leased vehicles.

(E) A GAP waiver must remain a part of the finance agreement upon its assignment, sale, or transfer by a creditor.

(F) Neither the extension of credit, the term of credit, nor the term of the related motor vehicle sale or lease may be conditioned upon the purchase of a GAP waiver.

(G) A creditor that offers a GAP waiver shall report the sale of and forward funds received on all waivers to the designated party, if any, as prescribed in an applicable administrative services agreement, contractual liability policy, other insurance policy, or other specified program documents.

(H) Funds received or held by a creditor or manager and belonging to an insurer, creditor, or manager pursuant to the terms of a written agreement must be held by the creditor or manager in a fiduciary capacity.

(I)(1) A creditor may not sell a GAP waiver unless the creditor reasonably believes that the borrower will be eligible for a benefit under the GAP waiver in the event of a covered total loss. In addition, a creditor may not sell a GAP waiver if:

(a) the consumer, the credit terms including, but not limited to, cash price, automobile value, or amount financed, or the automobile used as collateral for the credit transaction do not qualify for or conflict with any restrictions or limitations of the GAP waiver conditions; or

(b) the amount financed, less the cost of a GAP waiver, the cost of credit insurance, and the cost of service contracts is less than eighty percent of the manufacturer suggested retail price for a new vehicle or the National Automobile Dealers Association average retail value for a used vehicle.

(2) A bona fide error resulting in a violation of this subsection will result in the GAP waiver being void and the borrower receiving a full refund of the purchase price of the waiver.

Section 37-30-130. (A) A contractual liability or other insurance policy insuring a GAP waiver must state the obligation of the insurer to reimburse or pay to the creditor any sums the creditor is legally obligated to waive under the GAP waiver issued by the creditor and purchased or held by the borrower.

(B) Coverage under a contractual liability or other insurance policy insuring a GAP waiver also must cover any subsequent assignee upon the assignment, sale, or transfer of the finance agreement.

(C) Coverage under a contractual liability or other insurance policy insuring a GAP waiver must remain in effect unless canceled or terminated in compliance with applicable insurance laws of this State.

(D) The cancellation or termination of a contractual liability or other insurance policy must not reduce the insurer's responsibility for GAP waivers issued by the creditor prior to the date of cancellation or termination and for which premium has been received by the insurer.

Section 37-30-140. (A) A GAP waiver must include the following terms in clear, easily understandable language:

(1) the name and address of the initial creditor and the borrower at the time of sale and the identity of any manager if different from the creditor;

(2) the purchase price and the terms of the GAP waiver including, without limitation, the requirements for protection, conditions, or exclusions associated with the GAP waiver;

(3) the length of the free-look period and the procedure by which a borrower may exercise the borrower's rights during that period;

(4) the terms required by Section 37-30-150;

(5) the procedure the borrower must follow, if any, to obtain GAP waiver benefits under the terms and conditions of the waiver, including

a telephone number and address where the borrower may apply for waiver benefits;

(6) the methodology for calculating any refund of the unearned purchase price of the GAP waiver due in the event of cancellation of the GAP waiver or early termination of the finance agreement;

(7) a statement that the purchase of the GAP waiver is optional and the statement must be in all caps, underlined, or disclosed in another prominent manner and must be substantially similar to the following: 'THIS GAP WAIVER IS NOT REQUIRED TO OBTAIN CREDIT, NOR TO OBTAIN CERTAIN TERMS OF CREDIT OR TO PURCHASE THE RELATED MOTOR VEHICLE. THIS GAP WAIVER WILL NOT BE PROVIDED UNLESS YOU SIGN AND AGREE TO PAY THE ADDITIONAL COST'; and

(8) a statement that the GAP waiver is not insurance and does not take the place of collision, comprehensive, or any other form of insurance on the motor vehicle.

(B) A GAP waiver that is included within the body of the finance agreement must provide the disclosures required by this section in a separate document that must be signed by the borrower before the purchase of a GAP waiver. A GAP waiver that is a separate addendum to the finance agreement may include these disclosures within the terms of the GAP waiver which also must be signed by the borrower.

Section 37-30-150. (A)(1) A GAP waiver must include a term stating that if a borrower cancels the waiver within the free-look period, the borrower is entitled to a full refund if no benefits have been provided under the GAP waiver.

(2) A creditor may not charge a fee to a borrower related to the cancellation of a GAP waiver.

(B) A GAP waiver may be either cancellable or noncancellable after the free-look period. A GAP waiver must include:

(1) a statement of whether or not the GAP waiver is cancellable or noncancellable after the expiration of the free-look period; and

(2) if the waiver is cancellable, all of the following terms apply:

(a) a statement that in the event of a borrower's cancellation of the GAP waiver or early termination of the finance agreement, the borrower may be entitled to a refund of any unearned portion of the purchase price of the waiver; and

(b) the procedures by which a borrower may cancel the waiver. This term must include a requirement that if the underlying finance agreement is terminated, cancellation must be made by providing a

written request to the creditor, manager, or other party within ninety days of the event terminating the finance agreement.

(C) A cancellation refund under subsections (A) and (B) may be applied by the creditor as a reduction of the amount owed under the finance agreement unless the borrower shows that the finance agreement has been paid in full.

(D) If the purchase price of the GAP waiver is not financed, the creditor shall either provide a refund directly to the borrower or provide the borrower the option to either receive a refund of the unearned purchase price directly or to have the refund applied to reduce the amount owed under the borrower's finance agreement.

Section 37-30-160. Pursuant to Chapter 6, Title 37, the Administrator of the Department of Consumer Affairs may take action necessary to enforce the provisions of this chapter and to protect GAP waiver holders in this State.

Section 37-30-175. A consumer who suffers loss by reason of a violation of this chapter may bring a civil action to enforce the provisions, and if successful in the action, shall recover actual damages, reasonable attorney's fees, and court costs incurred by bringing the action."

Time effective

SECTION 3. This act takes effect upon approval by the Governor and applies to all GAP waivers which become effective one hundred eighty days after the effective date.

Ratified the 28th day of May, 2015.

Approved the 1st day of June, 2015.

No. 32

(R56, S474)

AN ACT TO AMEND SECTION 44-22-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CHAPTER DEFINITIONS, SO AS TO ADD AND DEFINE THE TERM

"AUTHORIZED HEALTH CARE PROVIDER"; TO AMEND SECTION 44-22-60, RELATING TO PATIENTS' RIGHTS, SO AS TO ALLOW AN AUTHORIZED HEALTH CARE PROVIDER TO PERFORM THE REQUIRED INITIAL EXAMINATION; AND TO AMEND SECTION 44-22-140, RELATING TO AUTHORIZATION OF MEDICATIONS AND TREATMENT GIVEN OR ADMINISTERED TO A PATIENT, SO AS TO ALLOW AN AUTHORIZED HEALTH CARE PROVIDER TO PERFORM THESE FUNCTIONS.

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

Mental health patient rights, definitions

SECTION 1. Section 44-22-10(1) of the 1976 Code is amended to read:

"(1) 'Authorized health care provider' means advanced practice registered nurses and physician assistants licensed in South Carolina and authorized to provide specific treatments, care, or services pursuant to their respective practice acts in Title 40."

Mental health patient rights, initial examination

SECTION 2. Section 44-22-60(B) of the 1976 Code is amended to read:

"(B) Within six hours of admission a patient must be examined by a physician or authorized health care provider. Within fourteen days of admission, a patient or his parent or guardian must be provided with a written individualized plan of treatment formulated by a multidisciplinary team and the patient's attending physician. Each patient or his parent or guardian shall participate in an appropriate manner in the planning of services. An interim treatment program based on the preadmission evaluation of the patient must be implemented promptly upon admission. An individualized treatment plan must contain:

(1) a statement of the nature and degree of the patient's mental illness or chemical dependency and his needs;

(2) if a physical examination has been conducted, the patient's physical condition;

(3) a description of intermediate and long-range treatment goals and, if possible, future available services;

(4) criteria for release to a less restrictive environment, including criteria for discharge and a description of services that may be needed after discharge;

(5) a statement as to whether or not the patient may be permitted outdoors on a daily basis and, if not, the reasons why. Treatment plans must be updated upon periodic review as provided in Section 44-22-70."

Mental health patient rights, administration of medication and treatment

SECTION 3. Section 44-22-140 of the 1976 Code is amended to read:

"Section 44-22-140. (A) The attending physician, the physician on call, or the authorized health care provider, is responsible for and shall authorize medications and treatment given or administered to a patient. The physician's or authorized health care provider's authorization and the medical reasons for it must be entered into the patient's clinical record. The authorization is not valid for more than ninety days. Medication must not be used as punishment, for the convenience of staff, or as a substitute to or in quantities that interfere with the patient's treatment program. The patient or his legal guardian may refuse treatment not recognized as standard psychiatric treatment. He may refuse electroconvulsive therapy, aversive reinforcement conditioning, or other unusual or hazardous treatment procedures. If the attending physician or the physician on call decides electroconvulsive therapy is necessary and a statement of the reasons for electroconvulsive therapy is entered in the treatment record of a patient who is considered unable to consent pursuant to Section 44-22-10(13), permission for the treatment may be given in writing by the persons in order of priority specified in Section 44-22-40(A)(1-8).

(B) Competent patients may not receive treatment or medication in the absence of their express and informed consent in writing except treatment:

(1) during an emergency situation if the treatment is pursuant to or documented contemporaneously by written order of a physician or authorized health care provider; or

(2) as permitted under applicable law for a person committed by a court to a treatment program or facility."

Time effective

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

Ratified the 28th day of May, 2015.

Approved the 1st day of June, 2015.

No. 33

(R57, S500)

AN ACT TO AMEND ARTICLE 23, CHAPTER 17, TITLE 63, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT, SO AS TO ENACT AMENDMENTS TO THAT ACT ADOPTED BY THE NATIONAL CONFERENCE OF COMMISSIONERS FOR UNIFORM STATE LAWS IN 2008, AS REQUIRED BY THE FEDERAL "PREVENTING SEX TRAFFICKING AND STRENGTHENING FAMILIES ACT" INCLUDING, BUT NOT LIMITED TO, AMENDMENTS ADDRESSING INTERNATIONAL RECOVERY OF CHILD SUPPORT AND OTHER FAMILY MAINTENANCE AND DETERMINATION OF PARENTAGE.

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

Uniform Interstate Family Support Act

SECTION 1. Article 23, Chapter 17, Title 63 of the 1976 Code is amended to read:

"Article 23

Uniform Interstate Family Support Act

Part I

General Provisions

Section 63-17-2900. This article may be cited as the 'Uniform Interstate Family Support Act'.

Section 63-17-2910. In this article:

(1) 'Child' means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) 'Child-support order' means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.

(3) 'Convention' means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007.

(4) 'Duty of support' means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(5) 'Foreign country' means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and:

(a) which has been declared under the law of the United States to be a foreign reciprocating country;

(b) which has established a reciprocal arrangement for child support with this State as provided in Section 63-17-3280;

(c) which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this article; or

(d) in which the convention is in force with respect to the United States.

(6) 'Foreign support order' means a support order of a foreign tribunal.

(7) 'Foreign tribunal' means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the convention.

(8) 'Home state' means the state or foreign country in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(9) 'Income' means earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this State.

(10) 'Income-withholding order' means an order or other legal process directed to an obligor's employer or other debtor, as provided for in Articles 11, 13, and 15, to withhold support from the income of the obligor.

(11) 'Initiating tribunal' means the tribunal of a state or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or foreign country.

(12) 'Issuing foreign country' means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.

(13) 'Issuing state' means the state in which a tribunal issues a support order or renders a judgment determining parentage of a child.

(14) 'Issuing tribunal' means the tribunal of a state or foreign country that issues a support order or a judgment determining parentage of a child.

(15) 'Law' means decisional and statutory law and rules and regulations having the force of law.

(16) 'Obligee' means:

(a) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order or a judgment determining parentage of a child has been issued;

(b) a foreign country, state, or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support;

(c) an individual seeking a judgment determining parentage of the individual's child; or

(d) a person that is a creditor in a proceeding under Part VII.

(17) 'Obligor' means an individual, or the estate of a decedent that:

(a) owes or is alleged to owe a duty of support;

(b) is alleged but has not been adjudicated to be a parent of a child;

(c) is liable under a support order; or

(d) is a debtor in a proceeding under Part VII.

(18) 'Outside this State' means a location in another state or a country other than the United States, whether or not the country is a foreign country.

(19) 'Person' means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(20) 'Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(21) 'Register' means to record or file in a tribunal of this State a support order or judgment determining parentage of a child issued in another state or a foreign country.

(22) 'Registering tribunal' means a tribunal in which a support order or judgment determining parentage of a child is registered.

(23) 'Responding state' means a state in which a petition or comparable pleading for support or to determine parentage of a child is filed or to which a petition or comparable pleading is forwarded for filing from another state or a foreign country.

(24) 'Responding tribunal' means the authorized tribunal in a responding state or a foreign country.

(25) 'Spousal-support order' means a support order for a spouse or former spouse of the obligor.

(26) 'State' means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession under the jurisdiction of the United States. The term includes an Indian nation or tribe.

(27) 'Support enforcement agency' means a public official, governmental entity, or private agency authorized to:

(a) seek enforcement of support orders or laws relating to the duty of support;

(b) seek establishment or modification of child support;

(c) request determination of parentage;

(d) attempt to locate obligors or their assets; or

(e) request determination of the controlling child-support order.

(28) 'Support order' means a judgment, decree, order, decision, or directive, whether temporary, final, or subject to modification, issued in a state or foreign country for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement for financial assistance provided to an individual obligee in place of child support. The term may include related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney's fees, and other relief.

(29) 'Tribunal' means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage of a child.

Section 63-17-2920. (A) For the purposes of continuing exclusive jurisdiction under this article, the tribunals of this State have concurrent

jurisdiction to establish, modify, and enforce child support in cases being administered pursuant to Title IV-D of the Social Security Act.

(B) The family court and the support enforcement agency are the tribunals of this State.

(C) The Department of Social Services is the support enforcement agency of this State.

Section 63-17-2930. (A) Remedies provided by this article are cumulative and do not affect the availability of remedies under other law or the recognition of a foreign support order on the basis of comity.

(B) This article does not:

(1) provide the exclusive method of establishing or enforcing a support order under the law of this State; or

(2) grant a tribunal of this State jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding under this article.

Section 63-17-2940. (A) A tribunal of this State shall apply Parts I through VI and, as applicable, Part VII, to a support proceeding involving:

(1) a foreign support order;

(2) a foreign tribunal; or

(3) an obligee, obligor, or child residing in a foreign country.

(B) A tribunal of this State that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provisions of Parts I through VI.

(C) Part VII applies only to a support proceeding under the convention. In such a proceeding, if a provision of Part VII is inconsistent with Parts I through VI, Part VII controls.

Part II

Jurisdiction

Section 63-17-3010. (A) In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this State may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(1) the individual is personally served with notice and a summons within this State;

(2) the individual submits to the jurisdiction of this State by consent, by entering a general appearance, or by filing a responsive

document having the effect of waiving any contest to personal jurisdiction;

(3) the individual resided with the child in this State;

(4) the individual resided in this State and provided prenatal expenses or support for the child;

(5) the child resides in this State as a result of the acts or directives of the individual;

(6) the individual engaged in sexual intercourse in this State and the child may have been conceived by that act of intercourse;

(7) the individual asserted parentage of a child in the putative father registry maintained in this State by the Department of Social Services; or

(8) there is any other basis consistent with the constitutions of this State and the United States for the exercise of personal jurisdiction.

(B) The bases of personal jurisdiction set forth in subsection (A) or in any other law of this State may not be used to acquire personal jurisdiction for a tribunal of this State to modify a child-support order of another state unless the requirements of Section 63-17-3830 or 63-17-3870 are met, or in the case of a foreign support order, unless the requirements of Section 63-17-3870 are met.

Section 63-17-3020. Personal jurisdiction acquired by a tribunal of this State in a proceeding under this article or other law of this State relating to a support order continues as long as a tribunal of this State has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by Sections 63-17-3050, 63-17-3060, and 63-17-3110.

Section 63-17-3030. Under this article, a tribunal of this State may serve as an initiating tribunal to forward proceedings to a tribunal of another state and as a responding tribunal for proceedings initiated in another state or a foreign country.

Section 63-17-3040. (A) A tribunal of this State may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a pleading is filed in another state or a foreign country only if:

(1) the petition or comparable pleading in this State is filed before the expiration of the time allowed in the other state or the foreign country for filing a responsive pleading challenging the exercise of jurisdiction by the other state or the foreign country;

(2) the contesting party timely challenges the exercise of jurisdiction in the other state or the foreign country; and

(3) if relevant, this State is the home state of the child.

(B) A tribunal of this State may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state or a foreign country if:

(1) the petition or comparable pleading in the other state or foreign country is filed before the expiration of the time allowed in this State for filing a responsive pleading challenging the exercise of jurisdiction by this State;

(2) the contesting party timely challenges the exercise of jurisdiction in this State; and

(3) if relevant, the other state or foreign country is the home state of the child.

Section 63-17-3050. (A) A tribunal of this State that has issued a child-support order consistent with the law of this State has and shall exercise continuing, exclusive jurisdiction to modify its child-support order if the order is the controlling order and:

(1) at the time of the filing of a request for modification this State is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(2) even if this State is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this State may continue to exercise jurisdiction to modify its order.

(B) A tribunal of this State that has issued a child-support order consistent with the law of this State may not exercise continuing, exclusive jurisdiction to modify the order if:

(1) all of the parties who are individuals file consent in a record with the tribunal of this State that a tribunal of another state that has jurisdiction over at least one of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or

(2) its order is not the controlling order.

(C) If a tribunal of another state has issued a child-support order pursuant to the Uniform Interstate Family Support Act or a law substantially similar to that act which modifies a child-support order of a tribunal of this State, tribunals of this State shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.

(D) A tribunal of this State that lacks continuing, exclusive jurisdiction to modify a child-support order may serve as an initiating tribunal to request a tribunal of another state to modify a support order issued in that state.

(E) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

Section 63-17-3060. (A) A tribunal of this State that has issued a child-support order consistent with the law of this State may serve as an initiating tribunal to request a tribunal of another state to enforce:

(1) the order if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction pursuant to the Uniform Interstate Family Support Act; or

(2) a money judgment for arrears of support and interest on the order accrued before a determination that an order of a tribunal of another state is the controlling order.

(B) A tribunal of this State having continuing jurisdiction over a support order may act as a responding tribunal to enforce the order.

Section 63-17-3070. (A) If a proceeding is brought under this article and only one tribunal has issued a child-support order, the order of that tribunal controls and must be recognized.

(B) If a proceeding is brought under this article, and two or more child-support orders have been issued by tribunals of this State, another state, or a foreign country with regard to the same obligor and same child, a tribunal of this State having personal jurisdiction over both the obligor and individual obligee shall apply the following rules and by order shall determine which order controls and must be recognized:

(1) if only one of the tribunals would have continuing, exclusive jurisdiction under this article, the order of that tribunal controls;

(2) if more than one of the tribunals would have continuing, exclusive jurisdiction under this article:

(a) an order issued by a tribunal in the current home state of the child controls; or

(b) if an order has not been issued in the current home state of the child, the order most recently issued controls; or

(3) if none of the tribunals would have continuing, exclusive jurisdiction under this article, the tribunal of this State shall issue a child-support order, which controls.

(C) If two or more child-support orders have been issued for the same obligor and same child, upon request of a party who is an individual or

that is a support enforcement agency, a tribunal of this State having personal jurisdiction over both the obligor and the obligee who is an individual shall determine which order controls under subsection (B). The request may be filed with a registration for enforcement or registration for modification pursuant to Part VI, or may be filed as a separate proceeding.

(D) A request to determine which is the controlling order must be accompanied by a copy of every child-support order in effect and the applicable record of payments. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(E) The tribunal that issued the controlling order under subsection (A), (B), or (C) has continuing jurisdiction to the extent provided in Section 63-17-3050 or 63-17-3060.

(F) A tribunal of this State that determines by order which is the controlling order under subsection (B)(1) or (2) or (C), or that issues a new controlling order under subsection (B)(3), shall state in that order:

(1) the basis upon which the tribunal made its determination;

(2) the amount of prospective support, if any; and

(3) the total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided by Section 63-17-3090.

(G) Within thirty days after issuance of an order determining which is the controlling order, the party obtaining the order shall file a certified copy of it in each tribunal that issued or registered an earlier order of child support. A party or support enforcement agency obtaining the order that fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

(H) An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section must be recognized in proceedings under this article.

Section 63-17-3080. In responding to registrations or petitions for enforcement of two or more child-support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state or a foreign country, a tribunal of this State shall enforce those orders in the same manner as if the orders had been issued by a tribunal of this State.

Section 63-17-3090. A tribunal of this State shall credit amounts collected for a particular period pursuant to any child-support order against the amounts owed for the same period under any other child-support order for support of the same child issued by a tribunal of this or another state or a foreign country.

Section 63-17-3100. A tribunal of this State exercising personal jurisdiction over a nonresident in a proceeding under this article, under other laws of this State relating to a support order, or recognizing a foreign support order may receive evidence from outside this State pursuant to Section 63-17-3360, communicate with a tribunal outside this State pursuant to Section 63-17-3370, and obtain discovery through a tribunal outside this State pursuant to Section 63-17-3380. In all other respects, Parts III through VI do not apply and the tribunal shall apply the procedural and substantive law of this State.

Section 63-17-3110. (A) A tribunal of this State issuing a spousal-support order consistent with the law of this State has continuing, exclusive jurisdiction to modify the spousal-support order throughout the existence of the support obligation.

(B) A tribunal of this State may not modify a spousal-support order issued by a tribunal of another state or a foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.

(C) A tribunal of this State that has continuing, exclusive jurisdiction over a spousal-support order may serve as:

(1) an initiating tribunal to request a tribunal of another state to enforce the spousal-support order issued in this State; or

(2) a responding tribunal to enforce or modify its own spousal-support order.

Part III

Civil Provisions of General Application

Section 63-17-3210. (A) Except as otherwise provided in this article, this part applies to all proceedings under this article.

(B) An individual petitioner or a support enforcement agency may initiate a proceeding authorized under this article by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state

or a foreign country which has or can obtain personal jurisdiction over the respondent.

Section 63-17-3220. A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

Section 63-17-3230. Except as otherwise provided in this article, a responding tribunal of this State shall:

(1) apply the procedural and substantive law generally applicable to similar proceedings originating in this State and may exercise all powers and provide all remedies available in those proceedings; and

(2) determine the duty of support and the amount payable in accordance with the law and support guidelines of this State.

Section 63-17-3240. (A) Upon the filing of a petition authorized by this article, an initiating tribunal of this State shall forward the petition and its accompanying documents:

(1) to the responding tribunal or appropriate support enforcement agency in the responding state; or

(2) if the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(B) If requested by the responding tribunal, a tribunal of this State shall issue a certificate or other document and make findings required by the law of the responding state. If the responding tribunal is in a foreign country, upon request the tribunal of this State shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding foreign tribunal.

Section 63-17-3250. (A) When a responding tribunal of this State receives a petition or comparable pleading from an initiating tribunal or directly pursuant to Section 63-17-3210(B), it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

(B) A responding tribunal of this State, to the extent not prohibited by other law, may do one or more of the following:

(1) establish or enforce a support order, modify a child-support order, determine the controlling child-support order, or determine parentage of a child;

(2) order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) order income withholding;

(4) determine the amount of any arrearages, and specify a method of payment;

(5) enforce orders by civil or criminal contempt, or both;

(6) set aside property for satisfaction of the support order;

(7) place liens and order execution on the obligor's property;

(8) order an obligor to keep the tribunal informed of the obligor's current residential address, electronic mail address, telephone number, employer, address of employment, and telephone number at the place of employment;

(9) issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;

(10) order the obligor to seek appropriate employment by specified methods;

(11) award reasonable attorney's fees and other fees and costs; and

(12) grant any other available remedy.

(C) A responding tribunal of this State shall include in a support order issued under this article, or in the documents accompanying the order, the calculations on which the support order is based.

(D) A responding tribunal of this State may not condition the payment of a support order issued under this article upon compliance by a party with provisions for visitation.

(E) If a responding tribunal of this State issues an order under this article, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

(F) If requested to enforce a support order, arrears, or judgment or modify a support order stated in a foreign currency, a responding tribunal of this State shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported.

Section 63-17-3260. If a petition or comparable pleading is received by an inappropriate tribunal of this State, the tribunal shall forward the pleading and accompanying documents to an appropriate tribunal of this State or another state and notify the petitioner where and when the pleading was sent.

Section 63-17-3270. (A) In a proceeding under this article, a support enforcement agency of this State, upon request:

(1) shall provide services to a petitioner residing in a state;

(2) shall provide services to a petitioner requesting services through a central authority of a foreign country as described in Section 63-17-2910(5)(a) or (5)(d); and

(3) may provide services to a petitioner who is an individual not residing in a state.

(B) A support enforcement agency of this State that is providing services to the petitioner shall:

(1) take all steps necessary to enable an appropriate tribunal of this State, another state, or a foreign country to obtain jurisdiction over the respondent;

(2) request an appropriate tribunal to set a date, time, and place for a hearing;

(3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;

(5) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a communication in a record from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

(6) notify the petitioner if jurisdiction over the respondent cannot be obtained.

(C) A support enforcement agency of this State that requests registration of a child-support order in this State for enforcement or for modification shall make reasonable efforts:

(1) to ensure that the order to be registered is the controlling order; or

(2) if two or more child-support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.

(D) A support enforcement agency of this State that requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.

(E) A support enforcement agency of this State shall issue or request a tribunal of this State to issue a child-support order and an income-withholding order that redirect payment of current support,

arrears, and interest if requested to do so by a support enforcement agency of another state pursuant to Section 63-17-3390.

(F) This article does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Section 63-17-3280. (A) If the Attorney General determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the Attorney General may order the agency to perform its duties under this article or may provide those services directly to the individual.

(B) The Department of Social Services may determine that a foreign country has established a reciprocal arrangement for child support with this State and take appropriate action for notification of the determination.

Section 63-17-3290. An individual may employ private counsel to represent the individual in proceedings authorized by this article.

Section 63-17-3300. (A) The Department of Social Services is the state information agency under this article.

(B) The state information agency shall:

(1) compile and maintain a current list, including addresses, of the tribunals in this State which have jurisdiction under this article and any support enforcement agencies in this State and transmit a copy to the state information agency of every other state;

(2) maintain a register of names and addresses of tribunals and support enforcement agencies received from other states;

(3) forward to the appropriate tribunal in the county in this State in which the obligee who is an individual or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this article received from another state or a foreign country; and

(4) obtain information concerning the location of the obligor and the obligor's property within this State not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

Section 63-17-3310. (A) In a proceeding under this article, a petitioner seeking to establish a support order, to determine parentage of a child, or to register and modify a support order of a tribunal of another state or a foreign country must file a petition. Unless otherwise ordered under Section 63-17-3320, the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee or the parent and alleged parent, and the name, sex, residential address, social security number, and date of birth of each child for whose benefit support is sought or whose parentage is to be determined. Unless filed at the time of registration, the petition must be accompanied by a copy of any support order known to have been issued by another tribunal. The petition may include any other information that may assist in locating or identifying the respondent.

(B) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

Section 63-17-3320. If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

Section 63-17-3330. (A) The petitioner may not be required to pay a filing fee or other costs.

(B) If an obligee prevails, a responding tribunal of this State may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state or foreign country, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.

(C) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under Part VI, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

Section 63-17-3340. (A) Participation by a petitioner in a proceeding under this article before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(B) A petitioner is not amenable to service of civil process while physically present in this State to participate in a proceeding under this article.

(C) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this article committed by a party while physically present in this State to participate in the proceeding.

Section 63-17-3350. A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this article.

Section 63-17-3360. (A) The physical presence of a nonresident party who is an individual in a tribunal of this State is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage of a child.

(B) An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside this State.

(C) A copy of the record of child-support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(D) Copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(E) Documentary evidence transmitted from outside this State to a tribunal of this State by telephone, telecopier, or other electronic means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.

(F) In a proceeding under this article, a tribunal of this State shall permit a party or witness residing outside this State to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location. A tribunal of this State shall cooperate with other tribunals in designating an appropriate location for the deposition or testimony.

(G) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(H) A privilege against disclosure of communications between spouses does not apply in a proceeding under this article.

(I) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this article.

(J) A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

Section 63-17-3370. A tribunal of this State may communicate with a tribunal outside this State in a record, or by telephone, electronic mail, or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding. A tribunal of this State may furnish similar information by similar means to a tribunal outside this State.

Section 63-17-3380. A tribunal of this State may:

(1) request a tribunal outside this State to assist in obtaining discovery; and

(2) upon request, compel a person over which it has jurisdiction to respond to a discovery order issued by a tribunal outside this State.

Section 63-17-3390. (A) A support enforcement agency or tribunal of this State shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state or a foreign country a certified statement by the custodian of the record of the amounts and dates of all payments received.

(B) If neither the obligor, nor the obligee who is an individual, nor the child resides in this State, upon request from the support enforcement

agency of this State or another state, the Department of Social Services or a tribunal of this State shall:

(1) direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services; and

(2) issue and send to the obligor's employer a conforming income-withholding order or an administrative notice of change of payee, reflecting the redirected payments.

(C) The support enforcement agency of this State receiving redirected payments from another state pursuant to a law similar to subsection (B) shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received.

Part IV

Establishment of Support Order or Determination of Parentage

Section 63-17-3410. (A) If a support order entitled to recognition under this article has not been issued, a responding tribunal of this State with personal jurisdiction over the parties may issue a support order if:

(1) the individual seeking the order resides outside this State; or

(2) the support enforcement agency seeking the order is located outside this State.

(B) The tribunal may issue a temporary child-support order if the tribunal determines that such an order is appropriate and the individual ordered to pay is:

(1) a presumed father of the child;

(2) petitioning to have his paternity adjudicated;

(3) identified as the father of the child through genetic testing;

(4) an alleged father who has declined to submit to genetic testing;

(5) shown by clear and convincing evidence to be the father of the child;

(6) an acknowledged father as provided by law;

(7) the mother of the child; or

(8) an individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.

(C) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to Section 63-17-3250.

Section 63-17-3420. A tribunal of this State authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage of a child brought under this article or a law or procedure substantially similar to this article.

Part V

Enforcement of Support Order Without Registration

Section 63-17-3510. An income-withholding order issued in another state may be sent by or on behalf of the obligee, or by the support enforcement agency, to the person defined as the obligor's employer under Articles 11, 13, and 15 without first filing a petition or comparable pleading or registering the order with a tribunal of this State.

Section 63-17-3520. (A) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(B) The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this State.

(C) Except as otherwise provided in subsection (D) and Section 63-17-3530, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:

(1) the duration and amount of periodic payments of current child support, stated as a sum certain;

(2) the person designated to receive payments and the address to which the payments are to be forwarded;

(3) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;

(4) the amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

(5) the amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(D) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

(1) the employer's fee for processing an income-withholding order;

(2) the maximum amount permitted to be withheld from the obligor's income; and

(3) the times within which the employer must implement the withholding order and forward the child-support payment.

Section 63-17-3530. If an obligor's employer receives two or more income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for two or more child-support obligees.

Section 63-17-3540. An employer that complies with an income-withholding order issued in another state in accordance with this part is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

Section 63-17-3550. An employer that wilfully fails to comply with an income-withholding order issued in another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this State.

Section 63-17-3560. (A) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this State by registering the order in a tribunal of this State and filing a contest to that order as provided in Part VI, or otherwise contesting the order in the same manner as if the order had been issued by a tribunal of this State.

(B) The obligor shall give notice of the contest to:

(1) a support enforcement agency providing services to the obligee;

(2) each employer that has directly received an income-withholding order relating to the obligor; and

(3) the person designated to receive payments in the income-withholding order or, if no person is designated, to the obligee.

Section 63-17-3570. (A) A party or support enforcement agency seeking to enforce a support order or an income-withholding order, or both, issued in another state or a foreign support order may send the

documents required for registering the order to a support enforcement agency of this State.

(B) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this State to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this article.

Part VI

Registration, Enforcement, and Modification of Support Order

Subpart 1

Registration for Enforcement of Support Order

Section 63-17-3610. A support order or income-withholding order issued in a tribunal of another state or a foreign support order may be registered in this State for enforcement.

Section 63-17-3620. (A) Except as provided in Section 63-17-3935, a support order or income-withholding order of another state or a foreign support order may be registered in this State by sending the following records to the Department of Social Services:

(1) a letter of transmittal to the tribunal requesting registration and enforcement;

(2) two copies, including one certified copy, of the order to be registered, including any modification of the order;

(3) a sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(4) the name of the obligor and, if known:

(a) the obligor's address and social security number;

(b) the name and address of the obligor's employer and any other source of income of the obligor; and

(c) a description and the location of property of the obligor in this State not exempt from execution; and

(5) except as otherwise provided in Section 63-17-3320, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.

(B) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as an order of a tribunal of another state or a foreign support order, together with one copy of the documents and information, regardless of their form.

(C) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this State may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

(D) If two or more orders are in effect, the person requesting registration shall:

(1) furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;

(2) specify the order alleged to be the controlling order, if any; and

(3) specify the amount of consolidated arrears, if any.

(E) A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

Section 63-17-3630. (A) A support order or income-withholding order issued in another state or a foreign support order is registered when the order is filed in the registering tribunal of this State.

(B) A registered support order issued in another state or a foreign country is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this State.

(C) Except as otherwise provided in this part, a tribunal of this State shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

Section 63-17-3640. (A) Except as otherwise provided in subsection (D), the law of the issuing state or a foreign country governs:

(1) the nature, extent, amount, and duration of current payments under a registered support order;

(2) the computation and payment of arrearages and accrual of interest on the arrearages under the support order; and

(3) the existence and satisfaction of other obligations under the support order.

(B) In a proceeding for arrears under a registered support order, the statute of limitation of this State or of the issuing state or a foreign country, whichever is longer, applies.

(C) A responding tribunal of this State shall apply the procedures and remedies of this State to enforce current support and collect arrears and interest due on a support order of another state or a foreign country registered in this State.

(D) After a tribunal of this State or another state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this State shall prospectively apply the law of the state or foreign country issuing the controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears.

Subpart 2

Contest of Validity or Enforcement

Section 63-17-3710. (A) When a support order or income-withholding order issued in another state or a foreign support order is registered, the registering tribunal of this State shall notify the nonregistering party. Notice must be given by first-class, certified, or registered mail or by any means of personal service authorized by the law of this State. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(B) A notice must inform the nonregistering party:

(1) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this State;

(2) that a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after notice unless the registered order is under Section 63-17-3940;

(3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages; and

(4) of the amount of any alleged arrearages.

(C) If the registering party asserts that two or more orders are in effect, a notice also must:

(1) identify the two or more orders and the order alleged by the registering party to be the controlling order and the consolidated arrears, if any;

(2) notify the nonregistering party of the right to a determination of which is the controlling order;

(3) state that the procedures provided in subsection (B) apply to the determination of which is the controlling order; and

(4) state that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

(D) Upon registration of an income-withholding order for enforcement, the support enforcement agency or the registering tribunal shall notify the obligor's employer pursuant to Articles 11, 13, and 15.

Section 63-17-3720. (A) A nonregistering party seeking to contest the validity or enforcement of a registered order in this State shall request a hearing within twenty days after notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to Section 63-17-3730.

(B) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(C) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

Section 63-17-3730. (A) A party contesting the validity or enforcement of a registered support order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(1) the issuing tribunal lacked personal jurisdiction over the contesting party;

(2) the order was obtained by fraud;

(3) the order has been vacated, suspended, or modified by a later order;

(4) the issuing tribunal has stayed the order pending appeal;

(5) there is a defense under the law of this State to the remedy sought;

(6) full or partial payment has been made;

(7) the statute of limitation under Section 63-17-3640 precludes enforcement of some or all of the alleged arrearages; or

(8) the alleged controlling order is not the controlling order.

(B) If a party presents evidence establishing a full or partial defense under subsection (A), a tribunal may stay enforcement of the registered support order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered support order may be enforced by all remedies available under the law of this State.

(C) If the contesting party does not establish a defense under subsection (A) to the validity or enforcement of a registered support order, the registering tribunal shall issue an order confirming the order.

Section 63-17-3740. Confirmation of a registered support order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

Subpart 3

Registration and Modification
of Child-Support Order of Another State

Section 63-17-3810. A party or support enforcement agency seeking to modify, or to modify and enforce, a child-support order issued in another state shall register that order in this State in the same manner provided in subpart 1 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

Section 63-17-3820. A tribunal of this State may enforce a child-support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this State, but the registered support order may be modified only if the requirements of Section 63-17-3830 or 63-17-3850 have been met.

Section 63-17-3830. (A) If Section 63-17-3850 does not apply, upon petition, a tribunal of this State may modify a child-support order issued in another state which is registered in this State if, after notice and hearing, the tribunal finds that:

(1) the following requirements are met:

(a) neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state;

(b) a petitioner who is a nonresident of this State seeks modification; and

(c) the respondent is subject to the personal jurisdiction of the tribunal of this State; or

(2) this State is the residence of the child, or a party who is an individual is subject to the personal jurisdiction of the tribunal of this State, and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this State to modify the support order and assume continuing, exclusive jurisdiction.

(B) Modification of a registered child-support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this State and the order may be enforced and satisfied in the same manner.

(C) A tribunal of this State may not modify any aspect of a child-support order that may not be modified under the law of the issuing state, including the duration of the obligation of support. If two or more tribunals have issued child-support orders for the same obligor and same child, the order that controls and must be so recognized under Section 63-17-3070 establishes the aspects of the support order which are nonmodifiable.

(D) In a proceeding to modify a child-support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this State.

(E) On the issuance of an order by a tribunal of this State modifying a child-support order issued in another state, the tribunal of this State becomes the tribunal having continuing, exclusive jurisdiction.

(F) Notwithstanding subsections (A) through (E) and Section 63-17-3010(B), a tribunal of this State retains jurisdiction to modify an order issued by a tribunal of this State if:

(1) one party resides in another state; and

(2) the other party resides outside the United States.

Section 63-17-3840. If a child-support order issued by a tribunal of this State is modified by a tribunal of another state which assumed jurisdiction pursuant to the Uniform Interstate Family Support Act, a tribunal of this State:

(1) may enforce its order that was modified only as to arrears and interest accruing before the modification;

(2) may provide appropriate relief for violations of its order which occurred before the effective date of the modification; and

(3) shall recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

Section 63-17-3850. (A) If all of the parties who are individuals reside in this State and the child does not reside in the issuing state, a tribunal of this State has jurisdiction to enforce and to modify the issuing state's child-support order in a proceeding to register that order.

(B) A tribunal of this State exercising jurisdiction under this section shall apply the provisions of Parts I and II, this part, and the procedural and substantive law of this State to the proceeding for enforcement or modification. Parts III, IV, V, VII, and VIII do not apply.

Section 63-17-3860. Within thirty days after issuance of a modified child-support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

Subpart 4

Registration and Modification of Foreign Child-Support Order

Section 63-17-3870. (A) Except as otherwise provided in Section 63-17-3960, if a foreign country lacks or refuses to exercise jurisdiction to modify its child-support order pursuant to its laws, a tribunal of this State may assume jurisdiction to modify the child-support order and bind all individuals subject to the personal jurisdiction of the tribunal whether or not the consent to modification of a child-support order otherwise required of the individual pursuant to Section 63-17-3830 has been given or whether the individual seeking modification is a resident of this State or of the foreign country.

(B) An order issued by a tribunal of this State modifying a foreign child-support order pursuant to this section is the controlling order.

Section 63-17-3880. A party or support enforcement agency seeking to modify, or to modify and enforce, a foreign child-support order not under the convention may register that order in this State under Sections 63-17-3610, 63-17-3620, 63-17-3630, 63-17-3640, 63-17-3710,

63-17-3720, 63-17-3730, and 63-17-3740 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or at another time. The petition must specify the grounds for modification.

Part VII

Support Proceeding under Convention

Section 63-17-3910. (1) 'Application' means a request under the convention by an obligee or obligor, or on behalf of a child, made through a central authority for assistance from another central authority.

(2) 'Central authority' means the entity designated by the United States or a foreign country described in Section 63-17-2910(5)(d) to perform the functions specified in the convention.

(3) 'Convention support order' means a support order of a tribunal of a foreign country described in Section 63-17-2910(5)(d).

(4) 'Direct request' means a petition filed by an individual in a tribunal of this State in a proceeding involving an obligee, obligor, or child residing outside the United States.

(5) 'Foreign central authority' means the entity designated by a foreign country described in Section 63-17-2910(5)(d) to perform the functions specified in the convention.

(6) 'Foreign support agreement':

(a) means an agreement for support in a record that:

(i) is enforceable as a support order in the country of origin;

(ii) has been:

(A) formally drawn up or registered as an authentic instrument by a foreign tribunal; or

(B) authenticated by, or concluded, registered, or filed with a foreign tribunal; and

(iii) may be reviewed and modified by a foreign tribunal; and

(b) includes a maintenance arrangement or authentic instrument under the convention.

(7) 'United States central authority' means the Secretary of the United States Department of Health and Human Services.

Section 63-17-3915. This part applies only to a support proceeding under the convention. In such a proceeding, if a provision of this part is inconsistent with Parts I through VI, this part controls.

Section 63-17-3920. The Department of Social Services of this State is recognized as the agency designated by the United States central authority to perform specific functions under the convention.

Section 63-17-3925. (A) In a support proceeding under this part, the Department of Social Services of this State shall:

(1) transmit and receive applications; and

(2) initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this State.

(B) The following support proceedings are available to an obligee under the convention:

(1) recognition or recognition and enforcement of a foreign support order;

(2) enforcement of a support order issued or recognized in this State;

(3) establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child;

(4) establishment of a support order if recognition of a foreign support order is refused under Section 63-17-3945(B)(2), (4), or (9);

(5) modification of a support order of a tribunal of this State; and

(6) modification of a support order of a tribunal of another state or a foreign country.

(C) The following support proceedings are available under the convention to an obligor against which there is an existing support order:

(1) recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this State;

(2) modification of a support order of a tribunal of this State; and

(3) modification of a support order of a tribunal of another state or a foreign country.

(D) A tribunal of this State may not require security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the convention.

Section 63-17-3930. (A) A petitioner may file a direct request seeking establishment or modification of a support order or determination of parentage of a child. In the proceeding, the law of this State applies.

(B) A petitioner may file a direct request seeking recognition and enforcement of a support order or support agreement. In the proceeding, Sections 63-17-3935 through 63-17-3970 apply.

(C) In a direct request for recognition and enforcement of a convention support order or foreign support agreement:

(1) a security, bond, or deposit is not required to guarantee the payment of costs and expenses; and

(2) an obligee or obligor that in the issuing country has benefited from free legal assistance is entitled to benefit, at least to the same extent, from any free legal assistance provided for by the law of this State under the same circumstances.

(D) A petitioner filing a direct request is not entitled to assistance from the Department of Social Services.

(E) This part does not prevent the application of laws of this State that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or foreign support agreement.

Section 63-17-3935. (A) Except as otherwise provided in this article, a party who is an individual or a support enforcement agency seeking recognition of a convention support order shall register the order in this State as provided in Part VI.

(B) Notwithstanding Sections 63-17-3320 and 63-17-3620, a request for registration of a convention support order must be accompanied by:

(1) a complete text of the support order;

(2) a record stating that the support order is enforceable in the issuing country;

(3) if the respondent did not appear and was not represented in the proceedings in the issuing country, a record attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard or that the respondent had proper notice of the support order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal;

(4) a record showing the amount of arrears, if any, and the date the amount was calculated;

(5) a record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations; and

(6) if necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.

(C) A request for registration of a convention support order may seek recognition and partial enforcement of the order.

(D) A tribunal of this State may vacate the registration of a convention support order without the filing of a contest under Section 63-17-3940 only if, acting on its own motion, the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy.

(E) The tribunal promptly shall notify the parties of the registration or the order vacating the registration of a convention support order.

Section 63-17-3940. (A) Except as otherwise provided in this part, Sections 63-17-3710 through 63-17-3740 apply to a contest of a registered convention support order.

(B) A party contesting a registered convention support order shall file a contest not later than thirty days after notice of the registration, but if the contesting party does not reside in the United States, the contest must be filed not later than sixty days after notice of the registration.

(C) If the nonregistering party fails to contest the registered convention support order by the time specified in subsection (B), the order is enforceable.

(D) A contest of a registered convention support order may be based only on grounds set forth in Section 63-17-3945. The contesting party bears the burden of proof.

(E) In a contest of a registered convention support order, a tribunal of this State:

(1) is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and

(2) may not review the merits of the order.

(F) A tribunal of this State deciding a contest of a registered convention support order shall promptly notify the parties of its decision.

(G) A challenge or appeal, if any, does not stay the enforcement of a convention support order unless there are exceptional circumstances.

Section 63-17-3945. (A) Except as otherwise provided in subsection (B), a tribunal of this State shall recognize and enforce a registered convention support order.

(B) The following grounds are the only grounds on which a tribunal of this State may refuse recognition and enforcement of a registered convention support order:

(1) recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;

(2) the issuing tribunal lacked personal jurisdiction consistent with Section 63-17-3010;

(3) the order is not enforceable in the issuing country;

(4) the order was obtained by fraud in connection with a matter of procedure;

(5) a record transmitted in accordance with Section 63-17-3935 lacks authenticity or integrity;

(6) a proceeding between the same parties and having the same purpose is pending before a tribunal of this State and that proceeding was the first to be filed;

(7) the order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under this article in this State;

(8) payment, to the extent alleged arrears have been paid in whole or in part;

(9) in a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country:

(a) if the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or

(b) if the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or

(10) the order was made in violation of Section 63-17-3960.

(C) If a tribunal of this State does not recognize a convention support order under subsection (B)(2), (4), or (9):

(1) the tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new convention support order; and

(2) the department shall take all appropriate measures to request a child-support order for the obligee if the application for recognition and enforcement was received under Section 63-17-3925.

Section 63-17-3950. If a tribunal of this State does not recognize and enforce a convention support order in its entirety, it shall enforce any severable part of the order. An application or direct request may seek recognition and partial enforcement of a convention support order.

Section 63-17-3955. (A) Except as otherwise provided in subsections (C) and (D), a tribunal of this State shall recognize and enforce a foreign support agreement registered in this State.

(B) An application or direct request for recognition and enforcement of a foreign support agreement must be accompanied by:

(1) a complete text of the foreign support agreement; and

(2) a record stating that the foreign support agreement is enforceable as an order of support in the issuing country.

(C) A tribunal of this State may vacate the registration of a foreign support agreement only if, acting on its own motion, the tribunal finds that recognition and enforcement would be manifestly incompatible with public policy.

(D) In a contest of a foreign support agreement, a tribunal of this State may refuse recognition and enforcement of the agreement if it finds:

(1) recognition and enforcement of the agreement is manifestly incompatible with public policy;

(2) the agreement was obtained by fraud or falsification;

(3) the agreement is incompatible with a support order involving the same parties and having the same purpose in this State, another state, or a foreign country if the support order is entitled to recognition and enforcement under this article in this State; or

(4) the record submitted under subsection (B) lacks authenticity or integrity.

(E) A proceeding for recognition and enforcement of a foreign support agreement must be suspended during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or a foreign country.

Section 63-17-3960. (A) A tribunal of this State may not modify a convention child-support order if the obligee remains a resident of the foreign country where the support order was issued unless:

(1) the obligee submits to the jurisdiction of a tribunal of this State, either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity; or

(2) the foreign tribunal lacks or refuses to exercise jurisdiction to modify its support order or issue a new support order.

(B) If a tribunal of this State does not modify a convention child-support order because the order is not recognized in this State, Section 63-17-3945(C) applies.

Section 63-17-3965. Personal information gathered or transmitted under this part may be used only for the purposes for which it was gathered or transmitted.

Section 63-17-3970. A record filed with a tribunal of this State under this part must be in the original language and, if not in English, must be accompanied by an English translation.

Part VIII

Interstate Rendition

Section 63-17-4010. (A) For purposes of this article, 'governor' includes an individual performing the functions of governor or the executive authority of a state covered by this article.

(B) The Governor of this State may:

(1) demand that the governor of another state surrender an individual found in the other state who is charged criminally in this State with having failed to provide for the support of an obligee; or

(2) on the demand of the governor of another state, surrender an individual found in this State who is charged criminally in the other state with having failed to provide for the support of an obligee.

(C) A provision for extradition of individuals not inconsistent with this article applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

Section 63-17-4020. (A) Before making a demand that the governor of another state surrender an individual charged criminally in this State with having failed to provide for the support of an obligee, the Governor of this State may require a prosecutor of this State to demonstrate that at least sixty days previously the obligee had initiated proceedings for support pursuant to this article or that the proceeding would be of no avail.

(B) If, under this article or a law substantially similar to this article, the governor of another state makes a demand that the Governor of this State surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the Governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the Governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(C) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the Governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the Governor may decline to honor the demand if the individual is complying with the support order.

Part IX

Miscellaneous Provisions

Section 63-17-4030. In applying and construing this article, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 63-17-4035. This article applies to proceedings begun on or after the effective date of this article to establish a support order or determine parentage of a child or to register, recognize, enforce, or modify a prior support order, determination, or agreement, whenever issued or entered.

Section 63-17-4040. If any provision of this article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable."

Time effective

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

Ratified the 28th day of May, 2015.

Approved the 1st day of June, 2015.

No. 34

(R58, S590)

AN ACT TO AMEND SECTION 56-1-400, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEPARTMENT OF MOTOR VEHICLES' PROCEDURE TO ISSUE A DRIVER'S LICENSE TO A PERSON WHOSE DRIVER'S LICENSE WAS SUSPENDED OR REVOKED, AND THE RESTRICTIONS IMPOSED UPON A DRIVER'S LICENSE ISSUED TO A PERSON WHO IS PERMITTED TO OPERATE A MOTOR VEHICLE WITH AN IGNITION INTERLOCK

DEVICE INSTALLED, SO AS TO PROVIDE THAT THE VEHICLE WAIVER THAT PROVIDES THAT AN EMPLOYER IS NOT REQUIRED TO INSTALL AN IGNITION INTERLOCK DEVICE ON A VEHICLE OPERATED BY AN EMPLOYEE WHO HAS BEEN ISSUED AN IGNITION INTERLOCK DEVICE RESTRICTED DRIVER'S LICENSE DOES NOT APPLY UNDER CERTAIN CIRCUMSTANCES TO A PERSON CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF CERTAIN PROVISIONS THAT MAKE IT UNLAWFUL TO OPERATE A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS, OR WITH AN UNLAWFUL ALCOHOL CONCENTRATION; TO AMEND SECTION 56-5-2990, AS AMENDED, RELATING TO THE SUSPENSION OF THE DRIVER'S LICENSE OF A PERSON CONVICTED OF A PROVISION THAT PROHIBITS A PERSON FROM DRIVING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR OTHER DRUGS, SO AS TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 56-5-2941, AS AMENDED, RELATING TO THE REQUIRED INSTALLATION OF IGNITION INTERLOCK DEVICES ON MOTOR VEHICLES OPERATED BY CERTAIN PERSONS WHO HAVE BEEN CONVICTED OF OFFENSES THAT INVOLVE THE OPERATION OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS, OR OPERATING A MOTOR VEHICLE WITH AN UNLAWFUL ALCOHOL CONCENTRATION, SO AS TO PROVIDE FOR THE ASSESSMENT OF ONE AND ONE-HALF IGNITION INTERLOCK DEVICE POINTS TO A PERSON WHOSE IGNITION INTERLOCK DEVICE INSPECTION REPORT OR PHOTOGRAPHIC IMAGES COLLECTED BY THE DEVICE SHOW A VIOLATION OF CERTAIN PROVISIONS GOVERNING THE OPERATION OF THE DEVICE, TO PROVIDE THAT THE VEHICLE WAIVER THAT PROVIDES THAT AN EMPLOYER IS NOT REQUIRED TO INSTALL AN IGNITION INTERLOCK DEVICE ON A VEHICLE OPERATED BY AN EMPLOYEE WHO IS SUBJECT TO THE IGNITION INTERLOCK DEVICE DRIVING RESTRICTIONS DOES NOT APPLY UNDER CERTAIN CIRCUMSTANCES TO A PERSON CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF CERTAIN PROVISIONS THAT MAKE IT UNLAWFUL TO OPERATE A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS, OR WITH AN

UNLAWFUL ALCOHOL CONCENTRATION, TO PROVIDE ADDITIONAL CONDUCT THAT CONSTITUTES THE UNLAWFUL OPERATION OF AN IGNITION INTERLOCK DEVICE, TO PROVIDE FOR THE PURGING OF PHOTOGRAPHIC IMAGES COLLECTED ON THE IGNITION INTERLOCK DEVICES AND PERSONAL INFORMATION REGARDING A PERSON'S PARTICIPATION IN THE IGNITION INTERLOCK DEVICES PROGRAM, AND TO PROVIDE THAT THIS SECTION APPLIES RETROACTIVELY TO CERTAIN PERSONS SERVING A SUSPENSION OR DENIAL OF THE ISSUANCE OF A DRIVER'S LICENSE OR PERMIT.

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

Ignition interlock device

SECTION 1. Section 56-1-400(B) of the 1976 Code, as last amended by Act 158 of 2014, is further amended to read:

"(B)(1) A person who does not own a vehicle, as shown in the Department of Motor Vehicles' records, and who certifies that the person:

(a) cannot obtain a vehicle owner's permission to have an ignition interlock device installed on a vehicle;

(b) will not be driving a vehicle other than a vehicle owned by the person's employer; and

(c) will not own a vehicle during the ignition interlock period, may petition the department, on a form provided by the department, for issuance of an ignition interlock restricted license that permits the person to operate a vehicle specified by the employee according to the employer's needs as contained in the employer's statement during the days and hours specified in the employer's statement without having to show that an ignition interlock device has been installed.

(2) The form must contain:

(a) identifying information about the employer's noncommercial vehicles that the person will be operating;

(b) a statement that explains the circumstances in which the person will be operating the employer's vehicles; and

(c) the notarized signature of the person's employer.

(3) This subsection does not apply to:

(a) a person convicted of a second or subsequent violation of Section 56-5-2930, 56-5-2933, 56-5-2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, unless the person's driving privileges have been suspended for not less than one year or the person has had an ignition interlock device installed for not less than one year on each of the motor vehicles owned or operated, or both, by the person.

(b) a person who is self-employed or to a person who is employed by a business owned in whole or in part by the person or a member of the person's household or immediate family unless during the defense of a criminal charge, the court finds that the vehicle's ownership by the business serves a legitimate business purpose and that titling and registration of the vehicle by the business was not done to circumvent the intent of this section.

(4) Whenever the person operates the employer's vehicle pursuant to this subsection, the person shall have with the person a copy of the form specified by this subsection.

(5) The determination of eligibility for the waiver is subject to periodic review at the discretion of the department. The department shall revoke a waiver issued pursuant to this exemption if the department determines that the person has been driving a vehicle other than the vehicle owned by the person's employer or has been operating the person's employer's vehicle outside the locations, days, or hours specified by the employer in the department's records. The person may seek relief from the department's determination by filing a request for a contested case hearing with the Office of Motor Vehicle Hearings pursuant to the Administrative Procedures Act and the rules of procedure for the Office of Motor Vehicle Hearings."

Alcohol and Drug Safety Action Program

SECTION 2. Section 56-5-2990(B) of the 1976 Code, as last amended by Act 158 of 2014, is further amended to read:

"(B) A person whose license is suspended pursuant to this section, Section 56-1-286, 56-5-2945, or 56-5-2951 must be notified by the department of the suspension and of the requirement to enroll in and successfully complete an Alcohol and Drug Safety Action Program certified by the Department of Alcohol and Other Drug Abuse Services. A person who must complete an Alcohol and Drug Safety Action Program as a condition of reinstatement of his driving privileges or a court-ordered drug program may use the route restricted or special

restricted driver's license to attend the Alcohol and Drug Safety Action Program classes or court-ordered drug program in addition to the other permitted uses of a route restricted driver's license or a special restricted driver's license. An assessment of the extent and nature of the alcohol and drug abuse problem, if any, of the person must be prepared and a plan of education or treatment, or both, must be developed for the person. Entry into the services, if the services are necessary, recommended in the plan of education or treatment, or both, developed for the person is a mandatory requirement of the issuance of an ignition interlock restricted license to the person whose license is suspended pursuant to this section. Successful completion of the services, if the services are necessary, recommended in the plan of education or treatment, or both, developed for the person is a mandatory requirement of the full restoration of driving privileges to the person whose license is suspended pursuant to this section. The Alcohol and Drug Safety Action Program shall determine if the person has successfully completed the services. Alcohol and Drug Safety Action Programs shall meet at least once a month. The person whose license is suspended shall attend the first Alcohol and Drug Safety Action Program available after the date of enrollment."

Ignition interlock device

SECTION 3. Section 56-5-2941 of the 1976 Code, as last amended by Act 158 of 2014, is further amended to read:

"Section 56-5-2941. (A) The Department of Motor Vehicles shall require a person who is a resident of this State and who is convicted of violating the provisions of Section 56-5-2930, 56-5-2933, 56-5-2945, 56-5-2947 except if the conviction was for Section 56-5-750, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, to have installed on any motor vehicle the person drives an ignition interlock device designed to prevent driving of the motor vehicle if the person has consumed alcoholic beverages. This section does not apply to a person convicted of a first offense violation of Section 56-5-2930 or 56-5-2933, unless the person submitted to a breath test pursuant to Section 56-5-2950 and had an alcohol concentration of fifteen one-hundredths of one percent or more. The department may waive the requirements of this section if the department determines that the person has a medical condition that makes the person incapable of properly operating the installed device. If the department grants a medical waiver, the department shall suspend the person's driver's license for the length of time that the person would

have been required to hold an ignition interlock restricted license. The department may withdraw the waiver at any time that the department becomes aware that the person's medical condition has improved to the extent that the person has become capable of properly operating an installed device. The department also shall require a person who has enrolled in the Ignition Interlock Device Program in lieu of the remainder of a driver's license suspension or denial of the issuance of a driver's license or permit to have an ignition interlock device installed on any motor vehicle the person drives.

The length of time that a device is required to be affixed to a motor vehicle as set forth in Sections 56-1-286, 56-5-2945, 56-5-2947 except if the conviction was for Sections 56-5-750, 56-5-2951, and 56-5-2990.

(B) Notwithstanding the pleadings, for purposes of a second or a subsequent offense, the specified length of time that a device is required to be affixed to a motor vehicle is based on the Department of Motor Vehicle's records for offenses pursuant to Section 56-1-286, 56-5-2930, 56-5-2933, 56-5-2945, 56-5-2947 except if the conviction was for Section 56-5-750, 56-5-2950, or 56-5-2951.

(C) If a resident of this State is convicted of violating a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, and, as a result of the conviction, the person is subject to an ignition interlock device requirement in the other state, the person is subject to the requirements of this section for the length of time that would have been required for an offense committed in South Carolina, or for the length of time that is required by the other state, whichever is longer.

(D) If a person from another state becomes a resident of South Carolina while subject to an ignition interlock device requirement in another state, the person only may obtain a South Carolina driver's license if the person enrolls in the South Carolina Ignition Interlock Device Program pursuant to this section. The person is subject to the requirements of this section for the length of time that would have been required for an offense committed in South Carolina, or for the length of time that is required by the other state, whichever is longer.

(E) The person must be subject to an Ignition Interlock Device Point System managed by the Department of Probation, Parole and Pardon Services. A person accumulating a total of:

(1) two points or more, but less than three points, must have the length of time that the device is required extended by two months;

(2) three points or more, but less than four points, must have the length of time that the device is required extended by four months, shall submit to a substance abuse assessment pursuant to Section 56-5-2990,

and shall successfully complete the plan of education and treatment, or both, as recommended by the certified substance abuse program. Should the person not complete the recommended plan, or not make progress toward completing the plan, the Department of Motor Vehicles shall suspend the person's ignition interlock restricted license until the plan is completed or progress is being made toward completing the plan;

(3) four points or more must have the person's ignition interlock restricted license suspended for a period of six months, shall submit to a substance abuse assessment pursuant to Section 56-5-2990, and successfully shall complete the plan of education and treatment, or both, as recommended by the certified substance abuse program. Should the person not complete the recommended plan or not make progress toward completing the plan, the Department of Motor Vehicles shall leave the person's ignition interlock restricted license in suspended status, or, if the license has already been reinstated following the six-month suspension, shall resuspend the person's ignition interlock restricted license until the plan is completed or progress is being made toward completing the plan. The Department of Alcohol and Other Drug Abuse Services is responsible for notifying the Department of Motor Vehicles of a person's completion and compliance with education and treatment programs. Upon reinstatement of driving privileges following the six-month suspension, the Department of Probation, Parole and Pardon Services shall reset the person's point total to zero points, and the person shall complete the remaining period of time on the ignition interlock device.

(F) The cost of the device must be borne by the person. However, if the person is indigent and cannot afford the cost of the device, the person may submit an affidavit of indigency to the Department of Probation, Parole and Pardon Services for a determination of indigency as it pertains to the cost of the device. The affidavit of indigency form must be made publicly accessible on the Department of Probation, Parole and Pardon Services' Internet website. If the Department of Probation, Parole and Pardon Services determines that the person is indigent as it pertains to the device, the Department of Probation, Parole and Pardon Services may authorize a device to be affixed to the motor vehicle and the cost of the initial installation and standard use of the device to be paid for by the Ignition Interlock Device Fund managed by the Department of Probation, Parole and Pardon Services. Funds remitted to the Department of Probation, Parole and Pardon Services for the Ignition Interlock Device Fund also may be used by the Department of Probation, Parole and Pardon Services to support the Ignition Interlock Device Program. For purposes of this section, a person is indigent if the person

is financially unable to afford the cost of the ignition interlock device. In making a determination whether a person is indigent, all factors concerning the person's financial conditions should be considered including, but not limited to, income, debts, assets, number of dependents claimed for tax purposes, living expenses, and family situation. A presumption that the person is indigent is created if the person's net family income is less than or equal to the poverty guidelines established and revised annually by the United States Department of Health and Human Services published in the Federal Register. 'Net income' means gross income minus deductions required by law. The determination of indigency is subject to periodic review at the discretion of the Department of Probation, Parole and Pardon Services.

(G) The ignition interlock service provider shall collect and remit monthly to the Ignition Interlock Device Fund a fee as determined by the Department of Probation, Parole and Pardon Services not to exceed thirty dollars per month for each month the person is required to drive a vehicle with a device. A service provider who fails to properly remit funds to the Ignition Interlock Device Fund may be decertified as a service provider by the Department of Probation, Parole and Pardon Services. If a service provider is decertified for failing to remit funds to the Ignition Interlock Device Fund, the cost for removal and replacement of a device must be borne by the service provider.

(H)(1) The person shall have the device inspected every sixty days to verify that the device is affixed to the motor vehicle and properly operating, and to allow for the preparation of an ignition interlock device inspection report by the service provider indicating the person's alcohol content at each attempt to start and running retest during each sixty-day period. Failure of the person to have the interlock device inspected every sixty days must result in one ignition interlock device point.

(2) Only a service provider authorized by the Department of Probation, Parole and Pardon Services to perform inspections on ignition interlock devices may conduct inspections. The service provider immediately shall report devices that fail inspection to the Department of Probation, Parole and Pardon Services. The report must contain the person's name, identify the vehicle upon which the failed device is installed, and the reason for the failed inspection.

(3) If the inspection report reflects that the person has failed to complete a running retest, the person must be assessed one ignition interlock device point.

(4) If any inspection report or any photographic images collected by the device shows that the person has violated subsection (M), (O), or

(P), the person must be assessed one and one-half ignition interlock device points.

(5) The inspection report must indicate the person's alcohol content at each attempt to start and running retest during each sixty-day period. If the report reflects that the person violated a running retest by having an alcohol concentration of:

(a) two one-hundredths of one percent or more but less than four one-hundredths of one percent, the person must be assessed one-half ignition interlock device point;

(b) four one-hundredths of one percent or more but less than fifteen one-hundredths of one percent, the person must be assessed one ignition interlock device point; or

(c) fifteen one-hundredths of one percent or more, the person must be assessed two ignition interlock device points.

(6) A person may appeal less than four ignition interlock device points received to an administrative hearing officer with the Department of Probation, Parole and Pardon Services through a process established by the Department of Probation, Parole and Pardon Services. The administrative hearing officer's decision on appeal is final and no appeal from such decision is allowed.

(I)(1) If a person's license is suspended due to the accumulation of four or more ignition interlock device points, the Department of Probation, Parole and Pardon Services must provide a notice of assessment of ignition interlock points which must advise the person of his right to request a contested case hearing before the Office of Motor Vehicle Hearings. The notice of assessment of ignition interlock points also must advise the person that, if he does not request a contested case hearing within thirty days of the issuance of the notice of assessment of ignition interlock points, he waives his right to the administrative hearing and the person's driver's license is suspended pursuant to subsection (E).

(2) The person may seek relief from the Department of Probation, Parole and Pardon Services' determination that a person's license is suspended due to the accumulation of four or more ignition interlock device points by filing a request for a contested case hearing with the Office of Motor Vehicle Hearings pursuant to the Administrative Procedures Act. The filing of the request for a contested case hearing will stay the driver's license suspension pending the outcome of the hearing. However, the filing of the request for a contested case hearing will not stay the requirements of the person having the ignition interlock device.

(3) At the contested case hearing:

(a) the assessment of driver's license suspension can be upheld;

(b) the driver's license suspension can be overturned, or any or all of the contested ignition interlock points included in the device inspection report that results in the contested suspension can be overturned, and the penalties as specified pursuant to subsection (E) will then be imposed accordingly.

(4) A contested case hearing must be held after the request for the hearing is received by the Office of Motor Vehicle Hearings. Nothing in this section prohibits the introduction of evidence at the contested case hearing on the issue of the accuracy of the ignition interlock device. However, if the ignition interlock device is found to not be in working order due to failure of regular maintenance and upkeep by the person challenging the accumulation of ignition interlock points pursuant to the requirement of the ignition interlock program, such allegation cannot serve as a basis to overturn point accumulations.

(5) A written order must be issued by the Office of Motor Vehicle Hearings to all parties either reversing or upholding the assessment of ignition interlock points.

(6) A contested case hearing is governed by the Administrative Procedures Act, and a person has a right to appeal the decision of the hearing officer pursuant to that act to the Administrative Law Court in accordance with its appellate rules. The filing of an appeal does not stay the ignition interlock requirement.

(J) Five years from the date of the person's driver's license reinstatement and every five years thereafter, a fourth or subsequent offender whose license has been reinstated pursuant to Section 56-1-385 may apply to the Department of Probation, Parole and Pardon Services for removal of the ignition interlock device and the removal of the restriction from the person's driver's license. The Department of Probation, Parole and Pardon Services may, for good cause shown, notify the Department of Motor Vehicles that the person is eligible to have the restriction removed from the person's license.

(K)(1) Except as otherwise provided in this section, it is unlawful for a person who is subject to the provisions of this section to drive a motor vehicle that is not equipped with a properly operating, certified ignition interlock device. A person who violates this subsection:

(a) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than one thousand dollars or imprisoned not more than one year. The person must have the length of time that the ignition interlock device is required extended by six months;

(b) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than five thousand dollars or

imprisoned not more than three years. The person must have the length of time that the ignition interlock device is required extended by one year; and

(c) for a third or subsequent offense, is guilty of a felony, and, upon conviction, must be fined not less than ten thousand dollars or imprisoned not more than ten years. The person must have the length of time that the ignition interlock device is required extended by three years.

(2) No portion of the minimum sentence imposed pursuant to this subsection may be suspended.

(3) Notwithstanding any other provision of law, a first or second offense punishable pursuant to this subsection may be tried in summary court.

(L)(1) A person who is required in the course and scope of the person's employment to drive a motor vehicle owned by the person's employer may drive the employer's motor vehicle without installation of an ignition interlock device, provided that the person's use of the employer's motor vehicle is solely for the employer's business purposes.

(2) This subsection does not apply to:

(a) a person convicted of a second or subsequent violation of Section 56-5-2930, 56-5-2933, 56-5-2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, unless the person's driving privileges have been suspended for not less than one year or the person has had an ignition interlock device installed for not less than one year on each of the motor vehicles owned or operated, or both, by the person.

(b) a person who is self employed or to a person who is employed by a business owned in whole or in part by the person or a member of the person's household or immediate family unless during the defense of a criminal charge, the court finds that the vehicle's ownership by the business serves a legitimate business purpose and that titling and registration of the vehicle by the business was not done to circumvent the intent of this section.

(3) Whenever the person operates the employer's vehicle pursuant to this subsection, the person shall have with the person a copy of the Department of Motor Vehicles' form specified by Section 56-1-400(B).

(4) This subsection will be construed in parallel with the requirements of Section 56-1-400(B). A waiver issued pursuant to this subsection will be subject to the same review and revocation as described in Section 56-1-400(B).

(M) It is unlawful for a person to tamper with or disable, or attempt to tamper with or disable, an ignition interlock device installed on a

motor vehicle pursuant to this section. Obstructing or obscuring the camera lens of an ignition interlock device constitutes tampering. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(N) It is unlawful for a person to knowingly rent, lease, or otherwise provide a person who is subject to this section with a motor vehicle without a properly operating, certified ignition interlock device. This subsection does not apply if the person began the lease contract period for the motor vehicle prior to the person's arrest for a first offense violation of Section 56-5-2930 or 56-5-2933. A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(O) It is unlawful for a person who is subject to the provisions of this section to solicit or request another person, or for a person to solicit or request another person on behalf of a person who is subject to the provisions of this section, to engage an ignition interlock device to start a motor vehicle with a device installed pursuant to this section or to conduct a running retest while the vehicle is in operation. A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(P) It is unlawful for another person on behalf of a person subject to the provisions of this section to engage an ignition interlock device to start a motor vehicle with a device installed pursuant to this section or to conduct a running retest while that vehicle is in operation. A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(Q) Only ignition interlock devices certified by the Department of Probation, Parole and Pardon Services may be used to fulfill the requirements of this section.

(1) The Department of Probation, Parole and Pardon Services shall certify whether a device meets the accuracy requirements and specifications provided in guidelines or regulations adopted by the National Highway Traffic Safety Administration, as amended from time to time. All devices certified to be used in South Carolina must be set to prohibit the starting of a motor vehicle when an alcohol concentration of two one-hundredths of one percent or more is measured and all running retests must record violations of an alcohol concentration of two one-hundredths of one percent or more, and must capture a photographic

image of the driver as the driver is operating the ignition interlock device. The photographic images recorded by the ignition interlock device may be used by the Department of Probation, Parole and Pardon Services to aid in the Department of Probation, Parole and Pardon Services' management of the Ignition Interlock Device Program; however, neither the Department of Probation, Parole and Pardon Services, the Department of Probation, Parole and Pardon Services' employees, nor any other political subdivision of this State may be held liable for any injury caused by a driver or other person who operates a motor vehicle after the use or attempted use of an ignition interlock device.

(2) The Department of Probation, Parole and Pardon Services shall maintain a current list of certified ignition interlock devices and manufacturers. The list must be updated at least quarterly. If a particular certified device fails to continue to meet federal requirements, the device must be decertified, may not be used until it is compliant with federal requirements, and must be replaced with a device that meets federal requirements. The cost for removal and replacement must be borne by the manufacturer of the noncertified device.

(3) Only ignition interlock installers certified by the Department of Probation, Parole and Pardon Services may install and service ignition interlock devices required pursuant to this section. The Department of Probation, Parole and Pardon Services shall maintain a current list of vendors that are certified to install the devices.

(R) In addition to availability under the Freedom of Information Act, any Department of Probation, Parole and Pardon Services policy concerning ignition interlock devices must be made publicly accessible on the Department of Probation, Parole and Pardon Services' Internet website. Information obtained by the Department of Probation, Parole and Pardon Services and ignition interlock service providers regarding a person's participation in the Ignition Interlock Device Program is to be used for internal purposes only and is not subject to the Freedom of Information Act. A person participating in the Ignition Interlock Device Program or the person's family member may request that the Department of Probation, Parole and Pardon Services provide the person or family member with information obtained by the department and ignition interlock service providers. The Department of Probation, Parole and Pardon Services may release the information to the person or family member at the department's discretion. The Department of Probation, Parole and Pardon Services and ignition interlock service providers must purge all photographic images collected by the device no later than twelve months from the date of the person's completion of the Ignition

Interlock Device Program. The Department of Probation, Parole and Pardon Services may retain the images past twelve months if there are any pending appeals or contested case hearings involved with that person, and at their conclusion must purge the images. The Department of Probation, Parole and Pardon Services and ignition interlock service providers must purge all personal information regarding a person's participation in the Ignition Interlock Device Program no later than twelve months from the date of the person's completion of the Ignition Interlock Device Program except for that information which is relevant for pending legal matters.

(S) The Department of Probation, Parole and Pardon Services shall develop policies including, but not limited to, the certification, use, maintenance, and operation of ignition interlock devices and the Ignition Interlock Device Fund.

(T) This section shall apply retroactively to any person currently serving a suspension or denial of the issuance of a license or permit due to a suspension listed in subsection (A)."

Time effective

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

Ratified the 28th day of May, 2015.

Approved the 1st day of June, 2015.

No. 35

(R60, H3168)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 6 TO CHAPTER 9, TITLE 25 SO AS TO ENACT THE "SOUTH CAROLINA EMERGENCY MANAGEMENT LAW ENFORCEMENT ACT", TO DEFINE NECESSARY TERMS, AND PROVIDE QUALIFICATIONS, POWERS, DUTIES, AND LIMITATIONS OF SPECIAL LAW ENFORCEMENT OFFICERS SERVING PURSUANT TO THIS ARTICLE.

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

Special law enforcement officer procedures and requirements

SECTION 1. Chapter 9, Title 25 of the 1976 Code is amended by adding:

"Article 6

South Carolina Emergency Management
Law Enforcement Act

Section 25-9-500. This act may be cited as the 'South Carolina Emergency Management Law Enforcement Act'.

Section 25-9-510. The purpose of this article is to provide procedures for the use of out-of-state officers who are deployed to the State of South Carolina in accordance with the provisions of the Emergency Management Assistance Compact, which is codified in Section 25-9-420. The use of out-of-state law enforcement personnel pursuant to the Emergency Management Assistance Compact is designed solely for situations when South Carolina's law enforcement resources have been exhausted or will be exhausted subsequent to a declaration of a state of emergency or disaster by the Governor of the State of South Carolina.

Section 25-9-520. As used in this article:

(1) 'Special law enforcement officer' means a law enforcement officer of a member state to the Emergency Management Assistance Compact who meets the qualifications set forth in this chapter and is deployed to the State of South Carolina upon a request for assistance pursuant to Article III(B) of the Emergency Management Assistance Compact.

(2) 'Home agency' means the agency or law enforcement entity where the special law enforcement officer is currently employed.

Section 25-9-530. To serve as a special law enforcement officer pursuant to this article, a person must have:

(1) reached twenty-one years of age;

(2) graduated from an accredited law enforcement academy or received other law enforcement training to the satisfaction of the Chief of the South Carolina Law Enforcement Division, or his designee; and

(3) served a minimum of two years as a full-time law enforcement officer.

Section 25-9-540. Prior to performing law enforcement activities in the State of South Carolina, a special law enforcement officer must take and subscribe to the oath of office set forth in Section 5, Article VI of the South Carolina Constitution in the presence of either the Chief of the South Carolina Law Enforcement Division, or his designee. The Chief of the South Carolina Law Enforcement Division, or his designee, shall maintain a written record of all special law enforcement officers who take and subscribe to the oath of office required pursuant to this article.

Section 25-9-550. A special law enforcement officer appointed pursuant to this article is authorized to:

(1) preserve the peace and protect the people of this State;

(2) detain and arrest individuals without a warrant for criminal offenses occurring within the officer's presence or view and necessary to maintain and establish public peace, health, or safety in the State;

(3) exercise the same powers, duties, rights, privileges, and immunities that are afforded law enforcement officers of this State;

(4) possess and carry firearms and other weapons as authorized while on duty; and

(5) exercise statewide jurisdiction.

Section 25-9-560. A special law enforcement officer appointed pursuant to this article shall serve at all times at the pleasure of and under the operational control of the Chief of the South Carolina Law Enforcement Division, or his designee, and is subject to the rules and regulations established by the Chief of the South Carolina Law Enforcement Division, or his designee. In the event of a conflict between the rules and regulations established for a special law enforcement officer and the officer's home agency rules and regulations, the special law enforcement officer immediately shall notify the Chief of the South Carolina Law Enforcement Division, or his designee, and attempt to resolve the conflict.

Section 25-9-570. (A) The powers and duties granted to a special law enforcement officer pursuant to this article shall terminate immediately upon:

(1) the cancellation of the state of emergency or disaster declaration; or

(2) notice from either the Chief of the South Carolina Law Enforcement Division, or his designee, that a special law enforcement officer's powers and duties in this State have been terminated.

(B) A person who knowingly exercises or knowingly attempts to exercise the powers of a special law enforcement officer after his powers and duties have been terminated pursuant to subsection (A) is guilty of a misdemeanor pursuant to Section 16-17-720.

Section 25-9-580. Nothing in this article is intended to waive existing or future immunity. Neither the State of South Carolina, nor any of its political subdivisions, agencies, or employees are liable or accountable in any way for the appointment of a special law enforcement officer or for any act or omission on the part of a special law enforcement officer.

Section 25-9-590. Compensation for special law enforcement officers must be made in accordance with the Emergency Management Assistance Compact.

Section 25-9-600. (A) A special law enforcement officer serving pursuant to this article remains the employee of his home agency and does not become an employee of the State of South Carolina, or an agency or political subdivision of this State.

(B) Special law enforcement officers do not hold office in South Carolina.

(C) Notwithstanding another provision of law, a special law enforcement officer is not subject to certification requirements for law enforcement personnel set forth in South Carolina law, and a special law enforcement officer is not required to post a bond."

Time effective

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

Ratified the 28th day of May, 2015.

Approved the 1st day of June, 2015.

No. 36

(R63, H3575)

AN ACT TO AMEND SECTION 44-96-40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA SOLID WASTE POLICY AND MANAGEMENT ACT, SO AS TO REVISE THE DEFINITION OF "SOLID WASTE" TO EXCLUDE STEEL SLAG.

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

Solid waste, steel slag excluded

SECTION 1. Section 44-96-40(46) of the 1976 Code is amended to read:

"(46) 'Solid waste' means any garbage, refuse, or sludge from a waste treatment facility, water supply plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities. This term does not include solid or dissolved material in domestic sewage, recovered materials, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to NPDES permits under the Federal Water Pollution Control Act, as amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended. Also excluded from this definition are application of fertilizer and animal manure during normal agricultural operations or refuse as defined and regulated pursuant to the South Carolina Mining Act, including processed mineral waste, which will not have a significant adverse impact on the environment. For the purposes of this chapter, this term excludes steel slag that is a product of the electric arc furnace steelmaking process; provided, that such steel slag is sold and distributed in the stream of commerce for consumption, use, or further processing into another desired commodity and is managed as an item of commercial value in a controlled manner and not as a discarded material or in a manner constituting disposal."

Time effective

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

Ratified the 28th day of May, 2015.

Approved the 1st day of June, 2015.

No. 37

(R64, H3646)

AN ACT TO AMEND SECTION 44-55-1310, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS CONCERNING PASSIVE SOIL-BASED ON-SITE DISPOSAL SYSTEMS, SO AS TO ALLOW FOR NONGRAVITY-BASED SOIL-BASED ON-SITE DISPOSAL SYSTEMS; TO AMEND SECTION 44-55-1320, RELATING TO WASTEWATER COLLECTION, TREATMENT, AND DISCHARGE, SO AS TO AUTHORIZE SINGLE OR MULTIPLE DWELLING UNITS TO USE A COMMUNITY OR COMMERCIAL PASSIVE SOIL-BASED ON-SITE DISPOSAL SYSTEM; TO AMEND SECTION 44-55-1330, RELATING TO SYSTEM INSTALLATION REQUIREMENTS, SO AS TO REMOVE CERTAIN REQUIREMENTS AND TO REQUIRE AN INSTALLER OF A PASSIVE SOIL-BASED ON-SITE DISPOSAL SYSTEM TO BE CERTIFIED BY THE MANUFACTURER OR A REPRESENTATIVE AUTHORIZED TO ADMINISTER THE LICENSED INSTALLER CERTIFICATION, AND TO SET DESIGNATIONS FOR THE TRENCH BOTTOM OF A DISPOSAL SYSTEM; TO AMEND SECTION 44-55-1350, RELATING TO TILE FIELD PRODUCT REGULATIONS, SO AS TO ADD THE REQUIREMENTS OF SECTION 44-55-1310 TO REGULATIONS PROMULGATED OVER PASSIVE SOIL-BASED ON-SITE DISPOSAL SYSTEMS; AND TO REPEAL SECTION 44-55-1340 RELATING TO FINANCIAL ASSURANCE.

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

Definitions

SECTION 1. Section 44-55-1310(1) of the 1976 Code, as added by Act 49 of 2003, is amended to read:

"(1) 'Passive soil-based on-site disposal system' means a nongravel, nonmechanical, soil absorption trench used to collect, treat, and discharge, or reclaim wastewater or sewage from a small on-site wastewater system generating less than fifteen hundred gallons per day, large on-site wastewater system generating equal to or greater than fifteen hundred gallons per day, or community, cluster, or commercial wastewater system, served by either gravity or pump distribution, without the use of communitywide sewers or a centralized treatment facility."

Systems authorized

SECTION 2. Section 44-55-1320 of the 1976 Code, as added by Act 49 of 2003, is amended to read:

"Section 44-55-1320. A passive soil-based on-site disposal system is authorized for use for collecting, treating, discharging, or reclaiming wastewater or sewage from a small on-site wastewater system generating less than fifteen hundred gallons per day, large on-site wastewater system generating equal to or greater than fifteen hundred gallons per day, or community, cluster, or commercial wastewater system, if the systems comply with the requirements of this chapter and with ordinances a county or municipality establishes consistent with this chapter."

Installation requirements

SECTION 3. Section 44-55-1330 of the 1976 Code, as added by Act 49 of 2003, is amended to read:

"Section 44-55-1330. (A) A passive soil-based on-site disposal system must be installed only by installation technicians who are licensed by the department under Regulation 61-56.1 as an installer and certified by the manufacturer or a representative that has been duly authorized to administer licensed installer certification.

(B) A passive soil-based on-site disposal system must be sized and installed according to these minimum standards:

(1) The storage capacity of the system must be at least that available in a conventional gravel system below the invert. A manufacturer shall provide its product's storage capacity as determined by a recognized third party testing company.

(2) The total trench bottom area of the passive soil-based on-site disposal system, measured as the area bounded by the trench width and length must be at least seventy-five percent of that required for a conventional gravel system. The system must not be less than three hundred square feet, measured as the area bounded by the trench width and length, for soils in all classifications. In addition to the above requirement, the system must provide an unobstructed open bottom area equal to at least one-half the total bottom area of a conventional gravel system. The system must have a projected product width that fills the trench width within two inches. The system also must have a reserve area at least equal to fifty percent of the size of the installed system.

(3) The absorption area must comply with all other appropriate separation distances, trench location, trench depth, and contour orientation as prescribed in Regulation 61-56. The permitting procedure for these systems will be the same as conventional systems to include site evaluation and final inspection.

(4) The entire absorption area must be shown on a set of 'as built' diagrams prepared by the department at the time of final inspection to include information identifying the name of the installer, the name of the product manufacturer, and the type or model number of the installed product.

(5) Lateral trench runs must be as long as practical within the limits of the approved site so as to minimize the linear loading rate. Wastewater may be distributed to a lateral trench run either by gravity flow or by pump."

Regulation requirements

SECTION 4. Section 44-55-1350 of the 1976 Code, as added by Act 49 of 2003, is amended to read:

"Section 44-55-1350. The department shall promulgate regulations regarding alternative tile field products to include passive soil-based on-site disposal systems in accordance with the following:

(1) Regulations must conform to the requirements of Sections 44-55-1310, 44-55-1320 and 44-55-1330. When the department submits the proposed regulations to the General Assembly for approval pursuant to the Administrative Procedures Act, in addition to the information

which must be filed pursuant to Section 1-23-120, the department shall include an explanation for each change proposed from the requirements of Sections 44-55-1310, 44-55-1320 and 44-55-1330.

(2) When the regulations promulgated by the department are approved by the General Assembly and become effective by publication in the State Register, the provisions of Sections 44-55-1310, 44-55-1320 and 44-55-1330 are repealed and no longer have the force and effect of law."

Repeal

SECTION 5. Section 44-55-1340 is repealed.

Time effective

SECTION 6. Except as otherwise provided for in SECTION 4, this act takes effect upon approval by the Governor.

Ratified the 28th day of May, 2015.

Approved the 1st day of June, 2015.

No. 38

(R69, H3840)

AN ACT TO AMEND SECTION 7-7-320, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN HORRY COUNTY, SO AS TO REDESIGNATE THE VARIOUS PRECINCTS, AND TO REDESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE.

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

Horry County voting precincts revised

SECTION 1. Section 7-7-320 of the 1976 Code, as last amended by Act 137 of 2014, is further amended to read:

"Section 7-7-320. (A) In Horry County there are the following voting precincts:
Adrian
Allsbrook
Atlantic Beach
Aynor
Bayboro - Gurley
Brooksville #1
Brooksville #2
Brownway
Burgess #1
Burgess #2
Burgess #3
Burgess #4
Carolina Bays
Carolina Forest #1
Carolina Forest #2
Cedar Grove
Cherry Grove #1
Cherry Grove #2
Coastal Carolina
Coastal Lane #1
Coastal Lane #2
Cool Springs
Crescent
Daisy
Deerfield
Dog Bluff
Dogwood
Dunes #1
Dunes #2
Dunes #3
East Conway
East Loris
Ebenezer
Emerald Forest #1
Emerald Forest #2

Emerald Forest #3
Enterprise
Forestbrook
Four Mile
Galivants Ferry
Garden City #1
Garden City #2
Garden City #3
Garden City #4
Glenns Bay
Green Sea
Hickory Grove
Hickory Hill
Homewood
Horry
Inland
Jackson Bluff
Jamestown
Jernigans X Roads
Jet Port #1
Jet Port #2
Jordanville
Joyner Swamp
Juniper Bay
Lake Park
Leon
Little River #1
Little River #2
Little River #3
Live Oak
Maple
Marlowe #1
Marlowe #2
Marlowe #3
Methodist - Mill Swamp
Mt. Olive
Mt. Vernon
Myrtle Trace
Myrtlewood #1
Myrtlewood #2
Myrtlewood #3
Nixons X Roads #1

Nixons X Roads #2
Nixons X Roads #3
North Conway #1
North Conway #2
Ocean Drive #1
Ocean Drive #2
Ocean Forest #1
Ocean Forest #2
Ocean Forest #3
Palmetto Bays
Pawley's Swamp
Pleasant View
Poplar Hill
Port Harrelson
Race Path #1
Race Path #2
Red Bluff
Red Hill #1
Red Hill #2
River Oaks
Salem
Sea Oats #1
Sea Oats #2
Sea Winds
Shell
Socastee #1
Socastee #2
Socastee #3
Socastee #4
Spring Branch
Surfside #1
Surfside #2
Surfside #3
Surfside #4
Sweet Home
Taylorsville
Tilly Swamp
Toddville
Wampee
West Conway
West Loris
White Oak

Wild Wing
Windy Hill #1
Windy Hill #2

(B) Precinct lines defining the precincts provided for in subsection (A) are as shown on maps filed with the Board of Voter Registration and Elections of Horry County as provided and maintained by the Revenue and Fiscal Affairs Office designated as document P-51-15A.

(C) Polling places for the precincts listed in subsection (A) must be determined by the Board of Voter Registration and Elections of Horry County with the approval of a majority of the Horry County Legislative Delegation."

Time effective

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

Ratified the 28th day of May, 2015.

Approved the 1st day of June, 2015.

No. 39

(R74, H4076)

AN ACT TO AMEND SECTION 7-7-360, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN LAURENS COUNTY, SO AS TO REVISE BOUNDARIES OF EXISTING PRECINCTS, TO DESIGNATE THE MAP NUMBER ON WHICH THE BOUNDARIES OF LAURENS COUNTY VOTING PRECINCTS AS REVISED BY THIS ACT MAY BE FOUND AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE, AND TO MAKE TECHNICAL CORRECTIONS.

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

Laurens County voting precincts revised

SECTION 1. Section 7-7-360(B) of the 1976 Code, as last amended by Act 240 of 2014, is further amended to read:

"(B) The precinct lines defining the precincts in subsection (A) are as shown on the official map designated as P-59-15 and on file with the Revenue and Fiscal Affairs Office and as shown on certified copies provided to the Board of Voter Registration and Elections of Laurens County."

Time effective

SECTION 2. This act takes effect on August 1, 2015.

Ratified the 28th day of May, 2015.

Approved the 1st day of June, 2015.

No. 40

(R76, H4106)

AN ACT TO AMEND SECTION 7-7-350, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN LANCASTER COUNTY, SO AS TO DELETE THREE PRECINCTS, ADD NINE PRECINCTS, AND REDESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE.

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

Lancaster County voting precincts designated

SECTION 1. Section 7-7-350 of the 1976 Code, as last amended by Act 156 of 2012, is further amended to read:

"Section 7-7-350. (A) In Lancaster County there are the following voting precincts:
Antioch
Black Horse Run
Camp Creek

Carmel
Chesterfield Avenue
Douglas
Dwight
Elgin
Erwin Farm
Gold Hill
Gooch's Cross Road
Harrisburg
Heath Springs
Hyde Park
Jacksonham
Kershaw North
Kershaw South
Lake House
Lancaster East
Lancaster West
Lynwood Drive
Midway
Osceola
Pleasant Hill
Pleasant Valley
Possum Hollow
Rich Hill
River Road
Riverside
Shelley Mullis
Spring Hill
The Lodge
Unity
University
Van Wyck

(B) The precinct lines defining the above precincts are as shown on maps filed with the clerk of court of the county and also on file with the State Election Commission as provided and maintained by the Revenue and Fiscal Affairs Office designated as document P-57-15.

(C) The polling places for the precincts provided in this section must be established by the Board of Voter Registration and Elections of Lancaster County subject to approval by a majority of the Lancaster County Legislative Delegation."

Time effective

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

Ratified the 28th day of May, 2015.

Approved the 1st day of June, 2015.

No. 41

(R28, H3118)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-11-525 SO AS TO AUTHORIZE THE DEPARTMENT OF NATURAL RESOURCES TO PROMULGATE REGULATIONS GOVERNING CERTAIN AREAS TO ESTABLISH SEASONS, DATES, AREAS, BAG LIMITS, AND OTHER RESTRICTIONS FOR HUNTING AND TAKING OF WILD TURKEY; BY ADDING SECTION 50-11-580 SO AS TO ESTABLISH MALE WILD TURKEY HUNTING SEASON AS MARCH 20 THROUGH MAY 5, DECLARE THE SATURDAY AND SUNDAY PRECEDING MARCH 20 OF EACH YEAR TO BE "SOUTH CAROLINA YOUTH TURKEY HUNTING WEEKEND" AND PROVIDE A PROCEDURE FOR YOUTH TURKEY HUNTING ON THIS WEEKEND, TO PROVIDE A WILD TURKEY BAG LIMIT, TO REQUIRE THE DEPARTMENT OF NATURAL RESOURCES TO REPORT TO THE GENERAL ASSEMBLY CERTAIN WILD TURKEY RESOURCES INFORMATION INCLUDING RECOMMENDATIONS REGARDING THE SEASON AND THE BAG LIMITS; TO AMEND SECTIONS 50-11-530, 50-11-540, AND 50-11-544, ALL RELATING TO THE DEPARTMENT OF NATURAL RESOURCES' REGULATION OF THE HUNTING OF WILD TURKEYS, SO AS TO REVISE THE DEPARTMENT'S AUTHORITY TO REGULATE THE HUNTING OF WILD TURKEYS, TO ALLOW THE DEPARTMENT TO PROMULGATE EMERGENCY REGULATIONS FOR THE PROPER CONTROL OF THE HARVESTING OF WILD TURKEYS, TO REVISE THE PENALTIES FOR VIOLATING THE PROVISIONS THAT

REGULATE THE HUNTING OF WILD TURKEYS, AND TO PROVIDE THAT ALL WILD TURKEY TRANSPORTATION TAGS MUST BE VALIDATED AS PRESCRIBED BY THE DEPARTMENT BEFORE A TURKEY IS MOVED FROM THE POINT OF KILL; AND TO SUSPEND THE PROVISIONS OF SECTION 50-11-520 UPON THE EFFECTIVE DATE OF THE ACT UNTIL NOVEMBER 7, 2018, WHEN SECTION 50-11-580 IS REPEALED.

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

Department of Natural Resources authorization to promulgate regulations relating to hunting and taking of wild turkey

SECTION 1. Article 3, Chapter 11, Title 50 of the 1976 Code is amended by adding:

"Section 50-11-525. The department may promulgate regulations for wildlife management areas, heritage trust lands, and other properties owned or leased by the department to establish seasons, dates, areas, bag limits, and other restrictions for hunting and taking of wild turkey."

Season for hunting and taking of wild turkey, bag limits, "Youth Turkey Hunting Weekend" established

SECTION 2. Article 3, Chapter 11, Title 50 of the 1976 Code is amended by adding:

"Section 50-11-580. (A) Notwithstanding the provisions of Section 50-11-520 or any other provision of law or regulation, the season for hunting and taking a male wild turkey is March 20 through May 5.

(B) The Saturday and Sunday preceding March 20 of each year is declared to be 'Youth Turkey Hunting Weekend'. A person less than eighteen years of age shall be considered a youth hunter. The license and permit requirements for hunting turkey are waived for youth hunters during Youth Turkey Hunting Weekend; however, youth hunters must still possess a set of turkey tags while hunting during Youth Turkey Hunting Weekend. A licensed hunter at least twenty-one years of age must accompany a youth hunter in the field and may not harvest or attempt to harvest turkey during Youth Turkey Hunting Weekend, but is permitted to call turkeys for the youth hunter. The licensed hunter that accompanies the youth hunter must have a valid South Carolina hunting

license, big game permit, and wildlife management area permit if applicable.

(C) The season bag limit per person for male wild turkeys is three, which may be taken by any lawful means. The season bag limit contained in this section is statewide.

(D) The daily bag limit per person for male wild turkeys is two, which may be taken by any lawful means. The daily bag limit contained in this section is statewide.

(E) The department shall conduct an analysis of the wild turkey resources in South Carolina and issue a draft report recommending any changes to the wild turkey season and bag limits. This report shall be provided to the General Assembly within one hundred eighty days of the conclusion of the third turkey season following the effective date of this section.

(F) The department shall provide an annual report of the wild turkey resources in South Carolina to the Chairman of the Senate Fish, Game and Forestry Committee and the Chairman of the House Agriculture and Natural Resources Committee."

Department of Natural Resources authorization to promulgate regulations relating to harvesting of wild turkeys in game zones

SECTION 3. Section 50-11-530 of the 1976 Code is amended to read:

"Section 50-11-530. The department may promulgate emergency regulations considered necessary and expedient for the proper control of the harvesting of wild turkeys in the game zones."

Crimes and offenses, illegal taking of wild turkey, fine increased

SECTION 4. Section 50-11-540 of the 1976 Code is amended to read:

"Section 50-11-540. Any person taking, attempting to take, or having in his possession turkey illegally or taking, attempting to take, or killing turkey in any way not prescribed by the department is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty dollars nor more than five hundred dollars or imprisoned for not more than thirty days. In addition, a person taking a wild turkey unlawfully must be required to make restitution to the department in the amount of up to five hundred dollars for each bird taken. In addition, a person convicted of taking a wild turkey illegally forfeits hunting and fishing privileges for one year for each bird taken."

Wild turkey transportation tags, validation of tags required

SECTION 5. Section 50-11-544 of the 1976 Code is amended to read:

"Section 50-11-544. A person who hunts wild turkeys is required to possess a set of wild turkey transportation tags issued by the department at no cost. All turkeys taken must be tagged before being moved from the point of kill. All tags must be validated as prescribed by the department before a turkey is moved from the point of kill. No person may obtain or possess more than one set of turkey tags."

Savings clause

SECTION 6. 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 7. This act takes effect on June 30, 2015. Provided, upon the effective date of this act until November 7, 2018, the provisions of Section 50-11-520 are suspended. On November 7, 2018, the turkey hunting seasons and bag limits in effect for the respective counties prior to the effective date of this act and delineated in Section 50-11-520 are effective, and Section 50-11-580 is repealed.

Ratified the 7th day of May, 2015.

Approved the 7th day of May, 2015.

No. 42

(R31, H3393)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-9-630 SO AS TO PROVIDE THAT A PERSON SHALL OBTAIN A FEDERAL MIGRATORY HUNTING AND CONSERVATION STAMP IN ADDITION TO OBTAINING REQUIRED STATE HUNTING LICENSES AND PERMITS, TO PROVIDE THAT THE DEPARTMENT OF NATURAL RESOURCES MAY CONTRACT WITH THE UNITED STATES FISH AND WILDLIFE SERVICE TO MAKE THE FEDERAL MIGRATORY HUNTING AND CONSERVATION STAMP AVAILABLE THROUGH THE LICENSE SALES SYSTEM OF THE DEPARTMENT, TO PROVIDE FOR THE ENDORSEMENT OF THE STAMP ON STATE HUNTING LICENSES BY THE DEPARTMENT, AND TO PROVIDE FOR RELATED FEES, AMONG OTHER THINGS; AND TO AMEND SECTION 50-9-920, AS AMENDED, RELATING TO REVENUE GENERATED FROM THE SALE OF HUNTING LICENSES, SO AS TO PROVIDE THAT FEES REMITTED TO THE DEPARTMENT FOR EACH FEDERAL MIGRATORY HUNTING AND CONSERVATION STAMP MUST BE CREDITED TO THE FISH AND WILDLIFE PROTECTION FUND, AND TO PROVIDE FOR THE DISTRIBUTION OF THESE FEES.

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

Federal Migratory Hunting and Conservation Stamp required

SECTION 1. Article 6, Chapter 9, Title 50 of the 1976 Code is amended by adding:

"Section 50-9-630. (A) For the purposes of this section:

(1) 'Service' means the United States Fish and Wildlife Service and its' successors.

(2) 'Stamp' means a Federal Migratory Hunting and Conservation Stamp.

(B) For the privilege of hunting migratory waterfowl in this State, a hunter also shall obtain a Federal Migratory Hunting and Conservation Stamp in addition to the required state hunting license and permits. The

stamp must be endorsed as required by the United States Fish and Wildlife Service.

(C) The department may enter into an agreement or memorandum of understanding with the service to offer the stamp through the licensing system of the department. At the time of purchase, the department must endorse a purchaser's license with the name of the stamp and the period for which the endorsement is valid; provided, however, that this period of validity may not exceed forty-five days unless authorized by the agreement or memorandum of understanding.

(D)(1) The fee for a stamp purchased from the department may not exceed the stamp cost set by the service, plus the fulfillment cost set by the stamp fulfillment contractor, plus one dollar. Of these funds, the issuing sales vendor may retain one dollar. The department may remit stamp revenue and fulfillment costs as provided in the agreement or memorandum of understanding.

(2) When a stamp purchase is made and immediately fulfilled in a department office, the fulfillment fee portion may not be charged.

(E) The department only may offer the endorsement of the stamp on a state hunting license for the convenience of hunters and to encourage compliance with federal and state law. The provisions of this section may not be interpreted to diminish the original jurisdiction of the United States government over the stamp or the applicability of the stamp for hunting migratory waterfowl in this State."

Use of fees

SECTION 2. Section 50-9-920 of the 1976 Code, as last amended by Act 94 of 2013, is further amended by adding an appropriately lettered subsection at the end to read:

"(G) The fees remitted to the department for each Federal Migratory Hunting and Conservation Stamp must be credited to the Fish and Wildlife Protection Fund, and distributed as follows:

(1) one dollar to the issuing sales vendor; and

(2) the balance according to the agreement signed between the department and the United States Fish and Wildlife Service pursuant to Section 50-9-630."

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 on July 1, 2015.

Ratified the 7th day of May, 2015.

Approved the 7th day of May, 2015.

No. 43

(R32, H3443)

AN ACT TO AMEND SECTION 40-37-290, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PURCHASING, POSSESSING, ADMINISTERING, SUPPLYING, AND PRESCRIBING OF CERTAIN PHARMACEUTICAL AGENTS BY OPTOMETRISTS AND THE PROHIBITION ON SCHEDULE I AND II CONTROLLED SUBSTANCES, SO AS TO CLARIFY THAT SCHEDULE II CONTROLLED SUBSTANCES THAT HAVE BEEN RECLASSIFIED FROM SCHEDULE III TO SCHEDULE II ON OR AFTER OCTOBER 6, 2014, MAY CONTINUE TO BE PURCHASED, POSSESSED, ADMINISTERED, SUPPLIED, AND PRESCRIBED BY AN OPTOMETRIST.

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

Optometrists, prescribing of certain pharmaceutical agents, exception for certain reclassified controlled substances

SECTION 1. Section 40-37-290 of the 1976 Code is amended to read:

"Section 40-37-290. Notwithstanding any other provision of law, an optometrist may purchase, possess, administer, supply, and prescribe pharmaceutical agents, including oral and topically applied medications other than Schedule I and II controlled substances as defined in Section 44-53-110 except controlled substances that have been reclassified from Schedule III to Schedule II effective on or after October 6, 2014, may continue to be purchased, possessed, administered, supplied, and prescribed by an optometrist, for diagnostic and therapeutic purposes in the practice of optometry, except that:

(1) when prescribing oral and topically applied medications, an optometrist is limited to these oral pharmaceutical agents: antihistamines, antimicrobial, antiglaucoma, over-the-counter drugs, and analgesics for the treatment of ocular and ocular adnexal eye disease. An optometrist may only prescribe these medications for the treatment of ocular and ocular adnexal eye disease;

(2) when prescribing medications for the treatment of ocular and ocular adnexal disease, documentation in the patient's chart and appropriate consultations and referrals must be in accordance with the standard of care provided for in Section 40-37-310(E);

(3) when prescribing analgesics, the prescription must be limited to a seven-day supply;

(4) when prescribing topical steroids, if after twenty-one days of treatment it is necessary to continue this medication, the optometrist shall communicate and collaborate with an ophthalmologist;

(5) no medications may be given by injection or intravenously."

Time effective

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

Ratified the 7th day of May, 2015.

Approved the 7th day of May, 2015.

No. 44

(R33, H3464)

AN ACT TO AMEND SECTION 40-7-350, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO BARBERS AND BARBERING, SO AS TO DELETE AND REPLACE THE CURRENT LANGUAGE WITH LICENSING REQUIREMENTS FOR BARBER SCHOOLS AND BARBER SCHOOL INSTRUCTORS.

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

Barbers and barbering, licensing requirements revised

SECTION 1. Section 40-7-350 of the 1976 Code is amended to read:

"Section 40-7-350. (A) A license is required from the board to operate a barber school. A barber school may be operated in and as part of an accredited high school, career center, or technical school or college and must be licensed by the board. A barber school that is not part of a secondary school is considered a post-secondary school. The board may prescribe the curriculum of a barber school.

(B) Barber school instructors must be licensed by the board. The instructors must have successfully passed an instructor's examination as prescribed by the board and have at least three years' experience as a practicing registered barber or master hair care specialist."

Time effective

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

Ratified the 7th day of May, 2015.

Approved the 12th day of May, 2015.

No. 45

(R46, S268)

AN ACT TO AMEND SECTION 14-7-1630, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE JURISDICTION AND IMPANELING OF STATE GRAND JURIES, SO AS TO REVISE PROCEDURES REGARDING THE STATE GRAND JURY SYSTEM INCLUDING NOTIFICATION PROCEDURES WHEN A STATE GRAND JURY IS IMPANELED, TRANSFER OF INCOMPLETE INVESTIGATIONS TO A SUBSEQUENTLY IMPANELED STATE GRAND JURY, AND EXPEDITED APPEAL BY THE SUPREME COURT; TO AMEND SECTION 14-7-1650, AS AMENDED, RELATING TO THE DUTIES AND OBLIGATIONS OF THE ATTORNEY GENERAL REGARDING THE STATE GRAND JURY SYSTEM, SO AS TO PROVIDE PROCEDURES FOR RECUSAL OF THE ATTORNEY GENERAL OR ANOTHER SOLICITOR UNDER CERTAIN CIRCUMSTANCES AND TO PROVIDE PROCEDURES FOR MOTIONS TO DISQUALIFY THE ATTORNEY GENERAL OR LEGAL ADVISOR TO THE STATE GRAND JURY; TO AMEND SECTION 14-7-1660, AS AMENDED, RELATING TO THE SELECTION OF GRAND JURORS, SO AS TO MAKE CONFORMING CHANGES REGARDING PRESIDING JUDGES RATHER THAN IMPANELING JUDGES; TO AMEND SECTION 14-7-1690, AS AMENDED, RELATING TO THE GRAND JURY'S AREAS OF INQUIRY AND RELATED PROCEDURES, SO AS TO MAKE CONFORMING CHANGES REGARDING PRESIDING JUDGES RATHER THAN IMPANELING JUDGES AND PROVIDE THAT THE ATTORNEY GENERAL OR SOLICITOR MAY NOTIFY THE PRESIDING JUDGE IN WRITING THAT THE AREAS OF INQUIRY HAVE BEEN EXPANDED; TO AMEND SECTION 14-7-1720, AS AMENDED, RELATING TO SECRECY OF GRAND JURY PROCEEDINGS, SO AS TO CLARIFY MATTERS RELATED TO THE SECRECY OF GRAND JURY PROCEEDINGS AND PROCEDURES FOR THE OATH OF SECRECY; AND TO AMEND SECTION 14-7-1730, AS AMENDED, RELATING TO JURISDICTION OF PRESIDING JUDGES OF STATE GRAND JURIES, SO AS TO MAKE TECHNICAL CHANGES AND REQUIRE A BOND HEARING

FOR A PERSON INDICTED BY A STATE GRAND JURY FOR A BAILABLE OFFENSE BEFORE THE END OF THE SECOND BUSINESS DAY FOLLOWING THE DAY OF ARREST.

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

State grand jury, notification to impanel, transfer of incomplete investigations, expedited appeals

SECTION 1. Sections 14-7-1630(B)-(G) of the 1976 Code, as last amended by Act 75 of 2005, is further amended to read:

"(B) When the Attorney General and the Chief of the South Carolina Law Enforcement Division consider a state grand jury necessary to enhance the effectiveness of investigative or prosecutorial procedures, the Attorney General may notify in writing to the chief administrative judge for general sessions in the judicial circuit in which he seeks to impanel a state grand jury that a state grand jury investigation is being initiated. This judge is referred to in this article as the presiding judge. The notification must allege the type of offenses to be inquired into and, in the case of those offenses contained in subsection (A)(1), must allege that these offenses may be of a multicounty nature or have transpired or are transpiring or have significance in more than one county of the State. The notification in all instances must specify that the public interest is served by the impanelment.

(C) In all investigations of crimes specified in subsection (A)(12), except in matters where the Department of Health and Environmental Control or its officers or employees are the subjects of the investigation, the Commissioner of the Department of Health and Environmental Control must consult with and, after investigation, provide a formal written recommendation to the Attorney General and the Chief of the South Carolina Law Enforcement Division. The Attorney General and the Chief of the South Carolina Law Enforcement Division must consider the impaneling of a state grand jury necessary and the commissioner must sign a written recommendation before the Attorney General notifies the chief administrative judge pursuant to subsection (B).

(1) In the case of evidence brought to the attention of the Attorney General, the Chief of the South Carolina Law Enforcement Division, or the Department of Health and Environmental Control by an employee or former employee of the alleged violating entity, there also must be separate, credible evidence of the violation in addition to the testimony

or documents provided by the employee or former employee of the alleged violating entity.

(2) When an individual employee performs a criminal violation of the environmental laws that results in actual and substantial harm pursuant to subsection (A)(12) and which prompts an investigation authorized by this article, only the individual employee is subject to the investigation unless or until there is separate, credible evidence that the individual's employer knew of, concealed, directed, or condoned the employee's action.

(D) If the notification properly alleges inquiry into crimes within the jurisdiction of the state grand jury and the notification is otherwise in order pursuant to the requirements of this section, the presiding judge must impanel a state grand jury. State grand juries are impaneled for a term of twelve calendar months. Upon the request by the Attorney General, the then chief administrative judge for general sessions in the judicial circuit in which a state grand jury was impaneled, by order, must extend the term of that state grand jury for a period of six months but the term of that state grand jury, including an extension of the term, must not exceed two years. If at the conclusion of a state grand jury's term a particular investigation is not completed, the Attorney General may notify the presiding judge in writing that the investigation is being transferred to the subsequently impaneled state grand jury.

A decision by the presiding judge not to impanel a state grand jury after notification by the Attorney General may be appealed to the Supreme Court and shall be handled in an expedited fashion.

(E) The chief administrative judge of the circuit wherein a state grand jury is sitting shall preside over that state grand jury during his tenure as chief administrative judge. The successor chief administrative judge shall assume all duties and responsibilities with regard to a state grand jury impaneled before his term including, but not limited to, presiding over the state grand jury and ruling on petitions to extend its term.

(F) Upon the request of the Attorney General, the presiding judge may discharge a state grand jury prior to the end of its original term or an extension of the term.

(G) An order limiting or ending a state grand jury investigation only shall be granted upon a finding of arbitrary action, compelling circumstances, or serious abuses of law or procedure by or before the state grand jury, and does not become effective less than ten days after the date on which it is issued and actual notice given to the Attorney General and the foreman of the state grand jury, and may be appealed by the Attorney General or the legal advisor to the state grand jury to the Supreme Court. If an appeal from the order is made, the state grand jury,

except as is otherwise ordered by the Supreme Court, shall continue to exercise its powers pending disposition of the appeal. Appeals by the Attorney General or the legal advisor to the state grand jury of orders limiting or ending a state grand jury investigation, and appeals from orders granting or denying motions to quash or contempt citations therefrom which are immediately appealable under the law, must be handled by the South Carolina Supreme Court in an expedited fashion."

State grand jury, recusal, motions to disqualify

SECTION 2. Section 14-7-1650 of the 1976 Code, as last amended by Act 335 of 1992, is further amended to read:

"Section 14-7-1650. (A) The Attorney General or his designee shall attend sessions of a state grand jury and shall serve as its legal advisor. The Attorney General or his designee shall examine witnesses, present evidence, and draft indictments and reports upon the direction of a state grand jury.

(B) In all investigations of the crimes specified in Section 14-7-1630, except in matters where the solicitor(s) or his staff are the subject(s) of such investigation, the Attorney General shall consult with the appropriate solicitor(s) of the jurisdiction(s) where the crime or crimes occurred. After consultation, the Attorney General shall determine whether the investigation should be presented to a county grand jury or whether to initiate, under Section 14-7-1630(B), a state grand jury investigation.

(C) When the Attorney General determines that he should recuse himself from participation in a state grand jury investigation and prosecution, the Attorney General may either refer the matter to a solicitor for investigation and prosecution, or remove himself entirely from any involvement in the case and designate a prosecutor to assume his functions and duties pursuant to this article. When a solicitor determines that he should recuse himself from participation in a state grand jury matter, the Attorney General shall conduct such investigation and prosecution but the Attorney General, in his discretion, may designate another solicitor or appoint a special prosecutor not subject to a conflict to handle or assist him in the state grand jury investigation as the Attorney General deems appropriate.

(D)(1) A hearing on a motion to disqualify the Attorney General or legal advisor for the state grand jury from a state grand jury investigation shall be held in public, however the presiding judge must conduct the hearing in a manner to insure the secrecy and integrity of the

investigation. The presiding judge shall protect the identity of the person or persons being investigated to the extent practicable. In order to disqualify the Attorney General or legal advisor for the state grand jury, the presiding judge must find an actual conflict of interest resulting in actual prejudice against the moving party. If the Attorney General or legal advisor for the state grand jury or a member of the staff is disqualified then the Attorney General must refer the matter to a circuit solicitor for investigation and prosecution. If a circuit solicitor or special prosecutor, or member of their staff, is disqualified, the matter must be referred to the Office of the Attorney General for investigation or prosecution.

(2) An order to disqualify the Attorney General or legal advisor for the state grand jury from a state grand jury investigation, issued prior to the issuance of an indictment or arrest warrant, shall not become effective less than ten days after the date issued and notice is given to the opposing parties unless appealed. If an appeal from the order is made, the state grand jury and the Attorney General or legal advisor for the state grand jury, except as is otherwise ordered by the Supreme Court, shall continue to exercise their powers pending disposition of the appeal. The Supreme Court must handle all appeals from this section in an expedited manner.

(3) The state grand jury may continue with its investigation and the Attorney General or the solicitor or his designee may continue to serve as legal advisor to the state grand jury with all authority, functions, and responsibilities set forth in this article, until the final order becomes effective or upon the issuance of the final order of the Supreme Court if appealed, whichever occurs later."

State grand jury, presiding judges

SECTION 3. Section 14-7-1660 of the 1976 Code, as last amended by Act 335 of 1992, is further amended to read:

"Section 14-7-1660. (A) In the January following the effective date of this article and each January thereafter, the jury commissioners for each county shall proceed to draw at random from the jury box the name of one person for each one thousand residents or fraction thereof of the county as determined by the latest United States census but following the effective date of this article, the presiding judge may authorize an interim procedure for the selection of state grand jurors to constitute the first state grand jury established pursuant to this article. The jury commissioners shall not disqualify or excuse any individual whose name

is drawn. When the list is compiled, the clerk of court shall forward the list to the person designated as the clerk of the state grand jury by the presiding judge. Upon receipt of all the lists from the clerks of court, the clerk of the state grand jury shall draw therefrom at random a list of seven hundred eligible state grand jurors, this list to be known as the master list. The clerk of the state grand jury shall mail to every person whose name is drawn a juror qualification form, the form and the manner of qualifying potential state grand jurors to be determined by the Supreme Court. Based upon these inquiries, the presiding judge shall determine whether an individual is unqualified for, or exempt, or to be excused from jury service. The clerk of the state grand jury shall prepare annually a jury list of persons qualified to serve as state grand jurors, this list to be known as the qualified state grand jury list. No state grand juror may be excused or disqualified except in accordance with existing law.

(B) Upon the presiding judge ordering a term of a state grand jury upon notification of initiation of a state grand jury investigation by the Attorney General, the clerk of the state grand jury, upon the random drawing of the names of sixty persons from the qualified jury list, shall summon these individuals to attend the jury selection process for the state grand jury. The jury selection process must be conducted by the presiding judge. The clerk of the state grand jury shall issue his writ of venire facias for these persons, requiring their attendance at the time designated. The writ of venire facias must be delivered immediately to the sheriff of the county where the person resides and served as provided by law. From the sixty persons so summoned, a state grand jury for that term of eighteen persons plus four alternates must be drawn in the same manner as jurors are drawn for service on the county grand jury. Nothing in this section may be construed to limit the right of the Attorney General or his designee to request that a potential state grand juror be excused for cause. Jurors of a state grand jury shall receive a daily subsistence expense equal to the maximum allowable for the Columbia, South Carolina area, by regulation of the Internal Revenue Code when summoned or serving, and also must be paid the same per diem and mileage as are members of state boards, commissions, and committees."

State grand jury, presiding judges, notification of expansion of areas of inquiry

SECTION 4. Section 14-7-1690 of the 1976 Code, as last amended by Act 335 of 1992, is further amended to read:

"Section 14-7-1690. Once a state grand jury has entered into a term, the Attorney General or solicitor, in the appropriate case, may notify the presiding judge in writing as often as is necessary and appropriate that the state grand jury's areas of inquiry have been expanded or additional areas of inquiry have been added thereto."

State grand jury, secrecy provisions

SECTION 5. Section 14-7-1720 of the 1976 Code, as last amended by Act 335 of 1992, is further amended to read:

"Section 14-7-1720. (A) State grand jury proceedings are secret, and a state grand juror shall not disclose the nature or substance of the deliberations or vote of the state grand jury. The only persons who may be present in the state grand jury room when a state grand jury is in session, except for deliberations and voting, are the state grand jurors, the Attorney General or his designee, the court reporter, an interpreter if necessary, and the witness testifying. A state grand juror, the Attorney General or his designee, any interpreter used, the court reporter, and any person to whom disclosure is made pursuant to subsection (B)(2) of this section may not disclose the testimony of a witness examined before a state grand jury or other evidence received by it except when directed by a court for the purpose of:

(1) ascertaining whether it is consistent with the testimony given by the witness before the court in any subsequent criminal proceeding;

(2) determining whether the witness is guilty of perjury;

(3) assisting local, state, other state or federal law enforcement or investigating agencies, including another grand jury, in investigating crimes under their investigative jurisdiction;

(4) providing the defendant the materials to which he is entitled pursuant to Section 14-7-1700;

(5) complying with constitutional, statutory, or other legal requirements or to further justice.

If the court orders disclosure of matters occurring before a state grand jury, the disclosure must be made in that manner, at that time, and under those conditions as the court directs. The court must grant a request made by the Attorney General pursuant to this subsection in an expedited manner so as to not interfere with or delay the operation of the state grand jury or its legal advisor when the requested disclosure is authorized by this subsection.

(B) In addition, disclosure of testimony of a witness examined before a state grand jury or other evidence received by it may be made without being directed by a court to:

(1) the Attorney General or his designee for use in the performance of their duties; and

(2) those governmental personnel, including personnel of the State or its political subdivisions, as are considered necessary by the Attorney General or his designee to assist in the performance of their duties to enforce the criminal laws of the State; provided that any person to whom matters are disclosed under this item shall not utilize that state grand jury material for purposes other than assisting the Attorney General or his designee in the performance of their duties to enforce the criminal laws of the State. The Attorney General or his designee promptly shall provide the presiding judge before whom was impaneled the state grand jury whose material has been disclosed, the names of the persons to whom the disclosure has been made, and shall certify that he has advised these persons of their obligation of secrecy under this section.

(C) Nothing in this section affects the attorney-client relationship. A client has the right to communicate to his attorney any testimony given by the client to a state grand jury, any matters involving the client discussed in the client's presence before a state grand jury, and evidence involving the client received by or proffered to a state grand jury in the client's presence.

(D) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be punished by a fine not exceeding five thousand dollars or by a term of imprisonment not exceeding one year, or both.

(E) State grand jurors, the Attorney General or his designee, the court reporter, any interpreter used, and the clerk of the state grand jury must be sworn to secrecy and also may be punished for criminal contempt for violations of this section. Once he is sworn to secrecy, the clerk of the state grand jury is authorized, only if requested by the Attorney General or his designee, to give the oath of secrecy to members of the Attorney General's staff; experts or other individuals contracted by the Attorney General or law enforcement for assistance in a state grand jury investigation; federal, state, or local prosecutors and their staff; and federal, state, or local law enforcement officers and their staff. Once he is sworn, the clerk of the state grand jury is authorized at any time to give the oath of secrecy to members of his own staff or to the court reporter."

State grand jury, bond hearing requirements

SECTION 6. Section 14-7-1730 of the 1976 Code, as last amended by Act 335 of 1992, is further amended to read:

"Section 14-7-1730. (A) Except for the prosecution of cases arising from indictments issued by the state grand jury, and subject to the provisions and standards provided in Sections 14-7-1630 and 14-7-1650, the presiding judge has jurisdiction to hear all matters arising from the proceedings of a state grand jury, including, but not limited to, matters relating to the impanelment or removal of state grand jurors, the quashing of subpoenas, the punishment for contempt, and the matter of bail for persons indicted by a state grand jury.

(B) A person indicted by a state grand jury for a bailable offense must have a bond hearing before the end of the second business day following the day he was arrested in the State of South Carolina for that offense or the day he was delivered within the State of South Carolina following extradition for that offense from another State or jurisdiction, and must be released within a reasonable time, not to exceed four hours, after the bond is delivered to the incarcerating facility. If the presiding judge or acting presiding judge is not available, the initial bond hearing following arrest for a state grand jury indictment may be conducted by any circuit judge of competent jurisdiction in the county where the grand jury was impaneled. A 'business day' pursuant to this subsection is any day in which the county courthouse is open in the county where the grand jury was impaneled."

Time effective

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

Ratified the 28th day of May, 2015.

Approved the 3rd day of June, 2015.

No. 46

(R48, S350)

AN ACT TO AMEND SECTION 4 OF ACT 314 OF 2000, AS AMENDED, RELATING TO COMMUNITY DEVELOPMENT CORPORATIONS AND FINANCIAL INSTITUTIONS, SO AS TO TERMINATE THE PROVISIONS OF THE SOUTH CAROLINA COMMUNITY ECONOMIC DEVELOPMENT ACT ON JUNE 30, 2020.

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

Provisions of the Community Economic Development Act extended

SECTION 1. Section 4 of Act 314 of 2000, as last amended by Act 248 of 2010, is further amended to read:

"SECTION 4. Unless reauthorized by the General Assembly, the provisions of this act shall terminate on June 30, 2020, and this act and all other laws and regulations governing, authorizing, and otherwise dealing with community development corporations and community development financial institutions are deemed repealed on that date."

Time effective

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

Ratified the 28th day of May, 2015.

Approved the 3rd day of June, 2015.

No. 47

(R59, S666)

AN ACT TO AMEND SECTION 38-39-70, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MATTERS THAT MAY BE INCLUDED IN INSURANCE PREMIUM SERVICE AGREEMENTS, SO AS TO PROVIDE THESE AGREEMENTS

ALSO MAY INCLUDE INTEREST ON MITIGATION LOANS AS APPROVED BY THE DIRECTOR OF THE DEPARTMENT OF INSURANCE OR HIS DESIGNEE AND TO PROVIDE INTEREST CHARGES RELATED TO MITIGATION PROJECTS OR LOANS MUST BE LIMITED TO THE STATUTORY LEGAL RATE OF INTEREST; AND TO AMEND SECTION 38-39-80, RELATING TO ACTIVITIES PROHIBITED OF INSURANCE PREMIUM SERVICE COMPANIES, SO AS TO PROVIDE INSURANCE PREMIUM SERVICE COMPANIES MAY NOT WRITE INSURANCE OR SELL OTHER SERVICES OR COMMODITIES IN CONNECTION WITH A PREMIUM SERVICE AGREEMENT EXCEPT AS APPROVED BY THE DIRECTOR OR HIS DESIGNEE FOR MITIGATION PURPOSES.

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

Inclusion of mitigation loan interest on premium service agreements

SECTION 1. Section 38-39-70(c) of the 1976 Code is amended to read:

"(c) A premium service contract may include policy premiums, policy fees, agent commissions and fees, premium taxes, inspection fees, charges for motor vehicle (driving record) or property charges and claims history reports, and other automobile related services. All amounts must be disclosed on the premium service agreement. It also may include interest on mitigation loans as approved by the director or his designee. Any interest charges related to mitigation projects or loans must be limited to the legal rate of interest as set forth in Section 34-31-20(B)."

Prohibited activities, exceptions

SECTION 2. Section 38-39-80(a) of the 1976 Code is amended to read:

"(a) A premium service company may not write any insurance or sell any other service or commodity in connection with a premium service contract, except as approved by the director or his designee for mitigation purposes."

Time effective

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

Ratified the 28th day of May, 2015.

Approved the 3rd day of June, 2015.

No. 48

(R62, H3304)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 12 TO CHAPTER 23, TITLE 4 SO AS TO CREATE THE LANDRUM FIRE AND RESCUE DISTRICT IN GREENVILLE AND SPARTANBURG COUNTIES, TO ESTABLISH A GOVERNING COMMISSION, AND TO PRESCRIBE THE FUNCTIONS AND POWERS OF THE COMMISSION.

Whereas, the City of Landrum has provided fire protection services for over twenty years to its residents and to the residents of the Landrum Community Fire Service Area pursuant to a contract with the Spartanburg County Council and to the residents of a portion of the Foothills Fire Service Area pursuant to a contract with Greenville County; and

Whereas, the majority of the people receiving fire protection services from the City of Landrum, the "service recipients", have no voice in how these services are provided; and

Whereas, the General Assembly of the State of South Carolina finds that the best way to give the service recipients a voice in the provision of fire protection services is to create a special purpose district that will include the service recipients; and

Whereas, the General Assembly of the State of South Carolina finds that the creation of a special purpose district that will include the service recipients would have other significant benefits, including improved fire and medical first-responder services; and

Whereas, the General Assembly of the State of South Carolina finds that improved first-responder services have significant benefits for property owners, including the possibility of decreased insurance premiums; and

Whereas, the General Assembly of the State of South Carolina finds that the geography of the area, specifically the northern parts of Greenville and Spartanburg counties, lends itself to the creation of a special purpose district. Now, therefore,

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

Landrum Fire and Rescue District in Greenville and Spartanburg counties created

SECTION 1. Chapter 23, Title 4 of the 1976 Code is amended by adding:

"Article 12

Landrum Fire and Rescue District in
Greenville and Spartanburg Counties

Section 4-23-1200. (A) There is created and established in Greenville and Spartanburg Counties a multicounty special purpose district to be known as 'Landrum Area Fire and Rescue District' (district). The district shall consist of areas of Greenville and Spartanburg Counties, which are more specifically described in subsection (B). The Spartanburg County Council and the Greenville County Council are authorized to enlarge, diminish, or alter the boundaries of the district located within their respective counties pursuant to the provisions of Article 3, Chapter 11, Title 6.

(B) The district is defined as an area consisting of the following three regions:

(1) the region within the corporate limits of the City of Landrum in Spartanburg County (Region 1);

(2) the region surrounding the City of Landrum designated as the Landrum Community Fire Service Area by Resolution No. 836, adopted by Spartanburg County Council on November 28, 1990, (Region 2) described as:

'Beginning at a point where existing Gowensville Fire Department intersects the Spartanburg-Greenville County line (northern most point);

thence following the Spartanburg-Greenville County line in a northern direction approximately three miles to its intersection with the Polk County N.C. line; thence following the Spartanburg-Polk County line in an eastern direction approximately five miles to its intersection with County Road #940 (Pacolet Road) (existing New Prospect Fire District); thence following North Pacolet Road in a southwestern direction approximately one mile to its intersection with Landrum Mill Road (County Road #936); thence following Landrum Mill Road for approximately three and one-half miles to its intersection with Miracle Farm Road; thence following said road for approximately one hundred feet to its intersection with Howard Road (County Road #2010); thence following Howard Road in a southwestern direction for approximately one mile to its intersection with State Highway 176; thence following State Highway 176 in a southern direction for approximately twenty-five feet to its intersection with State Road 209; thence following State Road 209 in a southern direction for approximately one mile to its intersection with State Road 183; thence following State Road 183 in a northern direction for approximately one mile to its intersection with State Road 208; thence following State Road 208 in a southwestern direction for approximately one-half mile to its intersection with existing Gowensville Fire District, the point of ending'; and

(3) a region equal to approximately twenty-two percent of that area in Greenville County currently designated as the Foothills Fire Service Area by Ordinance No. 2268 enacted by Greenville County Council on June 18, 1991, (Region 3), and shown on a map identified as F-45-83-15-Landrum that is maintained by the Revenue and Fiscal Affairs Office.

(C) The assets used by the City of Landrum to provide fire protection and other first-responder services to Regions 1, 2, and 3 must be transferred to the district and used by the district to provide fire protection and other first-responder services to Regions 1, 2, and 3. Any liabilities of the City of Landrum related to or arising from the provision of fire services also must be transferred to the district.

Section 4-23-1210. (A) The district must be governed by a commission to be known as the Landrum Fire and Rescue District Commission (commission). The commission shall consist of five resident electors of the district, two residing in Region 1, two residing in Region 2, and one residing in Region 3; however, upon the effective date of this act and prior to the election of commissioners, the City Council of the City of Landrum shall appoint two commissioners, the County Council of Spartanburg County shall appoint two commissioners, and

the members of the Board of Directors of Foothills Fire Service Area Board shall appoint one commissioner, with each commissioner serving until his or her successor is elected and qualifies.

(B) After the original appointments, a nonpartisan election must be conducted by the Greenville and Spartanburg County Boards of Voter Registration and Elections on the first Tuesday following the first Monday in November of the first odd-numbered year after the effective date of this act. The county boards of voter registration and elections shall give notice by publication ninety days prior to the election and a second notice two weeks after the first notice, in one or more newspapers of general circulation in the district. The terms of the commissioners who receive the highest number of votes from Regions 1 and 2 and the term of the commissioner from Region 3 shall expire on December thirty-first of the fourth full year following the election. The terms of the remaining commissioners shall expire on December thirty-first of the second full year following the election. After these terms expire, each successor commissioner's term must be four years, and each successor commissioner must be elected during the general election in November prior to the expiration of a commissioner's term. These terms shall commence on the first day of January in the year following the election.

(C) A vacancy occurring on the commission by reason of death, resignation, incapacity, or otherwise, must be filled for the remainder of the unexpired term by the Governor upon recommendation by the members of the South Carolina Senate and House of Representatives who represent the district. Upon a commissioner moving his legal residence out of the appropriate district region, dying, or resigning, that commissioner's position automatically becomes vacant.

(D) A resident qualified elector of the district may be a candidate for election to the position of commissioner by filing with the county board of voter registration and elections of the county in which he resides at least ninety days prior to the election.

Section 4-23-1220. There is committed to the district the functions of constructing, operating, equipping, maintaining, improving and extending a fire protection and fire control district and the functions of providing other first-responder services to promote the general safety of the district. To that end, the commission must be empowered to:

(1) have perpetual succession;
(2) sue and be sued;
(3) adopt, use, and alter a corporate seal;
(4) make bylaws for the management and regulations of its affairs;

(5) acquire, purchase, hold, use, lease, mortgage, sell, transfer, and dispose of any property, real, personal or mixed, or interest in any real, personal or mixed property, and to acquire easements or other property rights necessary for the operation of its stated functions;

(6) appoint officers and agents, and employ paid employees and servants, as well as volunteers, and to prescribe the duties of each of these, fix their compensation, if any, and determine if and to what extent they must be bonded for the faithful performance of their duties, and to establish employment policies;

(7) adopt appropriately competitive policies of procurement suited for the particular needs of the district, as required by Section 11-35-50;

(8) solicit proposals or bids for and enter into contracts for construction and equipment purchases in accordance with procurement procedures; however, engineering, land surveying, and architectural services must be procured based on qualifications, as required by state law, rather than through competitive bidding;

(9) purchase fire-fighting and other first-responder equipment the commission considers necessary for controlling fires and furnishing fire protection and first-responder services in the district;

(10) select the sites or places within the area where the fire-fighting and other equipment is kept;

(11) provide sufficient personnel or volunteers necessary to man the equipment;

(12) provide and supervise the training of all personnel used in manning the equipment with the end that the equipment is fully utilized for the protection and control of fire and the provision of first-responder services within the district;

(13) be responsible for the upkeep, maintenance and repairs of the trucks and other equipment, and to make regular inspections of all equipment and operations;

(14) promulgate regulations it may consider necessary and proper to insure that the equipment is utilized for the best advantage of the area;

(15) construct, if necessary, buildings to house the equipment provided for in this section;

(16) issue general obligation bonds of the district in the manner and up to the limits provided by Article X, Section 14 of the South Carolina Constitution, 1895, the proceeds of which must be used to defray the costs of constructing and establishing a fire protection and control system in the district and the costs of providing first-responder services in the district. For purposes of this section, the term ‘construct and establish’ includes the cost of direct construction, the cost of all land, property, rights, easements, and franchises acquired that are considered

necessary for this fire protection system, the cost of all machinery, equipment, and apparatus needed for this system, payment to contractors, laborers, or others for work done or material furnished, financing charges, interest prior to and during construction and for six months after completion of construction, cost of engineering services, legal services, legal expenses, plans, specifications, surveys, administrative expenses and other expenses necessary or incidental to the construction of a fire control or fire protection system, and the placing of this system in operation. If bonds are issued pursuant to this item:

(a) They must be issued as a single issue, or from time to time, as several separate issues. They shall bear the date or dates the commission determines and the bonds of an issue shall mature in equal or unequal annual installments determined by the commission. They must be made payable at a place or places the commission prescribes and shall bear interest at a rate or rates payable in the manner the commission determines. The bonds may be registered with the privilege to the holder of having them registered as to principal on the books of the treasurers of Greenville and Spartanburg counties and the principal on them made payable to the registered holder, unless the last registered transfer shall have been to bearer, upon conditions the commission may prescribe. A bond issued pursuant to this subitem may be made subject to redemption prior to its stated maturity on the terms and conditions and with a redemption premium the commission prescribes.

(b) They must be sold at not less than par and accrued interest to the date of their respective deliveries at public sale and, at least thirty days prior to a sale, notice announcing the intention to receive bids for the sale of these bonds must be published in a newspaper of general circulation in the State of South Carolina. In offering the bonds for sale, the commission reserves the right to reject any and all bids, and if all bids are rejected, the commission may negotiate privately for the disposition of these bonds.

(c) These bonds and all interest to become due on them shall have the tax exempt status prescribed by Section 12-2-50.

(d) These bonds must be executed in the name of 'Landrum Fire and Rescue District' by the Chairman of the Landrum Fire and Rescue District Commission and authenticated by the treasurers of Greenville and Spartanburg counties and under the seal of the district. The delivery of any bonds so executed and authenticated must be valid, notwithstanding any changes in offices occurring after the execution or authentication.

(e) There must be irrevocably pledged for the payment of the bonds and interest, as they mature, the full faith, credit, and resources of the district, and the auditors and treasurers of Greenville and Spartanburg counties are authorized and directed to annually levy and collect a tax upon all taxable property within the district sufficient to pay the bonds and interest as they respectively mature, and to create a sinking fund as necessary for the redemption of the bonds and interest at their respective maturities. The bonds additionally may be secured by a pledge of the net revenues that the district may derive from the operation of a revenue-producing facility. In that event, net revenues available must be delivered to the treasurers of Greenville and Spartanburg counties prior to the occasion when the auditors fix the annual levy. The annual ad valorem tax in this section directed to be levied may be reduced each year by the amount of net revenues actually in the hands of the treasurers of Greenville and Spartanburg counties at the time the tax for that year is required to be levied, and the tax may be entirely suspended for any year in case the monies on hand, applicable as aforesaid, are sufficient to pay both principal and interest then due or falling due in that year and remaining unpaid.

(f) The pledge of net revenues authorized by subitem (e), in the discretion of the commission, need not be exclusive and the commission may reserve the right to issue further bonds, payable in whole or in part, from these net revenues, on a parity with the bonds authorized by this subitem under conditions the commission prescribes.

(g) The proceeds derived from the sale of these bonds must be deposited with the treasurers of Greenville and Spartanburg counties in a separate and special fund and must be expended upon the warrants and orders of the commission for the purpose specified in this act, and no others except that any premium received must be deposited with the treasurers of Greenville and Spartanburg counties and applied by them to the first installment of principal becoming due on the bonds, and any accrued interest received must be applied by the treasurers of Greenville and Spartanburg counties to the first installment of interest becoming due on the bonds. Neither the purchasers of the bonds, nor any subsequent holders of the bonds, are responsible for the proper application of the proceeds of sale.

(h) The issuance of these bonds is exempt from the requirements contained in Article 5, Chapter 11, Title 6.

(17) raise funds for discharging the duties vested in it by levying a property tax for that purpose. The commission may levy for operating purposes without the approval of any additional governing boards or bodies. The commission shall notify the auditors and treasurers of

Greenville and Spartanburg counties of any desired property tax necessary to fund the annual budget. That tax must be uniformly imposed throughout the district. The auditors shall assess and collect the tax as requested, and the treasurers shall hold the funds and disburse them as directed by the commission. All property taxes shall constitute a lien upon the property against which they are levied, on a parity with the lien of county taxes, and the provisions of law relating to penalties for the nonpayment or tardy payment of county taxes, and the provisions relating to sale of property for delinquent county taxes shall apply to taxes levied pursuant to this act;

(18) exercise the power of eminent domain as provided by the laws of this State to acquire any land, any easement, or any right of way for an authorized public purpose; and

(19) do all other acts necessary or convenient to carry out a function or power granted to the district.

Section 4-23-1230. All revenues derived by the commission from the operation of a revenue-producing facility, which may not be required to discharge covenants made by it in issuing bonds, notes, or other obligations authorized by this act, must be utilized by the commission from time to time for the public purposes of the district.

Section 4-23-1240. The rates charged for services furnished by a revenue-producing facility of the district, as constructed, improved, enlarged or extended, are not subject to supervision or regulation by a state bureau, board, commission or other like instrumentality or agency of the State.

Section 4-23-1250. The property and income of the district is exempt from all taxes levied by the State, county, or any municipality, division, subdivision or agency of them, direct or indirect.

Section 4-23-1260. So long as the district is indebted to a person on any bonds, notes or other obligations issued pursuant to the authority of this act, the provisions of this act and the powers granted to the district and the commission are not in any way diminished or restricted, and this provision of this act is considered a part of the contract between the district and the holders of these obligations.

Section 4-23-1270. The fire chief or equivalent official of the truck companies to which equipment is assigned shall have complete

supervision over its usage and operation, and it is his responsibility to insure that the equipment is readily available for use at all times.

Section 4-23-1280. All members of the truck companies of the district, whether employees or volunteers, may direct and control traffic at the scene of a fire in the area of the district and enforce the laws of this State relating to the following of fire apparatus, the crossing of a fire hose, and interfering with firemen in the discharge of their duties in connection with a fire in the same manner as provided for the enforcement of these laws by law enforcement officers.

Section 4-23-1290. It is unlawful for a person to wilfully destroy or damage a facility of the district or equipment used in the operation of a facility, to interfere with a member of a fire department in the discharge of his duties in the district, or to interfere with a fire apparatus used by the fire department in the district. A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, may be fined or imprisoned in an amount or for a term not exceeding the maximum penalty for an offense within the jurisdiction of the magistrates courts, unless a lesser penalty is established by state law."

Time effective

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

Ratified the 28th day of May, 2015.

Approved the 3rd day of June, 2015.

No. 49

(R77, H4135)

AN ACT TO AMEND ARTICLE 18, CHAPTER 53, TITLE 59, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE GREENVILLE TECHNICAL COLLEGE AREA COMMISSION, SO AS TO REVISE THE MANNER IN WHICH MEMBERS OF THE COMMISSION ARE SELECTED, TO REVISE THE TERMS OF OFFICE OF CERTAIN MEMBERS OF THE COMMISSION AND THE SEATS WHICH CERTAIN

MEMBERS OF THE COMMISSION ARE DEEMED TO BE FILLING, AND TO REVISE OR PROVIDE FOR OTHER PROVISIONS RELATING TO THE SELECTION OF COMMISSION MEMBERS.

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

Governing commission revisions

SECTION 1. Article 18, Chapter 53, Title 59 of the 1976 Code is amended to read:

"Article 18

Greenville Technical College Area Commission

Section 59-53-1500. (A) There is created the Greenville Technical College Area Commission which is a body politic and corporate and the governing body of Greenville Technical College. The commission consists of twelve voting members or area commissioners appointed by the Greenville County Legislative Delegation in the manner provided in this section.

(B) All members must be qualified electors of Greenville County. Each member filling a house district residency seat, as provided for in this section, at the time of their appointment and throughout their term of office, shall reside in a house district corresponding to their membership seat. A change of residency outside of Greenville County, or outside of a corresponding district for members filling house district residency seats, automatically terminates that member's appointment, although, subject to the provisions of subsection (E), the member may serve until a successor is appointed and qualifies to fill the remainder of the unexpired term.

(C) The commission shall have six members designated as occupying house district residency seats which, unless otherwise stipulated, must be filled as provided in this subsection. The members of the House of Representatives from each of the House single-member election districts in a particular house residency district, together with any member of the Senate representing any portion of these House single-member election districts in that particular house residency district, shall recommend a nominee for that seat to the full Greenville County Legislative Delegation which shall either select and appoint that nominee to the commission or reject the nominee. In this case another nominee must be

recommended by the same process to the full county legislative delegation until the seat is filled. These six house district residency seats are as follows:

(1) Residency Seat No. 1: one member selected from House District 10, 17, or 19. Present Commissioner Blakely serving in office on the effective date of this provision is deemed to be the member filling Residency Seat No. 1;

(2) Residency Seat No. 2: one member selected from House District 16, 21, or 35;

(3) Residency Seat No. 3: one member selected from House District 22 or 24. Present Commissioner Shouse now serving as an at-large member Seat No. 4 on the effective date of this provision is deemed to be the member filling Residency Seat No. 3;

(4) Residency Seat No. 4: one member selected from House District 23 or 25;

(5) Residency Seat No. 5: one member selected from House District 18, 20, or 36. Present Commissioner Hamilton serving on the effective date of this provision is deemed to be the member filling Residency Seat No. 5; and

(6) Residency Seat No. 6: one member selected from House District 27 or 28.

Members of the commission residing in these specified house districts not serving as at-large members are deemed to be the house district residency seat members from those districts unless otherwise provided.

(D) The commission shall have six at-large members selected by the Greenville County Legislative Delegation as follows:

(1) four at-large members which unless otherwise stipulated, must be nominated by the Greenville County Council. Each of these four at-large seats must be numbered as Seats 1-4, respectively;

(2) one at-large member nominated by the Greenville County School District Board of Trustees from among the Greenville County School District Board of Trustees, including the superintendent; and

(3) one at-large member nominated by the Greenville County Workforce Investment Board, including the president, from among the members of the board including its officers.

Any public officials selected for the school board and Workforce Investment Board seats shall serve ex officio as voting members.

Members are responsible to all areas served by the Greenville Technical College regardless of residency and shall make decisions in the best interests of the Greenville Technical College and all those it serves as a whole. The commission shall elect from among its members

a chairman, vice chairman, secretary, and treasurer. Members shall serve without compensation.

(E) Commission members shall serve terms of four years, which expire May thirty-first of the appropriate year, and until their successors are appointed and qualify. A member shall serve until his successor is appointed and qualifies for a period not to exceed one year after expiration of his term. If the Greenville County Legislative Delegation has not filled a seat within one year of the expiration of the term, the member serving in that seat shall cease serving and the seat is vacant until filled. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term.

(F) A commissioner having served as a member of the commission for a total of twelve years, after the effective date of this subsection, and whether or not consecutive or in different seats, is not eligible for appointment to any additional terms until after he has been off the commission for six consecutive years, at which time, a new twelve-year limitation period commences.

(G) For the purpose of facilitating the transition to this modified commission structure, upon the effective date of this subsection:

(a) the house district residency seats are considered filled as set forth in subsection (C);

(b) the current commissioners filling the school board and Workforce Investment Board-related seats shall fill their respective newly reconstituted subject matter seats; and

(c) the four current remaining commissioners shall become the four at-large members in Seats 1-4 as follows:

(1) current Commissioner Johnson is deemed to fill at-large Seat No. 1;

(2) on the effective date of this provision, due to the death of former Commissioner Erhmann who served as the at-large member, Seat No. 2, at-large Seat No. 2 is vacant which shall be filled as provided in this article;

(3) current Commissioner Stafford is deemed to fill at-large Seat No. 3; and

(4) present Commissioner Southerlin on the effective date of this provision is deemed to be the at-large member, Seat No. 4.

Thereafter, all commission members must be selected as otherwise set forth in subsections (A) - (F) and (H) - (J) and their terms of office must be staggered and modified as follows:

(1) Block 1: The terms of office for commissioner seats falling within Block 1 initially expire on May 31, 2014, and then expire every four years thereafter. Block 1 shall include:

(a) the at-large member nominated from the Greenville County School District Board of Trustees;

(b) the at-large member nominated from the Workforce Investment Board; and

(c) Residency Seat No. 1.

(2) Block 2: The terms of office for commissioner seats falling within Block 2 initially expire on May 31, 2015, and then expire every four years thereafter. Block 2 shall include:

(a) the at-large member from at-large Seat No. 1;

(b) Residency Seat No. 2; and

(c) Residency Seat No. 5.

(3) Block 3: The terms of office for commissioner seats falling within Block 3 initially expire on May 31, 2016, and then expire every four years thereafter. Block 3 shall include:

(a) the two at-large members from at-large Seats No. 2 and No. 3; and

(b) Residency Seat No. 4.

(4) Block 4: The terms of office for commissioner seats falling within Block 4 initially expire on May 31, 2017, and then expire every four years thereafter. Block 4 shall include:

(a) the at-large member from at-large Seat No. 4;

(b) Residency Seat No. 3; and

(c) Residency Seat No. 6.

(H) The absence of a member at three consecutive regularly scheduled commission meetings shall cause that member's seat to become immediately vacant. Any regularly scheduled meeting which is canceled pursuant to the bylaws or does not begin for lack of a quorum must be disregarded for all purposes under this subsection. Vacancies occurring under this subsection must be filled in the manner of the original appointment for the unexpired portion of the term. If otherwise eligible, the member causing the vacancy may be reappointed to the seat.

(I) The nominating procedures for appointment of area commissioners are as follows:

(1) The legislative delegation shall publicize vacancies, and recommendations may be made to the commission from any individual, organization, or group. Notwithstanding this provision, the Greenville County Legislative Delegation may reappoint a member who completes an unexpired portion of a prior term of less than two years without soliciting or accepting any nominations. The legislative delegation may appoint the nominee of the county council for a particular seat or may reject the nominee, in which case an additional nominee must be

submitted by the county council in the manner provided by this article until the vacancy is filled.

(2) All recommendations, nominations, and appointments to the commission must be nondiscriminatory and shall take into account diversity and other pertinent qualifications as may be beneficial to constituting a commission which is mindful of the needs of all segments of the population of Greenville County and those served by Greenville Technical College.

(3) The Greenville County School District Board of Trustees and the Greenville County Workforce Investment Board shall submit a nominee to the Greenville County Legislative Delegation to fill vacancies in their respective proxy seats. The Greenville County Council shall submit a nominee to the Greenville County Legislative Delegation for all seat vacancies for which it submits a nominee.

(J) Whenever the South Carolina House of Representatives election districts are redrawn and become effective, the boundaries of the house district residency seats are automatically redrawn to match the new house districts. Redistricting does not affect the term of any commissioner appointed before the effective date of redistricting. If any new house districts are added to Greenville County or include portions of Greenville County, then one of the four at-large seats nominated by the Greenville County Council must be filled upon the expiration of the current member's term with a member residing in one of the new house districts until such time as the residency seats are amended to include the new house districts. If redistricting renames or renumbers a district, it continues to be included within the residency seat boundaries under its prior number. If disagreement arises as to whether a house district is new or renamed for the purpose of this subsection, it must be resolved by majority vote of the Greenville County Legislative Delegation.

(K) The commission shall:

(1) establish the basic qualifications for and appoint a president for the term and under the conditions as it may fix, the commission having full powers of appointment and dismissal to the fullest extent permitted by law and applicable regulations;

(2) provide for the employment of personnel pursuant to Section 59-53-20;

(3) purchase land required for college sites and rights of way which are necessary for the proper operation of the college;

(4) apply the standards and requirements for admission and graduation of students and other standards established by the State Board for Technical and Comprehensive Education;

(5) receive and accept private donations, gifts, bequests, and the like to apply them or invest any of them and apply the proceeds for the purposes and upon the terms which the donor may prescribe and which are consistent with the provisions of law and the regulations of the State Board for Technical and Comprehensive Education;

(6) require the execution of studies and take steps as are necessary to ensure that the functions of the college are always those which are most helpful and feasible in light of the resources available to the school;

(7) designate members or other agents or representatives to represent the college before the Greenville County Council, the State Board for Technical and Comprehensive Education, and other agencies concerned with the serving of financial support for the needs of the college for operational expenses and capital outlay;

(8) adopt and recommend current expense and capital outlay budgets;

(9) perform acts and do other things as may be necessary or proper for the exercise of the foregoing specific powers, including the adoption and enforcement of reasonable rules, regulations, and bylaws for the government and operation of the college under law and for the discipline of students;

(10) perform functions required as necessary for the proper governance of the college with regard to policy, personnel, and fiduciary matters.

Section 59-53-1510. The commission at all times shall keep a full and accurate account of its acts and of its receipts and expenditures, and at least once within four months, following the close of its fiscal year, a complete audit of its affairs must be made by a qualified public accountant. Copies of the audit must be filed with the Clerk of Court for Greenville County and with the Secretary of the Greenville County Legislative Delegation.

Section 59-53-1520. Not less frequently than annually the commission shall make a written report of the activities of the commission and file a copy with the Secretary of the Greenville County Legislative Delegation."

Time effective

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

Ratified the 28th day of May, 2015.

Approved the 3rd day of June, 2015.

No. 50

(R81, S261)

AN ACT TO AMEND SECTION 59-111-320, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROVISIONS ALLOWING PERSONS AGE SIXTY AND OVER TO ATTEND STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION WITHOUT PAYMENT OF TUITION, SO AS TO REMOVE CRITERIA PROVIDING THESE PERSONS MAY RECEIVE NO COMPENSATION AS FULL-TIME EMPLOYEES.

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

Criteria, prohibition compensation on full-time employment removed

SECTION 1. Section 59-111-320 of the 1976 Code is amended to read:

"Section 59-111-320. State-supported colleges and universities, and institutions under the jurisdiction of the State Board for Technical and Comprehensive Education, are authorized to permit legal residents of South Carolina who have attained the age of sixty to attend classes for credit or noncredit purposes on a space available basis without the required payment of tuition, if these persons meet admission and other standards deemed appropriate by the college, university, or institution."

Time effective

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

Ratified the 2nd day of June, 2015.

Approved the 3rd day of June, 2015.

No. 51

(R82, S301)

AN ACT TO AMEND SECTION 40-2-10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA BOARD OF ACCOUNTANCY, SO AS TO REVISE THE BOARD'S COMPOSITION; TO AMEND SECTION 40-2-20, RELATING TO DEFINITIONS CONCERNING THE PRACTICE OF ACCOUNTANCY, SO AS TO REVISE CERTAIN DEFINITIONS; TO AMEND SECTION 40-2-30, AS AMENDED, RELATING TO ACTIVITIES REQUIRING LICENSURE OR FIRM REGISTRATION, SO AS TO REPLACE A REFERENCE TO THE TERM "FINANCIAL STATEMENTS" WITH THE WORD "INFORMATION" AND TO ADD AN APPROPRIATE CROSS-REFERENCE; TO AMEND SECTION 40-2-35, RELATING TO CERTIFIED PUBLIC ACCOUNTANT LICENSURE REQUIREMENTS, SO AS TO REQUIRE APPLICANTS TO UNDERGO CERTAIN STATE AND FEDERAL CRIMINAL RECORDS CHECKS, TO REQUIRE CONTINUING EDUCATION OR ADDITIONAL EXPERIENCE, AS APPLICABLE, FOR APPLICANTS WHO DELAY SUBMITTING AN APPLICATION FOR A SUBSTANTIAL PERIOD OF TIME AFTER PASSING THE CERTIFIED PUBLIC ACCOUNTING EXAMINATION OR OBTAINING ACCOUNTING EXPERIENCE, AND TO PROVIDE A NECESSARY DEFINITION; TO AMEND SECTION 40-2-40, RELATING TO QUALIFICATIONS FOR REGISTRATION OF CERTIFIED PUBLIC ACCOUNTING FIRMS, SO AS TO PROVIDE THAT A SIMPLE MAJORITY OF THE FIRM OWNERSHIP MUST BE CERTIFIED PUBLIC ACCOUNTANTS, TO PROVIDE QUALIFICATIONS AND CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS FOR NONCERTIFIED PUBLIC ACCOUNTANT FIRM OWNERS, TO DELETE PROHIBITIONS AGAINST OWNERSHIP BY INVESTORS AND COMMERCIAL ENTERPRISES, AND TO GIVE THE BOARD OF ACCOUNTANCY THE DISCRETION TO CHARGE RELATED FEES; TO AMEND SECTION 40-2-80, AS AMENDED, RELATING TO THE INVESTIGATION OF COMPLAINTS AND

DISCIPLINARY PROCEEDINGS, SO AS TO PROVIDE THE DEPARTMENT OF LABOR, LICENSING AND REGULATION MAY REQUIRE STATE AND FEDERAL CRIMINAL RECORDS CHECKS IN CONDUCTING SUCH INVESTIGATIONS AND PROCEEDINGS, TO PROHIBIT USE OF CERTAIN CRIMINAL CHARGE DISMISSALS OR RESTITUTION PAYMENTS AS EVIDENCE OF MISCONDUCT SUBJECT TO DISCIPLINE, AND TO PROVIDE FOR THE RECOVERY OF RELATED COSTS; TO AMEND SECTION 40-2-250, AS AMENDED, RELATING TO LICENSE RENEWALS, SO AS TO PROVIDE THAT RENEWAL APPLICATIONS MUST BE FILED ON OR BEFORE FEBRUARY FIRST, TO GIVE THE BOARD DISCRETION TO CHARGE RELATED FEES, AND TO PROVIDE THAT LATE FILINGS MAY RESULT IN LAPSE, REINSTATEMENT FEES, AND SANCTIONS; TO AMEND SECTION 40-2-255, RELATING TO REGISTRATION RENEWALS, SO AS TO PROVIDE THAT RENEWAL APPLICATIONS MUST BE FILED ON OR BEFORE FEBRUARY FIRST, TO GIVE THE BOARD DISCRETION TO CHARGE RELATED FEES, AND TO PROVIDE THAT LATE FILINGS MAY RESULT IN LAPSE AND SANCTIONS; AND TO AMEND SECTION 40-2-560, RELATING TO ISSUANCE OF LICENSES, SO AS TO ADD A CROSS-REFERENCE.

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

Board composition revised

SECTION 1. Section 40-2-10(A) of the 1976 Code is amended to read:

"(A)(1) There is created the South Carolina Board of Accountancy which is responsible for the administration and enforcement of this chapter. The board shall consist of eleven members appointed by the Governor, all of whom must be residents of this State and:

(a) there must be one resident licensed certified public accountant from each congressional district;

(b) two members must be a licensed public accountant or a licensed accounting practitioner; and

(c) two members must be from the public at large, one of whom must be an attorney licensed in this State, who:

(i) are not engaged in the practice of public accounting;

(ii) have no financial interest in the profession of public accounting; and

(iii) have no immediate family member in the profession of public accounting. As used in this section, 'immediate family member' is defined in Section 8-13-100(18).

(2) Members are appointed for terms of four years and serve until their successors are appointed and qualify. Vacancies must be filled by the Governor for the unexpired portions of the term in the manner of the original appointment. The Governor shall remove a member of the board in accordance with Section 1-3-240.

(3) Failure by a licensed certified public accountant to maintain residency in the district for which he is appointed shall result in the forfeiture of his office."

Definition of "attest" revised

SECTION 2.A. Section 40-2-20(2) of the 1976 Code is amended to read:

"(2) 'Attest' means providing the following services:

(a) an audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);

(b) a review of a financial statement to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS);

(c) an examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE);

(d) any engagement to be performed in accordance with Public Company Accounting Oversight Board (PCAOB) Auditing Standards; or

(e) any examination, review, or agreed upon procedure to be performed in accordance with the SSAE, other than an examination described in subitem (c)."

Definition of "practice of accounting" revised

B. Section 40-2-20(15) of the 1976 Code is amended to read:

"(15) 'Practice of accounting' means:

(a) Issuing a report on financial statements of a person, firm, organization, or governmental unit or offering to render or rendering any attest or compilation service. This restriction does not prohibit any act of a public official or public employee in the performance of that person's duties or prohibit the performance by a nonlicensee of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports; or

(b) using or assuming the title 'Certified Public Accountant' or the abbreviation 'CPA' or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant."

Definition of "report" revised

C. Section 40-2-20(17) of the 1976 Code is amended to read:

"(17) 'Report', when used with reference to any attest or compilation service, means an opinion, report, or other form of language that states or implies assurance as to the reliability of the attested information or compiled financial statement and that also includes or is accompanied by a statement or implication that the person or firm issuing it has special knowledge or competency in accounting or auditing. This statement or implication of special knowledge or competency may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor. The term 'report' includes any form of language which disclaims an opinion when the form of language is conventionally understood to imply positive assurance as to the reliability of the attested information or compiled financial statements referred to or special competency on the part of the person or firm issuing such language, or both; and it includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competency, or both."

Licensure required to issue certain reports, exceptions revised

SECTION 3.A. Section 40-2-30(B) of the 1976 Code is amended to read:

"(B) Only licensed certified public accountants or public accountants or individuals qualifying for a practice privilege pursuant to Section 40-2-245 may issue a report on financial statements of a person, firm,

organization, or governmental unit or offer to render or render any attest or compilation service as defined, except as provided in Section 40-2-340. This restriction does not prohibit an act of a public official or public employee in the performance of that person's duties or prohibit the performance by any nonlicensee of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports."

Licensure exemptions for foreign and out-of-state service providers revised

B. Section 40-2-30(H) and (I) of the 1976 Code is amended to read:

"(H) This section does not apply to a person or firm holding a certification, designation, degree, or license granted in a foreign country entitling the holder to engage in the practice of public accountancy or its equivalent in that country; whose activities in this State are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the person holds the entitlement; who performs no attest or compilation services and who issues no reports, as defined in this chapter, with respect to the information of any other persons, firms, or governmental units in this State; and who does not use in this State any title or designation other than the one under which the person practices in their country, followed by a translation of the title or designation into the English language, if it is in a different language, and by the name of the country.

(I)(1) Firms that do not have an office in this State, and that do not perform the services described in Section 40-2-20(2)(a) (audits), (c) (examinations), or (d) (services under PCAOB Auditing Standards) for a client having its home office in this State, may engage in the practice of accounting, without obtaining a registration pursuant to Section 40-2-40, as specified in this subsection.

(2) A firm described in item (1) may perform services described in Section 40-2-20(2)(b), (2)(e) or (5) for a client having its home office in this State, may engage in the practice of accounting, as specified in this section, and may use the title 'CPA' or 'CPA firm' only if the firm:

(a) has the qualifications described in Section 40-2-40(C) and Section 40-2-255(C); and

(b) performs these services through an individual with practice privileges under Section 40-2-245.

(3) A firm described in item (1) that is not subject to the requirements of item (2) may perform other professional services within the practice of accounting while using the title 'CPA' or 'CPA firm' in this State only if the firm:

(a) performs these services through an individual with practice privileges under Section 40-2-245; and

(b) can lawfully do so in the state where these individuals with practice privileges have their principal place of business.

(4) Notwithstanding any other provision of this section, it is not a violation of this section for a firm that does not hold a valid permit under Section 40-2-40 and which does not have an office in this State to provide its professional services or to engage in the practice of accounting so long as it complies with the requirements of item (2) or (3), whichever is applicable."

Licensure requirements, criminal records checks, character evidence, costs, continuing education

SECTION 4. Section 40-2-35(B) through (G) of the 1976 Code is amended to read:

"(B)(1) In addition to other requirements established by law and for the purpose of determining an applicant's eligibility for licensure to practice as a certified public accountant, the board may require a state criminal records check, including fingerprints, performed by the South Carolina Law Enforcement Division, and a national criminal records check, including fingerprints, performed by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the board. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the board regarding criminal charges. The board shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as may be necessary to support the administrative action.

(2) Notwithstanding any other provision of law to the contrary, the dismissal of a prosecution of fraudulent intent in drawing a dishonored check by reason of want of prosecution or proof of payment of restitution and administrative costs must not be used as evidence of a lack of good moral character for the purposes of disqualifying a person seeking licensure or renewal of licensure pursuant to this chapter.

(3) The applicant must bear all costs associated with conducting criminal records checks.

(C) To meet the educational requirement as part of the one hundred fifty semester hours of education, the applicant must demonstrate successful completion of:

(1) at least thirty-six semester hours of accounting in courses that are applicable to a baccalaureate, masters, or doctoral degree and which cover financial accounting, managerial accounting, taxation, and auditing, of which at least twenty-four semester hours must be taught at the junior level or above; and

(2) at least thirty-six semester hours of business courses that are applicable to a baccalaureate, masters, or doctoral degree and which may include macro and micro economics, finance, business law, management, computer science, marketing, and accounting hours not counted in item (1).

(D) The board shall accept a transcript from a college or university accredited by the Southern Association of Colleges and Schools or another regional accrediting association having the equivalent standards or an independent senior college in South Carolina certified by the State Department of Education for teacher training, and accounting and business programs accredited by the American Assembly of Collegiate Schools of Business (AACSB) or any other accrediting agency having equivalent standards. Official transcripts signed by the college or university registrar and bearing the college or university seal must be submitted to demonstrate education and degree requirements. Photocopies of transcripts must not be accepted.

(E) An applicant may apply for examination by submitting forms approved by the board. In order for an application to be considered a completed application, all blanks and questions on the application form must be completed and answered and all applicable documentation must be attached and:

(1) the application must be accompanied by the submission of photo identification, fingerprints, or other identification information as considered necessary to ensure the integrity of the exam administration;

(2) application fees must accompany the application. Fees for the administration of the examination must recover all costs for examination administration. The fees required for each examination must be published to applicants on the application form. If a check in payment of examination fees fails to clear the bank, the application is considered incomplete and the application must be returned to the candidate;

(3) the applicant must have on record with the board official transcripts from a college or university approved by the board demonstrating successful completion of one hundred twenty semester hours credit, including:

(a) at least twenty-four semester hours of accounting in courses that are applicable to a baccalaureate, masters, or doctoral degree and which cover financial accounting, managerial accounting, taxation, and auditing; and

(b) at least twenty-four semester hours of business courses that are applicable to a baccalaureate, masters, or doctoral degree and which may include macro and micro economics, finance, business law, management, computer science, marketing, and accounting hours not counted in subitem (a).

(F) A candidate must pass all sections of the examination provided for in subsection (A)(2) in order to qualify for a certificate.

(1) Upon the implementation of a computer-based examination, a candidate may take the required test sections individually and in any order. Credit for any test section passed is valid for eighteen months from the actual date the candidate took that test section, without having to attain a minimum score on any failed test section and without regard to whether the candidate has taken other test sections.

(a) A candidate must pass all four test sections of the Uniform CPA Examination within a rolling eighteen-month period, which begins on the date that the first test section is passed. The board by regulation may provide additional time to an applicant on active military service. The board also may accommodate any hardship which results from the conditions of administration of the examination.

(b) A candidate cannot retake a failed test section in the same examination window. An examination window refers to a three-month period in which candidates have an opportunity to take the CPA examination. If all four test sections of the Uniform CPA Examination are not passed within the rolling eighteen-month period, credit for any test section passed outside the eighteen-month period expires and that test section must be retaken.

(c) A candidate who applies for a license more than three years after the date upon which the candidate passed the last section of the Uniform CPA Examination must document one hundred twenty hours of acceptable continuing professional education in order to qualify, in addition to all other requirements imposed by this section.

(2) A candidate may arrange to have credits for passing sections of the examination under the jurisdiction of another state or territory of the United States transferred to this State. Credits transferred for less than all sections of the examination are subject to the same conditional credit rules as if the examination had been taken in South Carolina.

(G) An applicant may demonstrate experience as follows:

(1) Experience may be gained in either full-time or part-time employment. Two thousand hours of part-time accounting experience is equivalent to one year. Experience may not accrue more rapidly than forty hours per week.

(2) The five years of teaching experience provided for in subsection (A)(4)(b) consists of five years of full-time teaching of accounting courses at a college or university accredited by the Southern Association of Colleges and Schools or another regional accrediting association having equivalent standards or an independent senior college in South Carolina certified by the State Department of Education for teacher training.

(a) In order for teaching experience to qualify as full-time teaching, the applicant must have been employed on a full-time basis as defined by the educational institution where the experience was obtained; however, teaching fewer than twelve hours per semester, or the equivalent in quarter hours, must not be considered as full-time teaching experience.

(b) Experience credit for teaching on a part-time basis qualifies on a pro rata basis based upon the number of semester hours required for full-time teaching at the educational institution where the teaching experience was obtained.

(c) Teaching experience may not accrue more rapidly than elapsed chronological time.

(d) An applicant must not be granted credit for full-time teaching completed in less than one academic year.

(e) An applicant must not be granted more than one full-time teaching year credit for teaching completed within one calendar year.

(f) Teaching experience must not be granted for teaching subjects outside the field of accounting. Subjects considered to be outside the field of accounting include, but are not limited to, business law, finance, computer applications, personnel management, economics, and statistics.

(g) Of the five years of full-time teaching experience, credit for teaching accounting principles courses or fundamental accounting (below intermediate accounting) may not exceed two full-time teaching years and the remaining three full-time teaching years' experience must be obtained in teaching courses above accounting principles.

(h) Accounting courses considered to be above accounting principles include, but are not limited to, intermediate accounting, advanced accounting, auditing, income tax, financial accounting, management accounting, and cost accounting.

(i) Experience other than public accounting experience counts only in proportion to duties which, in the opinion of the board, contribute to competence in public accounting.

(j) The board may require other information as it considers necessary to determine the acceptability of experience including, but not limited to, review of work papers and other work products, review of time records, and interviews with applicants and supervisors.

(3) For purposes of this subsection, 'experience' shall have the same meaning as 'appropriate experience' in subsection (A)(4); however, if the applicant obtained the experience seven or more years before submitting an application, the applicant shall have obtained an additional six months of experience within two years before submitting the application."

Firm registration requirements, simple majority votes, nonlicensed owners and investors

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

"(C) Qualifications for registration as a certified public accountant firm are as follows:

(1) A simple majority of the ownership of the firm in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers must belong to certified public accountants currently licensed in some state. Although firms may include nonlicensed owners, the firm and its ownership must comply with regulations promulgated by the board. All nonlicensed owners must be active individual participants in the firm or affiliated entities.

(2) Partners, officers, shareholders, members, or managers whose principal place of business is in this State, and who perform professional services in this State, must hold a valid license issued pursuant to this section. An individual who has practice privileges under Section 40-2-245 who performs services for which a firm permit is required pursuant to Section 40-2-245(D) must not be required to obtain a license from this State pursuant to Section 40-2-35.

(3) For firms registering under subsection (B)(1)(a) or (b), there must be a designated resident manager in charge of each office in this State who must be a certified public accountant licensed in this State.

(4) Noncertified public accountant owners must not assume ultimate responsibility for any financial statement, attest, or compilation engagement.

(5) Noncertified public accountant owners shall abide by the code of professional ethics adopted pursuant to this chapter.

(6) Owners shall at all times maintain ownership equity in their own right and must be the beneficial owners of the equity capital ascribed to them. Provision must be made for the ownership to be transferred to the firm or to other qualified owners if the noncertified public accountant ceases to be an active individual participant in the firm.

(7)(a) This section applies only to noncertified public accountant owners who are residents of this State.

(b) Noncertified public accountant owners must complete the same number of hours of continuing professional education as licensed certified public accountants in this State.

(c) Noncertified public accountant owners who are licensed professionals subject to continuing education requirements applicable to that profession may complete the required number of continuing professional education hours in courses offered or accepted by organizations or regulatory bodies governing that profession, and also must complete the same number of hours of continuing professional education as licensed certified public accountants in this State.

(8) A certified public accountant firm and its designated resident manager under item (3) are responsible for the following in regard to a noncertified public accountant owner:

(a) a noncertified public accountant owner shall comply with all applicable accountancy statutes and regulations; and

(b) a noncertified public accountant owner shall be of good moral character and shall not engage in any conduct that, if committed by a licensee, would constitute a violation of the regulations promulgated by the board.

(D) Registration must be initially issued and renewed annually. Applications for registration must be made in such form, and in the case of applications for renewal, between such dates as the board by regulation may specify, and the board shall grant or deny any such application after filing in proper form.

(E) An applicant for initial issuance or renewal of a registration to practice pursuant to this chapter shall register each firm within this State with the board and shall demonstrate that all attest and compilation services rendered in this State are under the charge of a person holding a valid license issued pursuant to this section or the corresponding provision of prior law or of some other state.

(F) The board may charge a fee for each application for initial issuance or renewal of a registration issued pursuant to this section."

Disciplinary investigations, criminal records checks, evidence of misconduct, costs

SECTION 6. Section 40-2-80 of the 1976 Code, as last amended by Act 268 of 2014, is further amended by adding an appropriately lettered subsection to read:

"(H)(1) In an investigation or disciplinary proceeding concerning a licensee, the department may require a state criminal records check, including fingerprints, performed by the South Carolina Law Enforcement Division, and a national criminal records check, including fingerprints, performed by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. The department shall keep information received pursuant to this section confidential, except that information relied upon in an administrative action may be disclosed as may be necessary to support the administrative action.

(2) Notwithstanding any other provision of this section or any other provision of law, the dismissal of a prosecution of fraudulent intent in drawing a dishonored check by reason of want of prosecution or proof of payment of restitution and administrative costs must not be used as evidence of performance of a fraudulent act for disciplinary purposes.

(3) Costs of conducting a criminal records check are the responsibility of the department and may be recovered as administrative costs associated with an investigation or hearing pursuant to this chapter unless ordered by the department as a cost in a disciplinary proceeding."

License renewals and reinstatements, deadline revised, fees optional, lapses

SECTION 7. Section 40-2-250 of the 1976 Code, as last amended by Act 268 of 2014, is further amended to read:

"Section 40-2-250. (A) A licensee shall file an application for renewal on or before February first of the following year.

(B) The application for renewal of a license must include:

(1) current information concerning practice status;

(2) a verified continuing education report;

(3) renewal fee, if any.

(C) A licensee shall file a verified report of continuing education on or before February first and document forty hours of acceptable continuing education during the immediately preceding calendar year. Not more than twenty percent of the required hours may be in personal development subjects. A licensee is not required to report continuing education for the year in which the initial license was obtained. The board by regulation may provide for the carryover of excess hours of continuing education not to exceed twenty hours a year. No carryover is allowed from a year in which continuing education was not required.

(D) If a licensee does not file an application for renewal on or before February first, the license is considered lapsed. Continued practice after February fifteenth may be sanctioned as unlicensed practice of accounting.

(E) Renewal applications filed or completed after February fifteenth are subject to a reinstatement fee in the amount of five hundred dollars. A person may not practice on a lapsed license.

(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 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."

Firm registration renewals, deadlines revised, fees optional, lapses

SECTION 8. Section 40-2-255 of the 1976 Code is amended to read:

"Section 40-2-255. (A) A registrant shall file an application for renewal of the calendar-year registration on or before February first of the following year.

(B) The application for renewal of a registration shall include:

(1) current information concerning ownership;

(2) current information concerning the identity of the licensee in charge of the office;

(3) renewal fee, if any.

(C) As a condition of renewal of registration, an applicant who engages in attest or compilation services, or both, must provide evidence of satisfactory completion of peer review no more frequently than once every three years. Peer review must be conducted in a manner as the board specifies by regulation. This review must include a verification that individuals in the firm, who are responsible for supervising attest or compilation services, or both, and who sign or authorize someone to sign the accountant's report on the financial statements on behalf of the firm, meet the competency requirements set out in the professional standards for these services and these regulations must:

(1) require an applicant to show that the applicant has, within the preceding three years, undergone a peer review that is a satisfactory equivalent to peer review as generally required pursuant to this subsection;

(2) require peer reviews to be subject to oversight by a body established or sanctioned by the board, which shall periodically report to the board on program review effectiveness under its charge and provide to the board a listing of firms that have participated in a peer review program;

(3) require peer reviews to be conducted and that work and documents be maintained in a manner designed to preserve confidentiality of documents furnished or generated in the course of the review.

(D) If a registrant does not file an application for renewal on or before February first, the registration is considered lapsed. Continued practice after February fifteenth may be sanctioned as unlicensed practice of accounting."

Issuance of licenses, conforming change

SECTION 9. Section 40-2-560(C) of the 1976 Code is amended to read:

"(C) A partnership, firm, or registrant must file an application in accordance with Section 40-2-40 and Section 40-2-255."

Time effective

SECTION 10. This act takes effect upon approval by the Governor.

Ratified the 2nd day of June, 2015.

Approved the 3rd day of June, 2015.

No. 52

(R83, S437)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-29-240 SO AS TO ENACT THE "JAMES B. EDWARDS CIVICS EDUCATION INITIATIVE", TO DEFINE THE TERM "CIVICS TEST", TO REQUIRE ALL STUDENTS OF PUBLIC OR CHARTER SCHOOLS IN THIS STATE TO TAKE THE CIVICS TEST PRODUCED BY THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES AS PART OF THE UNITED STATES GOVERNMENT REQUIRED CREDIT, TO ALLOW SCHOOL DISTRICTS TO RECOGNIZE STUDENTS WHO RECEIVE A PASSING GRADE ON THE TEST, TO DIRECT THE RESPECTIVE SCHOOLS TO REPORT RESULTS TO THE SOUTH CAROLINA EDUCATION OVERSIGHT COMMITTEE FOR INCLUSION IN THE REPORT CARD FOR EACH SCHOOL, TO PROVIDE NO SCHOOL OR SCHOOL DISTRICT MAY CHARGE A FEE FOR THE TEST, AND TO PROVIDE THAT THE REQUIREMENTS OF THIS SECTION APPLY TO ANY STUDENT ENTERING THE NINTH GRADE BEGINNING WITH THE 2016-2017 SCHOOL YEAR.

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

Citation

SECTION 1. This act may be cited as the "James B. Edwards Civics Education Initiative".

Civics test required, definition, requirements and procedures for test

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

"Section 59-29-240. (A) For purposes of this section, 'civics test' means the one hundred questions that, as of January 1, 2015, and updated accordingly, officers of the United States Citizenship and Immigration Services use in order that the applicants can demonstrate a knowledge and understanding of the fundamentals of United States history and the principles and form of United States government, as required by 8 U.S.C. 1423.

(B) As part of the high school curriculum regarding the United States government required credit, students are required to take the civics test, as defined in subsection (A), provided there is no cost to a school or school district for obtaining and giving the test, but are not required to obtain a minimum score. However, a student who receives a passing grade, as determined by the United States Citizenship and Immigration Services, or better, may be recognized by the school district. This requirement applies to each student enrolled in a public or charter school in this State. This requirement does not apply to a student who is exempted in accordance with the student's individualized education program plan.

(C) Each public school, including charter schools, must report the percentage of students at or above the designated passing score on the test to the South Carolina Education Oversight Committee which must then include such on the school report card.

(D) No school or school district of this State may impose or collect any fees or charges in connection with this section.

(E) This section must be applied to any student entering ninth grade beginning in the 2016-2017 school year."

Severability clause

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 2nd day of June, 2015.

Approved the 3rd day of June, 2015.

No. 53

(R84, S592)

AN ACT TO AMEND SECTION 50-11-710, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE HUNTING OF FERAL HOGS, COYOTES, AND ARMADILLOS AT NIGHT, SO AS TO RESTRUCTURE THE EXISTING PROVISIONS THAT REGULATE THE HUNTING OF THESE ANIMALS, AND TO PROVIDE FOR THE NIGHT HUNTING OF THESE ANIMALS BY A PERSON WITH A CENTER FIRE RIFLE USING CENTER FIRE AMMUNITION OR SUBSONIC CENTER FIRE AMMUNITION.

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

Night hunting

SECTION 1. Section 50-11-710(A) of the 1976 Code, as last amended by Act 228 of 2012, is further amended to read:

"Section 50-11-710. (A) Night hunting in this State is unlawful except that:

(1) Raccoons, opossums, foxes, mink, and skunk may be hunted at night; however, they may not be hunted with artificial lights except when treed or cornered with dogs, and may not be hunted with buckshot or any shot larger than a number four, or any rifle ammunition larger than a twenty-two rimfire.

(2) Feral hogs may be hunted at night with or without the aid of bait, electronic calls, artificial light, or night vision devices:

(a) at any time of the year with a bow and arrow other than a crossbow, or pistol having iron sights, a barrel length not exceeding nine inches, and which is not equipped with a butt-stock, scope, or laser site;

(b) at any time of the year under authority of and pursuant to the conditions contained in a depredation permit issued by the department pursuant to Section 50-11-2570; and

(c) from the last day of February to the first day of July of that same year with any legal firearm, bow and arrow, or crossbow when notice is given to the department pursuant to subsection (D). When hunting at night with a center fire rifle pursuant to this item:

(i) a hunter using supersonic center fire ammunition must hunt from an elevated position at least ten feet from the ground;

(ii) a hunter using subsonic center fire ammunition is not required to hunt from an elevated position provided that he is not carrying supersonic center fire ammunition for the same rifle.

(3) Coyotes and armadillos may be hunted at night with or without the aid of bait, electronic calls, artificial light, or night vision devices:

(a) at any time of the year with a bow and arrow other than a crossbow, a rimfire rifle, a shotgun with shot size no larger than a BB, or a pistol of any caliber having iron sights, a barrel length not exceeding nine inches, and which is not equipped with a butt-stock, scope, or laser light;

(b) at any time of the year under authority of and pursuant to the conditions contained in a depredation permit issued by the department pursuant to Section 50-11-2570; and

(c) from the last day of February to the first day of July of that same year with any legal firearm, bow and arrow, or crossbow when notice is given to the department pursuant to subsection (D). When hunting at night with a center fire rifle pursuant to this item:

(i) a hunter using supersonic center fire ammunition must hunt from an elevated position at least ten feet from the ground;

(ii) a hunter using subsonic center fire ammunition is not required to hunt from an elevated position provided that he is not carrying supersonic center fire ammunition for the same rifle."

Time effective

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

Ratified the 2nd day of June, 2015.

Approved the 3rd day of June, 2015.

No. 54

(R85, H3083)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "SOUTH CAROLINA OVERDOSE PREVENTION ACT" BY ADDING CHAPTER 130 TO TITLE 44 SO AS TO ALLOW CERTAIN MEDICAL PROFESSIONALS TO PRESCRIBE OPIOID ANTIDOTES FOR INDIVIDUALS WHO THE MEDICAL PROFESSIONAL BELIEVES IN GOOD FAITH ARE AT RISK OF EXPERIENCING AN OPIOID OVERDOSE, TO REQUIRE MEDICAL PROFESSIONALS TO PROVIDE INSTRUCTIONAL INFORMATION TO A PERSON TO WHOM THE MEDICAL PROFESSIONAL PRESCRIBES AN OPIOID ANTIDOTE, TO ALLOW PHARMACISTS TO DISPENSE OPIOID ANTIDOTES PURSUANT TO A PRESCRIPTION, TO ALLOW CAREGIVERS AND FIRST RESPONDERS TO ADMINISTER OPIOID ANTIDOTES TO INDIVIDUALS WHO THE CAREGIVER OR FIRST RESPONDER BELIEVES IN GOOD FAITH ARE AT RISK OF EXPERIENCING AN OPIOID OVERDOSE, TO ALLOW PRESCRIBERS TO PRESCRIBE STANDING ORDERS FOR OPIOID ANTIDOTES TO FIRST RESPONDERS AND FOR FIRST RESPONDERS TO POSSESS THESE OPIOID ANTIDOTES, AND TO PROVIDE PROTECTIONS FROM CIVIL AND CRIMINAL LIABILITY FOR PRESCRIBING, DISPENSING, OR ADMINISTERING OPIOID ANTIDOTES, AND FOR OTHER PURPOSES.

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

Health, opioid overdose prevention

SECTION 1. Title 44 of the 1976 Code is amended by adding:

"CHAPTER 130

South Carolina Overdose Prevention Act

Section 44-130-10. This chapter may be cited as the 'South Carolina Overdose Prevention Act'.

Section 44-130-20. For purposes of this chapter:

(1) 'Caregiver' means a person who is not at risk of an opioid overdose but who, in the judgment of a physician, may be in a position to assist another individual during an overdose and who has received patient overdose information as required by Section 44-130-30 on the indications for and administration of an opioid antidote.

(2) 'Department' means the Department of Health and Environmental Control.

(3) 'Drug overdose' means an acute condition including, but not limited to, physical illness, coma, mania, hysteria, or death resulting from the consumption or use of a controlled substance or other substance with which a controlled substance was combined and that a layperson would reasonably believe to require medical assistance.

(4) 'First responder' means an emergency medical services provider, a law enforcement officer, or a fire department worker directly engaged in examining, treating, or directing persons during an emergency.

(5) 'Medical assistance' means professional medical services that are provided to a person experiencing a drug overdose.

(6) 'Opioid antidote' means naloxone hydrochloride or other similarly acting drug approved by the United States Food and Drug Administration for the treatment of an opioid overdose.

(7) 'Pharmacist' means an individual licensed pursuant to Chapter 43, Title 40 to engage in the practice of pharmacy.

(8) 'Prescriber' means a physician licensed pursuant to Chapter 47, Title 40, an advanced practice registered nurse licensed pursuant to Chapter 33, Title 40 and prescribing in accordance with the requirements of that chapter, and a physician assistant licensed pursuant to Article 7, Chapter 47, Title 40 and prescribing in accordance with the requirements of that article.

Section 44-130-30. (A) A prescriber acting in good faith and exercising reasonable care as a prescriber may issue a written prescription for an opioid antidote to:

(1) a person who is at risk of experiencing an opioid-related overdose; or

(2) a caregiver for a person who is at risk of experiencing an opioid overdose whom the prescriber has not personally examined.

(B)(1) The prescriber must provide to the person or the caregiver overdose information addressing the following:

(a) opioid overdose prevention and recognition;

(b) opioid antidote dosage and administration;

(c) the importance of calling 911 emergency telephone service for medical assistance with an opioid overdose; and

(d) care for an overdose victim after administration of the opioid antidote.

(2) The prescriber must document in the medical record that the opioid overdose information required by this subsection has been provided to the person or the caregiver.

(C) A prescriber acting in good faith and exercising reasonable care may issue a standing order for a first responder to possess an opioid antidote for administration to a person whom the first responder believes to be experiencing an opioid-related overdose.

(D) A prescriber who issues a written prescription or a standing order for an opioid antidote in accordance with the provisions of this section is not as a result of an act or omission subject to civil or criminal liability or to professional disciplinary action.

Section 44-130-40. (A) A pharmacist acting in good faith and exercising reasonable care as a pharmacist may dispense an opioid antidote pursuant to a written prescription or standing order by a prescriber.

(B) A pharmacist dispensing an opioid antidote in accordance with the provisions of this section is not as a result of an act or omission subject to civil or criminal liability or to professional disciplinary action.

Section 44-130-50. (A) A caregiver may in an emergency administer, without fee, an opioid antidote to a person whom the caregiver believes in good faith is experiencing an opioid overdose if the caregiver has received the opioid overdose information provided for in Section 44-130-30.

(B) A caregiver who administers an opioid antidote in accordance with the provisions of this section is not subject to civil or criminal liability.

Section 44-130-60. (A) A first responder may administer an opioid antidote in an emergency if the first responder believes in good faith that the person is experiencing an opioid overdose.

(B) The first responder must comply with all applicable requirements for possession, administration, and disposal of the opioid antidote and administration device. The department may promulgate regulations to

implement this section, including appropriate training for first responders who carry or have access to an opioid antidote.

(C) A first responder who administers an opioid antidote in accordance with the provisions of this section to a person whom the first responder believes in good faith is experiencing an opioid overdose is not by an act or omission subject to civil or criminal liability or to professional disciplinary action."

Time effective

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

Ratified the 2nd day of June, 2015.

Approved the 3rd day of June, 2015.

No. 55

(R86, H3264)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 137 TO CHAPTER 3, TITLE 56 SO AS TO PROVIDE FOR THE ISSUANCE OF "AMERICAN RED CROSS SPECIAL LICENSE PLATES".

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

American Red Cross special license plates

SECTION 1. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 137

American Red Cross Special License Plates

Section 56-3-13710. (A) The Department of Motor Vehicles may issue American Red Cross special motor vehicle license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, and motorcycles, as defined in Section 56-3-20, registered in their names.

This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(B) Notwithstanding another provision of law, from the fees collected pursuant to this section, the Comptroller General shall place sufficient funds into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the Department of Motor Vehicles in producing and administering the special license plates. The remaining funds collected from the special motor vehicle license plate fee must be disbursed to the American Red Cross.

(C) Notwithstanding another provision of law, the requirements for production, collection, and distribution of fees for these license plates are those set forth in Section 56-3-8100.

(D) The department shall imprint the special license plates with the distinctive Red Cross emblem approved by the American Red Cross along with the words or text, 'Proud Supporter of the American Red Cross' written at the top of the special license plates."

Time effective

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

Ratified the 2nd day of June, 2015.

Approved the 3rd day of June, 2015.

No. 56

(R87, H3880)

AN ACT TO AMEND SECTION 50-11-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CERTAIN TERMS AND THEIR DEFINITIONS THAT RELATE TO THE MIGRATORY WATERFOWL COMMITTEE, THE CREATION OF THE COMMITTEE, ITS MEMBERSHIP, AND RESPONSIBILITIES, SO AS TO INCREASE ITS MEMBERSHIP BY ONE WHO SHALL BE A DESIGNEE OF DELTA WATERFOWL OF SOUTH CAROLINA WHO IS NOT A PAID EMPLOYEE.

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

Migratory Waterfowl Committee

SECTION 1. Section 50-11-20(B) of the 1976 Code, as last amended by Act 214 of 2008, is further amended to read:

"(B) There is created the Migratory Waterfowl Committee composed of ten members. A designee of Ducks Unlimited of South Carolina, who is not a paid employee, a designee of the South Carolina Waterfowl Association, who is not a paid employee, a designee of Delta Waterfowl of South Carolina, who is not a paid employee, and the Chairman of the Board of the Department of Natural Resources, or his designee, shall serve ex officio. Two members appointed by the Chairman of the Agriculture and Natural Resources Committee of the House of Representatives, two are appointed by the Chairman of the Fish, Game and Forestry Committee of the Senate, and two are appointed by the Governor, all of whom must be cognizant of waterfowl. The members of the committee shall serve for terms of three years and until successors are appointed and qualify. Vacancies are filled for the unexpired term in the manner of the original appointment. The members of the committee shall elect a chairman annually."

Time effective

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

Ratified the 2nd day of June, 2015.

Approved the 3rd day of June, 2015.

No. 57

(R88, H3888)

AN ACT TO AMEND SECTION 7-7-490, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN SPARTANBURG COUNTY, SO AS TO CONSOLIDATE AND RENAME CERTAIN PRECINCTS, AND TO REDESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND

AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE.

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

Spartanburg County voting precincts designated

SECTION 1. Section 7-7-490 of the 1976 Code, as last amended by Act 237 of 2014, is further amended to read:

"Section 7-7-490. (A) In Spartanburg County there are the following voting precincts:
Abner Creek Baptist
Anderson Mill Elementary
Arcadia Elementary
Beaumont Methodist
Beech Springs Intermediate
Ben Avon Methodist
Bethany Baptist
Bethany Wesleyan
Boiling Springs Elementary
Boiling Springs High School
Boiling Springs Intermediate
Boiling Springs Jr. High
Boiling Springs 9th Grade
Canaan
Cannons Elementary
Carlisle Fosters Grove
Cavins Hobbysville
C.C. Woodson Recreation
Cedar Grove Baptist
Chapman Elementary
Chapman High School
Cherokee Springs Fire Station
Chesnee Elementary
Cleveland Elementary
Clifdale Elementary
Converse Fire Station
Cooley Springs Baptist
Cornerstone Baptist
Cowpens Depot Museum
Cowpens Fire Station

Croft Baptist
Cross Anchor Fire Station
Cudd Memorial
Daniel Morgan Technology Center
Drayton Fire Station
Duncan United Methodist
Eastside Baptist
Ebenezer Baptist
Enoree First Baptist
E.P. Todd Elementary
Fairforest Elementary
Fairforest Middle School
Friendship Baptist
Gable Middle School
Glendale Fire Station
Gramling Methodist
Greater St. James
Hayne Baptist
Hendrix Elementary
Holly Springs Baptist
Jesse Bobo Elementary
Jesse Boyd Elementary
Lake Bowen Baptist
Landrum High School
Landrum United Methodist
Lyman Town Hall
Mayo Elementary
Morningside Baptist
Motlow Creek Baptist
Mountain View Baptist
Mt. Calvary Presbyterian
Mt. Moriah Baptist
Mt. Zion Full Gospel Baptist
Oakland Elementary
Pacolet Elementary School
Park Hills Elementary
Pauline Glenn Springs Elementary
Pelham Fire Station
Poplar Springs Fire Station
Powell Saxon Una
R.D. Anderson Vocational
Rebirth Missionary Baptist

Reidville Elementary
Reidville Fire Station
Roebuck Bethlehem
Roebuck Elementary
Southside Baptist
Spartanburg High School
Startex Fire Station
St. John's Lutheran
Swofford Career Center
Travelers Rest Baptist
Trinity Methodist
Victor Mill Methodist
Wellford Fire Station
Holy Communion
West View Elementary
White Stone Methodist
Whitlock Jr. High
Woodland Heights Recreation Center
Woodruff Elementary
Woodruff Fire Station
Woodruff Leisure Center

(B) Precinct lines defining the precincts in subsection (A) are as shown on the official map on file with the Revenue and Fiscal Affairs Office, and as shown on copies provided to the Board of Voter Registration and Elections of Spartanburg County by the Revenue and Fiscal Affairs Office designated as document P-83-15.

(C) Polling places for the precincts listed in subsection (A) must be determined by the Board of Voter Registration and Elections of Spartanburg County with the approval of a majority of the Spartanburg County Legislative Delegation."

Time effective

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

Ratified the 2nd day of June, 2015.

Approved the 3rd day of June, 2015.

No. 58

(R80, S3)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "DOMESTIC VIOLENCE REFORM ACT"; TO AMEND SECTION 16-25-10, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF DOMESTIC VIOLENCE OFFENSES, SO AS TO DEFINE OTHER NECESSARY TERMS; TO AMEND SECTION 16-3-600, AS AMENDED, RELATING TO ASSAULT AND BATTERY OFFENSES, SO AS TO REVISE THE DEFINITION OF "MODERATE BODILY INJURY" TO CONFORM; TO AMEND SECTION 16-25-20, AS AMENDED, RELATING TO DOMESTIC VIOLENCE OFFENSES, SO AS TO RESTRUCTURE THE OFFENSES BY GRADUATING THE PENALTIES INTO DEGREES, DEFINE THE ELEMENTS OF EACH DEGREE, AND PROVIDE A NEW PENALTY STRUCTURE, AMONG OTHER THINGS; TO AMEND SECTION 16-25-65, AS AMENDED, RELATING TO DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE, SO AS TO RESTRUCTURE THE OFFENSE, REDEFINE THE ELEMENTS OF THE OFFENSE, AND TO RESTRUCTURE THE PENALTY; TO AMEND SECTION 16-1-60, AS AMENDED, RELATING TO CRIMES DEFINED AS VIOLENT, SO AS TO INCLUDE DOMESTIC VIOLENCE IN THE FIRST DEGREE AS A VIOLENT CRIME; TO AMEND SECTION 17-25-45, AS AMENDED, RELATING TO OFFENSES DEFINED AS "MOST SERIOUS" AND "SERIOUS", SO AS TO ADD THE OFFENSES OF DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE AND DOMESTIC VIOLENCE IN THE FIRST DEGREE TO THE LIST OF "SERIOUS" OFFENSES; TO AMEND SECTION 56-7-10, AS AMENDED, RELATING TO UNIFORM TRAFFIC TICKETS, SO AS TO INCLUDE DOMESTIC VIOLENCE IN THE SECOND AND THIRD DEGREE OFFENSES TO THE LIST OF ADDITIONAL OFFENSES FOR WHICH A UNIFORM TRAFFIC TICKET MAY BE ISSUED; TO AMEND SECTION 16-25-30, RELATING TO POSSESSION OF A FIREARM BY A PERSON CONVICTED OF CERTAIN DOMESTIC VIOLENCE OFFENSES, SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR PERSONS CONVICTED OF CERTAIN DOMESTIC VIOLENCE OFFENSES TO SHIP, TRANSPORT, RECEIVE, OR POSSESS A

FIREARM OR AMMUNITION UNDER CERTAIN CIRCUMSTANCES AND PROVIDE A TIME FRAME FOR THE RESTORING OF RIGHTS REGARDING SHIPPING, TRANSPORTING, RECEIVING, OR POSSESSING A FIREARM OR AMMUNITION; TO AMEND SECTION 17-15-30 AND SECTION 22-5-510, BOTH AS AMENDED, RELATING TO MATTERS TO BE CONSIDERED WHEN DETERMINING CONDITIONS OF RELEASE ON BOND AND BOND HEARINGS AND INFORMATION TO BE PROVIDED TO THE COURT, RESPECTIVELY, BOTH SO AS TO REQUIRE THE COURT TO CONSIDER IF RELEASE ON BOND WOULD CONSTITUTE AN UNREASONABLE DANGER TO THE COMMUNITY OR AN INDIVIDUAL, TO PROVIDE THAT WHEN A PERSON IS CHARGED WITH A VIOLATION OF CERTAIN DOMESTIC VIOLENCE OFFENSES THAT A BOND HEARING MAY NOT PROCEED WITHOUT THE PERSON'S CRIMINAL RECORD AND INCIDENT REPORT, OR THE PRESENCE OF THE ARRESTING OFFICER, AND TO REQUIRE BOND HEARINGS FOR THESE VIOLATIONS TO BE HELD WITHIN TWENTY-FOUR HOURS AFTER ARREST; TO AMEND SECTION 17-15-10, RELATING TO PERSONS WHO MAY BE RELEASED PENDING TRIAL, SO AS TO REQUIRE THE COURT TO CONSIDER IF RELEASE ON BOND WOULD CONSTITUTE AN UNREASONABLE DANGER TO THE COMMUNITY OR AN INDIVIDUAL; TO AMEND SECTION 16-25-120, AS AMENDED, RELATING TO THE RELEASE OF A PERSON ON BOND WHO IS CHARGED WITH A VIOLENT OFFENSE OR WHEN THE VICTIM IS A HOUSEHOLD MEMBER, SO AS TO PROVIDE THAT THE COURT MUST CONSIDER CERTAIN FACTORS BEFORE RELEASING A PERSON ON BOND; TO AMEND SECTION 17-15-50, RELATING TO AMENDMENT OF AN ORDER RELATING TO BOND, SO AS TO CLARIFY THAT THE COURT WITH JURISDICTION OF THE OFFENSE MAY AMEND THE ORDER AT ANY TIME; TO AMEND SECTION 17-15-55, AS AMENDED, RELATING TO BOND AND THE AUTHORITY OF THE CIRCUIT COURT TO REVOKE BOND UNDER CERTAIN CIRCUMSTANCES, SO AS TO PROVIDE FOR THE PURPOSE OF BOND REVOCATION ONLY THAT A SUMMARY COURT HAS CONCURRENT JURISDICTION WITH THE CIRCUIT COURT FOR TEN DAYS FROM THE DATE BOND IS FIRST SET ON A CHARGE BY THE SUMMARY COURT TO

DETERMINE IF BOND SHOULD BE REVOKED; TO AMEND SECTION 16-25-70, AS AMENDED, RELATING TO WARRANTLESS ARREST OR SEARCH FOR A DOMESTIC VIOLENCE OFFENSE, SO AS TO REQUIRE THAT THE MANDATED LAW ENFORCEMENT INVESTIGATION OF A DOMESTIC VIOLENCE OFFENSE MUST BE DOCUMENTED ON AN INCIDENT REPORT FORM WHICH MUST BE MAINTAINED BY THE INVESTIGATING AGENCY; TO AMEND SECTION 16-3-1110, RELATING TO DEFINITIONS FOR PURPOSES OF THE ARTICLE ON COMPENSATION OF VICTIMS OF CRIME, SO AS TO INCLUDE MINOR WITNESSES TO A DOMESTIC VIOLENCE OFFENSE IN THE DEFINITION OF "VICTIM"; TO DIRECT THE DEPARTMENT OF SOCIAL SERVICES IN CONSULTATION WITH THE SOUTH CAROLINA VOUCHER PROGRAM TO PROVIDE CERTAIN CHILDCARE SERVICES TO VICTIMS OF DOMESTIC VIOLENCE TO ENCOURAGE PARTICIPATION IN COURT HEARINGS RELATING TO DOMESTIC VIOLENCE; TO AMEND SECTION 17-22-90, RELATING TO PRETRIAL INTERVENTION PROGRAMS AND AGREEMENTS REQUIRED BY OFFENDERS IN A PROGRAM, SO AS TO REQUIRE THE CIRCUIT SOLICITOR, OR ATTORNEY GENERAL, IF APPROPRIATE, TO SELECT AND APPROVE A BATTERER'S TREATMENT PROGRAM FOR USE AS PART OF PRETRIAL INTERVENTION FOR CERTAIN DOMESTIC VIOLENCE OFFENSES; BY ADDING ARTICLE 3 TO CHAPTER 25, TITLE 16 SO AS TO CREATE THE DOMESTIC VIOLENCE ADVISORY COMMITTEE WHOSE PURPOSE IS TO DECREASE THE INCIDENCES OF DOMESTIC VIOLENCE, TO DEFINE NECESSARY TERMS, TO PROVIDE FOR THE MEMBERSHIP OF THE COMMITTEE, TO PROVIDE FOR THE DUTIES OF THE COMMITTEE, AND TO EXEMPT CERTAIN MEETINGS AND INFORMATION FROM THE PROVISIONS OF THE FREEDOM OF INFORMATION ACT AND PROVIDE FOR CONFIDENTIALITY OF CERTAIN INFORMATION RELATED TO THE INVESTIGATION AND REVIEW OF INCIDENCES OF DOMESTIC VIOLENCE BY THE COMMITTEE; BY ADDING ARTICLE 5 TO CHAPTER 25, TITLE 16 SO AS TO RECODIFY THE PROVISIONS OF SECTION 43-1-260, RELATING TO COMMUNITY DOMESTIC VIOLENCE COORDINATING COUNCILS, WITHIN ARTICLE 5; TO AMEND SECTION 59-32-30, AS AMENDED, RELATING

TO SUBJECTS TAUGHT IN THE COMPREHENSIVE HEALTH EDUCATION PROGRAM, SO AS TO ADD THE SUBJECT OF DOMESTIC VIOLENCE BEGINNING WITH THE 2016-2017 SCHOOL YEAR; TO REPEAL SECTION 43-1-260 RELATING TO COMMUNITY DOMESTIC VIOLENCE COORDINATING COUNCILS; BY ADDING ARTICLE 18 TO CHAPTER 3, TITLE 16 SO AS TO CREATE PROVISIONS REGARDING PERMANENT RESTRAINING ORDERS, TO DEFINE NECESSARY TERMS, TO PROVIDE PROCEDURES FOR OBTAINING PERMANENT RESTRAINING ORDERS AND EMERGENCY RESTRAINING ORDERS; AND TO AMEND SECTION 22-5-910, AS AMENDED, RELATING TO EXPUNGEMENT OF CRIMINAL RECORDS, SO AS TO INCLUDE FIRST OFFENSE CONVICTIONS FOR DOMESTIC VIOLENCE IN THE THIRD DEGREE IN THE PURVIEW OF THE STATUTE AFTER FIVE YEARS FROM THE DATE OF CONVICTION.

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

Part I

Citation

Citation

SECTION 1. This act may be cited as the "Domestic Violence Reform Act".

Part II

Domestic Violence Penalties

Domestic violence, definitions added

SECTION 2. Section 16-25-10 of the 1976 Code, as last amended by Act 166 of 2005, is further amended to read:

"Section 16-25-10. As used in this article, the term:

(1) 'Deadly weapon' means any pistol, dirk, slingshot, metal knuckles, razor, or other instrument which can be used to inflict deadly force.

(2) 'Great bodily injury' means bodily injury which causes a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

(3) 'Household member' means:

(a) a spouse;

(b) a former spouse;

(c) persons who have a child in common; or

(d) a male and female who are cohabiting or formerly have cohabited.

(4) 'Moderate bodily injury' means physical injury that involves prolonged loss of consciousness or that causes temporary or moderate disfigurement or temporary loss of the function of a bodily member or organ or injury that requires medical treatment when the treatment requires the use of regional or general anesthesia or injury that results in a fracture or dislocation. Moderate bodily injury does not include one-time treatment and subsequent observation of scratches, cuts, abrasions, bruises, burns, splinters, or any other minor injuries that do not ordinarily require extensive medical care.

(5) 'Prior conviction of domestic violence' includes conviction of any crime, in any state, containing among its elements those enumerated in, or substantially similar to those enumerated in, Section 16-25-20(A) that is committed against a household member as defined in item (3) within the ten years prior to the incident date of the current offense.

(6) 'Protection order' means any order of protection, restraining order, condition of bond, or any other similar order issued in this State or another state or foreign jurisdiction for the purpose of protecting a household member.

(7) 'Firearm' means a pistol, revolver, rifle, shotgun, machine gun, submachine gun, or an assault rifle which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive but does not include an antique firearm as defined in 18 U.S.C. 921(a)(16)."

Assault and battery, definition revised

SECTION 3. Section 16-3-600(A)(2) of the 1976 Code, as added by Act 273 of 2010, is amended to read:

"(2) 'Moderate bodily injury' means physical injury that involves prolonged loss of consciousness, or that causes temporary or moderate disfigurement or temporary loss of the function of a bodily member or

organ, or injury that requires medical treatment when the treatment requires the use of regional or general anesthesia or injury that results in a fracture or dislocation. Moderate bodily injury does not include one-time treatment and subsequent observation of scratches, cuts, abrasions, bruises, burns, splinters, or any other minor injuries that do not ordinarily require extensive medical care."

Domestic violence, degrees created, penalties

SECTION 4. Section 16-25-20 of the 1976 Code, as last amended by Act 255 of 2008, is further amended to read:

"Section 16-25-20. (A) It is unlawful to:

(1) cause physical harm or injury to a person's own household member; or

(2) offer or attempt to cause physical harm or injury to a person's own household member with apparent present ability under circumstances reasonably creating fear of imminent peril.

(B) Except as otherwise provided in this section, a person commits the offense of domestic violence in the first degree if the person violates the provisions of subsection (A) and:

(1) great bodily injury to the person's own household member results or the act is accomplished by means likely to result in great bodily injury to the person's own household member;

(2) the person violates a protection order and in the process of violating the order commits domestic violence in the second degree;

(3) has two or more prior convictions of domestic violence within ten years of the current offense;

(4) the person uses a firearm in any manner while violating the provisions of subsection (A); or

(5) in the process of committing domestic violence in the second degree one of the following also results:

(a) the offense is committed in the presence of, or while being perceived by a minor;

(b) the offense is committed against a person known, or who reasonably should have been known, by the offender to be pregnant;

(c) the offense is committed during the commission of a robbery, burglary, kidnapping, or theft;

(d) the offense is committed by impeding the victim's breathing or air flow; or

(e) the offense is committed using physical force or the threatened use of force against another to block that person's access to

any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:

(i) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or

(ii) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.

A person who violates this subsection is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years.

Domestic violence in the first degree is a lesser included offense of domestic violence of a high and aggravated nature, as defined in Section 16-25-65.

(C) A person commits the offense of domestic violence in the second degree if the person violates subsection (A) and:

(1) moderate bodily injury to the person's own household member results or the act is accomplished by means likely to result in moderate bodily injury to the person's own household member;

(2) the person violates a protection order and in the process of violating the order commits domestic violence in the third degree;

(3) the person has one prior conviction for domestic violence in the past ten years from the current offense; or

(4) in the process of committing domestic violence in the third degree one of the following also results:

(a) the offense is committed in the presence of, or while being perceived by, a minor;

(b) the offense is committed against a person known, or who reasonably should have been known, by the offender to be pregnant;

(c) the offense is committed during the commission of a robbery, burglary, kidnapping, or theft;

(d) the offense is committed by impeding the victim's breathing or air flow; or

(e) the offense is committed using physical force or the threatened use of force against another to block that person's access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:

(i) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or

(ii) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.

A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than two thousand five hundred

dollars nor more than five thousand dollars or imprisoned for not more than three years, or both.

Domestic violence in the second degree is a lesser-included offense of domestic violence in the first degree, as defined in subsection (B), and domestic violence of a high and aggravated nature, as defined in Section 16-25-65.

Assault and battery in the second degree pursuant to Section 16-3-600(D) is a lesser-included offense of domestic violence in the second degree as defined in this subsection.

(D) A person commits the offense of domestic violence in the third degree if the person violates subsection (A).

(1) A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars nor more than two thousand five hundred dollars or imprisoned not more than ninety days, or both. Notwithstanding the provisions of Sections 22-3-540, 22-3-545, and 22-3-550, an offense pursuant to the provisions of this subsection may be tried in summary court.

(2) Domestic violence in the third degree is a lesser-included offense of domestic violence in the second degree, as defined in subsection (C), domestic violence in the first degree, as defined in subsection (B), and domestic violence of a high and aggravated nature, as defined in Section 16-25-65.

(3) Assault and battery in the third degree pursuant to Section 16-3-600(E) is a lesser-included offense of domestic violence in the third degree as defined in this subsection.

(4) A person who violates this subsection is eligible for pretrial intervention pursuant to Chapter 22, Title 17.

(E) When a person is convicted of a violation of Section 16-25-20(B) or (C) or Section 16-25-65, the circuit court may suspend execution of all or part of the sentence and place the offender on probation, or if a person is convicted of a violation of Section 16-25-20(D), the court may suspend execution of all or part of the sentence, conditioned upon:

(1) the offender's mandatory completion, to the satisfaction of the court, of a domestic violence intervention program designed to treat batterers in accordance with the provisions of subsection (G);

(2) fulfillment of all the obligations arising under court order pursuant to this section and Section 16-25-65;

(3) other reasonable terms and conditions of probation as the court may determine necessary to ensure the protection of the victim; and

(4) making restitution as the court deems appropriate.

(F) In determining whether or not to suspend the imposition or execution of all or part of a sentence as provided in this section, the court must consider the nature and severity of the offense, the number of times the offender has repeated the offense, and the best interests and safety of the victim.

(G) An offender who participates in a domestic violence intervention program pursuant to this section, shall participate in a program offered through a government agency, nonprofit organization, or private provider selected and approved by the Circuit Solicitor with jurisdiction over the offense or the Attorney General if the offense is prosecuted by the Attorney General's Office. If the offender moves to a different circuit after entering a treatment program selected by the Circuit Solicitor, the Circuit Solicitor for the county in which the offender resides shall have the authority to select and approve the batterer's treatment program. The offender shall pay a reasonable fee, if required, for participation in the program but no person may be denied participation due to inability to pay. If the offender suffers from a substance abuse problem or mental health concern, the judge may order, or the program may refer, the offender to supplemental treatment coordinated through the Department of Alcohol and Other Drug Abuse Services with the local alcohol and drug treatment authorities pursuant to Section 61-12-20 or the Department of Mental Health or Veterans' Hospital, respectively. The offender must pay a reasonable fee for participation in the substance abuse treatment or mental health program, if required, but no person may be denied participation due to inability to pay.

(H) A person who violates the terms and conditions of an order of protection issued in this State pursuant to Chapter 4, Title 20, the 'Protection from Domestic Abuse Act', or a valid protection order related to domestic or family violence issued by a court of another state, tribe, or territory is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days and fined not more than five hundred dollars.

(I) Unless the complaint is voluntarily dismissed or the charge is dropped prior to the scheduled trial date, a person charged with a violation provided in this chapter must appear before a judge for disposition of the case or be tried in the person's absence."

Domestic violence of a high and aggravated nature, offense revised

SECTION 5. Section 16-25-65 of the 1976 Code, as last amended by Act 166 of 2005, is further amended to read:

"Section 16-25-65. (A) A person who violates Section 16-25-20(A) is guilty of the offense of domestic violence of a high and aggravated nature when one of the following occurs. The person:

(1) commits the offense under circumstances manifesting extreme indifference to the value of human life and great bodily injury to the victim results;

(2) commits the offense, with or without an accompanying battery and under circumstances manifesting extreme indifference to the value of human life, and would reasonably cause a person to fear imminent great bodily injury or death; or

(3) violates a protection order and, in the process of violating the order, commits domestic violence in the first degree.

(B) A person who violates subsection (A) is guilty of a felony and, upon conviction, must be imprisoned for not more than twenty years.

(C) The provisions of subsection (A) create a statutory offense of domestic violence of a high and aggravated nature and must not be construed to codify the common law crime of assault and battery of a high and aggravated nature.

(D) Circumstances manifesting extreme indifference to the value of human life include, but are not limited to, the following:

(1) using a deadly weapon;

(2) knowingly and intentionally impeding the normal breathing or circulation of the blood of a household member by applying pressure to the throat or neck or by obstructing the nose or mouth of a household member and thereby causing stupor or loss of consciousness for any period of time;

(3) committing the offense in the presence of a minor;

(4) committing the offense against a person he knew, or should have known, to be pregnant;

(5) committing the offense during the commission of a robbery, burglary, kidnapping, or theft; or

(6) using physical force against another to block that person's access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:

(a) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or

(b) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider."

Violent crimes defined, domestic violence in the first degree added

SECTION 6. Section 16-1-60 of the 1976 Code, as last amended by Act 7 of 2015, is further amended to read:

"Section 16-1-60. For purposes of definition under South Carolina law, a violent crime includes the offenses of: murder (Section 16-3-10); attempted murder (Section 16-3-29); assault and battery by mob, first degree, resulting in death (Section 16-3-210(B)), criminal sexual conduct in the first and second degree (Sections 16-3-652 and 16-3-653); criminal sexual conduct with minors, first, second, and third degree (Section 16-3-655); assault with intent to commit criminal sexual conduct, first and second degree (Section 16-3-656); assault and battery with intent to kill (Section 16-3-620); assault and battery of a high and aggravated nature (Section 16-3-600(B)); kidnapping (Section 16-3-910); trafficking in persons (Section 16-3-2020); voluntary manslaughter (Section 16-3-50); armed robbery (Section 16-11-330(A)); attempted armed robbery (Section 16-11-330(B)); carjacking (Section 16-3-1075); drug trafficking as defined in Section 44-53-370(e) or trafficking cocaine base as defined in Section 44-53-375(C); manufacturing or trafficking methamphetamine as defined in Section 44-53-375; arson in the first degree (Section 16-11-110(A)); arson in the second degree (Section 16-11-110(B)); burglary in the first degree (Section 16-11-311); burglary in the second degree (Section 16-11-312(B)); engaging a child for a sexual performance (Section 16-3-810); homicide by child abuse (Section 16-3-85(A)(1)); aiding and abetting homicide by child abuse (Section 16-3-85(A)(2)); inflicting great bodily injury upon a child (Section 16-3-95(A)); allowing great bodily injury to be inflicted upon a child (Section 16-3-95(B)); domestic violence of a high and aggravated nature (Section 16-25-65); domestic violence in the first degree (Section 16-25-20(B)); abuse or neglect of a vulnerable adult resulting in death (Section 43-35-85(F)); abuse or neglect of a vulnerable adult resulting in great bodily injury (Section 43-35-85(E)); taking of a hostage by an inmate (Section 24-13-450); detonating a destructive device upon the capitol grounds resulting in death with malice (Section 10-11-325(B)(1)); spousal sexual battery (Section 16-3-615); producing, directing, or promoting sexual performance by a child (Section 16-3-820); sexual exploitation of a minor first degree (Section 16-15-395); sexual exploitation of a minor second degree (Section 16-15-405); promoting prostitution of a minor (Section 16-15-415); participating in prostitution of a minor (Section 16-15-425); aggravated voyeurism (Section 16-17-470(C)); detonating a

destructive device resulting in death with malice (Section 16-23-720(A)(1)); detonating a destructive device resulting in death without malice (Section 16-23-720(A)(2)); boating under the influence resulting in death (Section 50-21-113(A)(2)); vessel operator's failure to render assistance resulting in death (Section 50-21-130(A)(3)); damaging an airport facility or removing equipment resulting in death (Section 55-1-30(3)); failure to stop when signaled by a law enforcement vehicle resulting in death (Section 56-5-750(C)(2)); interference with traffic-control devices, railroad signs, or signals resulting in death (Section 56-5-1030(B)(3)); hit and run resulting in death (Section 56-5-1210(A)(3)); felony driving under the influence or felony driving with an unlawful alcohol concentration resulting in death (Section 56-5-2945(A)(2)); putting destructive or injurious materials on a highway resulting in death (Section 57-7-20(D)); obstruction of a railroad resulting in death (Section 58-17-4090); accessory before the fact to commit any of the above offenses (Section 16-1-40); and attempt to commit any of the above offenses (Section 16-1-80). Only those offenses specifically enumerated in this section are considered violent offenses."

Three strikes, serious offenses, domestic violence in the first degree and domestic violence of a high and aggravated nature added

SECTION 7. Section 17-25-45(C)(2) of the 1976 Code is amended to read:

"(2) 'Serious offense' means:

(a) any offense which is punishable by a maximum term of imprisonment for thirty years or more which is not referenced in subsection (C)(1);

(b) those felonies enumerated as follows:

16-3-220	Lynching, Second degree
16-3-210(C)	Assault and battery by mob, Second degree
16-3-600(B)	Assault and battery of a high and aggravated nature
16-3-810	Engaging child for sexual performance
16-9-220	Acceptance of bribes by officers
16-9-290	Accepting bribes for purpose of procuring public office
16-11-110(B)	Arson, Second degree
16-11-312(B)	Burglary, Second degree

16-11-380(B) Theft of a person using an automated teller machine
16-13-210(1) Embezzlement of public funds
16-13-230(B)(3) Breach of trust with fraudulent intent
16-13-240(1) Obtaining signature or property by false pretenses
16-25-20(B) Domestic violence, First degree
16-25-65 Domestic violence of a high and aggravated nature
38-55-540(3) Insurance fraud
44-53-370(e) Trafficking in controlled substances
44-53-375(C) Trafficking in ice, crank, or crack cocaine
44-53-445(B)(1)&(2) Distribute, sell, manufacture, or possess with intent to distribute controlled substances within proximity of school
56-5-2945 Causing death by operating vehicle while under influence of drugs or alcohol; and

(c) the offenses enumerated below:

16-1-40 Accessory before the fact for any of the offenses listed in subitems (a) and (b)
16-1-80 Attempt to commit any of the offenses listed in subitems (a) and (b)
43-35-85(E) Abuse or neglect of a vulnerable adult resulting in great bodily injury."

Uniform traffic tickets, domestic violence in the second and third degree offenses added

SECTION 8. Section 56-7-10(A) of the 1976 Code is amended to read:

"(A) There will be a uniform traffic ticket used by all law enforcement officers in arrests for traffic offenses and for the following additional offenses:

Offense	Citation
Interfering with Police Officer Serving Process	Section 16-5-50
Dumping Trash on Highway/Private Property	Section 16-11-700
Indecent Exposure	Section 16-15-130
Disorderly Conduct	Section 16-17-530
Damaging Highway	Section 57-7-10
Place Glass, Nails, Etc. on Highway	Section 57-7-20
Obstruction of Highway by Railroad	

Cars, Etc.	Section 57-7-240
Signs Permitted on Interstate	Section 57-25-140
Brown Bagging	Section 61-5-20
Drinking Liquors in Public Conveyance	Section 61-13-360
Poles Dragging on Highway	Section 57-7-80
Open Container	Section 61-9-87
Purchase or Possession of Beer or Wine by a Person Under Age	Section 63-19-2440
Purchase or Possession of Alcoholic Liquor by a Person Under Age Twenty-One	Section 63-19-2450
Unlawful Possession and Consumption of Alcoholic Liquors	Section 61-5-30
Sale of Beer or Wine on Which Tax Has Not Been Paid	Section 61-9-20
Falsification of Age to Purchase Beer or Wine	Section 61-9-50
Unlawful Purchase of Beer or Wine for a Person Who Cannot Legally Buy	Section 61-9-60
Unlawful Sale or Purchase of Beer or Wine, Giving False Information as to Age, Buying Beer or Wine Unlawfully for Another	Section 61-9-85
Employment of a Person Under the Age of Twenty-One as an Employee in Retail or Wholesale or Manufacturing Liquor Business	Section 61-13-340
Failure to Remove Doors from Abandoned Refrigerators	Section 16-3-1010
Malicious Injury to Animals or Personal Property	Section 16-11-510
Timber, Logs, or Lumber Cutting, Removing, Transporting Without Permission, Valued at Less Than Fifty Dollars	Section 16-11-580
Littering	Section 16-11-700
Larceny of a Bicycle Valued at Less Than One Hundred Dollars	Section 16-13-80
Shoplifting	Section 16-13-110
Cock Fighting	Section 16-17-650

Ticket Scalping	Section 16-17-710
Domestic Violence, second and third degree	Section 16-25-20
Glue Sniffing	Section 44-53-1110
Trespassing	Section 16-11-755
Trespassing	Section 16-11-600
Trespassing	Section 16-11-610
Trespassing	Section 16-11-620
Negligent Operation of Watercraft; Operation of Watercraft While Under Influence of Alcohol or Drugs	Section 50-21-110
Negligence of Boat Livery to Provide Proper Equipment and Registration	Section 50-21-120
Interference with Aids to Navigation or Regulatory Markers or Operation of Watercraft in Prohibited Area	Section 50-21-170
Operation of Watercraft Without a Certificate of Title	Section 50-23-190
Parking on private property without permission	Section 16-11-760
Certificate of Veterinary Inspection; Requirement for Out-of-State Livestock or Poultry	Section 47-4-60
Inhibition of Livestock Inspection	Section 47-4-120
Imported Swine	Section 47-6-50
Operating Equine Sales Facility or Livestock Market Without Permit	Section 47-11-20
Liability of Person Removing Livestock for Slaughter	Section 47-11-120
Notice to Disinfect	Section 47-13-310
Quarantine of Livestock or Poultry	Section 47-4-70
Unlawful for Horse to Enter State Unless Tested	Section 47-13-1350
Quarantine of Exposed Horses	Section 47-13-1360
Proof of Test Required for Public Assembly of Horses	Section 47-13-1370
False Certificates	Section 47-13-1390
Unlawful to Feed Garbage to Swine	Section 47-15-20
Notification Required from Certain	

Persons Disposing of Garbage	Section 47-15-40
Sale of Uninspected Meat and Meat Products	Section 47-17-60
Sale of Uninspected Poultry and Poultry Product	Section 47-19-70”

Domestic violence, firearms and ammunition prohibitions, penalties

SECTION 9. Section 16-25-30 of the 1976 Code, as added by Act 59 of 2009, is amended to read:

“Section 16-25-30. (A) Notwithstanding the provisions of Section 16-23-30, it is unlawful for a person to ship, transport, receive, or possess a firearm or ammunition, if the person:

(1) has been convicted of a violation of Section 16-25-20(B) or 16-25-65, or has been convicted of domestic violence in another state, tribe, or territory containing among its elements those elements enumerated in Section 16-25-20(B) or Section 16-25-65;

(2) has been convicted of a violation of Section 16-25-20(C) and the court made specific findings and concluded that the person caused moderate bodily injury to their own household member, or has been convicted of domestic violence in another state, tribe, or territory containing among its elements those elements enumerated in Section 16-25-20(C) and the court made specific findings and concluded that the person caused moderate bodily injury to their own household member;

(3) has been convicted of a violation of Section 16-25-20(C) or (D) and the judge at the time of sentencing ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition, or has been convicted of domestic violence in another state, tribe, or territory containing among its elements those elements enumerated in Section 16-25-20(C) or (D) and the judge at the time of sentencing ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition;

(4) is subject to a valid order of protection issued by the family court pursuant to Chapter 4, Title 20, and the family court judge at the time of the hearing made specific findings of physical harm, bodily injury, assault, or that the person offered or attempted to cause physical harm or injury to a person’s own household member with apparent and present ability under the circumstances reasonably creating fear of imminent peril and the family court judge ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition. The standard applied in this subsection applies

only to the determination of whether to prohibit a person from possessing a firearm or ammunition and does not apply to the issuance of the order pursuant to Chapter 4, Title 20; or

(5) is subject to a valid order of protection related to domestic or family violence issued by a court of another state, tribe, or territory in compliance with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, and the judge at the time of the hearing made specific findings of physical harm, bodily injury, assault, or that the person offered or attempted to cause physical harm or injury to a person's own household member with apparent and present ability under the circumstances reasonably creating fear of imminent peril and the judge ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition. The standard applied in this subsection applies only to the determination of whether to prohibit a person from possessing a firearm or ammunition and does not apply to the issuance of the order pursuant to Chapter 4, Title 20.

(B) A person who violates subsection (A)(1) is guilty of a felony and, upon conviction, must be fined not more than two thousand dollars or imprisoned for not more than five years, or both. A person who violates subsection (A)(2) or (A)(3) is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both. A person who violates subsection (A)(4) or (A)(5) is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(C) A person must not be considered to have been convicted of domestic violence for purposes of this section unless the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and in the case of a prosecution for an offense described in this section for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either the case was tried by a jury, or the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise. A person must not be considered to have been convicted of domestic violence for purposes of this section if the conviction has been expunged, set aside, or is an offense for which the person has been pardoned.

(D) At the time a person is convicted of violating the provisions of Section 16-25-20 or 16-25-65, or upon the issuance of an order of protection pursuant to Chapter 4, Title 20, the court must deliver to the person a written form that conspicuously bears the following language: 'Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted

of a violation of Section 16-25-20 or 16-25-65, or a person who is subject to a valid order of protection pursuant to Chapter 4, Title 20, to ship, transport, possess, or receive a firearm or ammunition.'

(E) The provisions of this section prohibiting the possession of firearms and ammunition by persons who have been convicted of domestic violence shall apply to a person who has been convicted of domestic violence for:

(1) life, if the person has been convicted of a violation of Section 16-25-65, or has been convicted of domestic violence in another state, tribe, or territory containing among its elements those elements enumerated in Section 16-25-65;

(2) ten years from the date of conviction or the date the person is released from confinement for the conviction, whichever is later, if the person has been convicted of a violation of Section 16-25-20(B), or has been convicted of domestic violence in another state, tribe, or territory containing among its elements those elements enumerated in Section 16-25-20(B);

(3) three years from the date of conviction or the date the person is released from confinement for the conviction, whichever is later, if the person has been convicted of a violation of Section 16-25-20(C) or (D) and the judge at the time of sentencing ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition, or has been convicted of domestic violence in another state, tribe, or territory containing among its elements those elements enumerated in Section 16-25-20(C) or (D) and the judge at the time of sentencing ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition; or

(4) the duration of the order of protection, if the person is subject to a valid order of protection issued by the family court pursuant to Chapter 4, Title 20, and the family court judge at the time of the hearing made specific findings of physical harm, bodily injury, assault, or that the person offered or attempted to cause physical harm or injury to a person's own household member with apparent and present ability under the circumstances reasonably creating fear of imminent peril and the family court judge ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition, or is subject to a valid order of protection related to domestic or family violence issued by a court of another state, tribe, or territory in compliance with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act and the judge at the time of the hearing made specific findings of physical harm, bodily injury, assault, or that the person offered or attempted to cause physical harm or injury to a

person's own household member with apparent and present ability under the circumstances reasonably creating fear of imminent peril and the judge ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition.

(F)(1) Following the period of time established in subsection (E), if the person has not been convicted of any other domestic violence offenses pursuant to this article or similar offenses in another jurisdiction, no domestic violence charges are currently pending against the person, and the person is not otherwise prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition pursuant to any other State law, the person's right to ship, transport, receive, or possess a firearm or ammunition shall be restored.

(2) Following the period of time established in subsection (E), if the person requests in writing to the South Carolina Law Enforcement Division (SLED), SLED shall notify the National Instant Criminal Background Check System (NICS) that the State has restored the person's right to ship, transport, receive, or possess a firearm or ammunition, and shall request immediate removal of the person's name to whom the restrictions contained in this section apply."

Part III

Bond Reform

Domestic violence, bond, twenty-four hour bond hearing requirement

SECTION 10. Section 17-15-30 of the 1976 Code, as last amended by Act 144 of 2014, is further amended to read:

"Section 17-15-30. (A) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community or an individual, a court may, on the basis of the following information, consider the nature and circumstances of an offense charged and the charged person's:

(1) family ties;
(2) employment;
(3) financial resources;
(4) character and mental condition;
(5) length of residence in the community;
(6) record of convictions; and

(7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(B) A court shall consider:

(1) a person's criminal record;

(2) any charges pending against a person at the time release is requested;

(3) all incident reports generated as a result of an offense charged;

(4) whether a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status; and

(5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division.

(C)(1) Prior to or at the time of a hearing, the arresting law enforcement agency shall provide the court with the following information:

(a) a person's criminal record;

(b) any charges pending against a person at the time release is requested;

(c) all incident reports generated as a result of the offense charged; and

(d) any other information that will assist the court in determining conditions of release.

(2) The arresting law enforcement agency shall inform the court if any of the information is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person's hearing. Notwithstanding the provisions of this item, when a person is charged with a violation of Chapter 25, Title 16, the bond hearing may not proceed without the person's criminal record and incident report or the presence of the arresting officer. The bond hearing for a violation of Chapter 25, Title 16 must occur within twenty-four hours after the arrest.

(D) A court hearing these matters has contempt powers to enforce the provisions of this section."

Domestic violence, magistrates court bond, twenty-four hour bond hearing requirement

SECTION 11. Section 22-5-510 of the 1976 Code, as last amended by Act 144 of 2014, is further amended to read:

"Section 22-5-510. (A) Magistrates may admit to bail a person charged with an offense, the punishment of which is not death or

imprisonment for life; provided, however, with respect to violent offenses as defined by the General Assembly pursuant to Section 15, Article I of the Constitution of South Carolina, 1895, magistrates may deny bail giving due weight to the evidence and to the nature and circumstances of the event, including, but not limited to, any charges pending against the person requesting bail. 'Violent offenses' as used in this section means the offenses contained in Section 16-1-60. If a person under lawful arrest on a charge not bailable is brought before a magistrate, the magistrate shall commit the person to jail. If the offense charged is bailable, the magistrate shall take recognizance with sufficient surety, if it is offered, in default whereof the person must be incarcerated.

(B) A person charged with a bailable offense must have a bond hearing within twenty-four hours of his arrest and must be released within a reasonable time, not to exceed four hours, after the bond is delivered to the incarcerating facility.

(C) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community or an individual, a court, on the basis of the following information, may consider the nature and circumstances of an offense charged and the charged person's:

(1) family ties;

(2) employment;

(3) financial resources;

(4) character and mental condition;

(5) length of residence in the community;

(6) record of convictions; and

(7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(D) A court shall consider:

(1) a person's criminal record;

(2) any charges pending against a person at the time release is requested;

(3) all incident reports generated as a result of an offense charged;

(4) whether a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status; and

(5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division.

(E) Prior to or at the time of the bond hearing, the arresting law enforcement agency shall provide the court with the following information:

(1) the person's criminal record;

(2) any charges pending against the person at the time release is requested;

(3) all incident reports generated as a result of the offense charged; and

(4) any other information that will assist the court in determining conditions of release.

(F) The arresting law enforcement agency shall inform the court if any of the information required in subsections (C), (D), and (E) is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person's bond hearing. Notwithstanding the provisions of this subsection, when a person is charged with a violation of Chapter 25, Title 16, the bond hearing may not proceed without the person's criminal record and incident report or the presence of the arresting officer. The bond hearing for a violation of Chapter 25, Title 16 must occur within twenty-four hours after the arrest.

(G) A court hearing this matter has contempt powers to enforce these provisions."

Bond, conforming change

SECTION 12. Section 17-15-10 of the 1976 Code is amended to read:

"Section 17-15-10. (A) A person charged with a noncapital offense triable in either the magistrates, county or circuit court, shall, at his appearance before any of such courts, be ordered released pending trial on his own recognizance without surety in an amount specified by the court, unless the court determines in its discretion that such a release will not reasonably assure the appearance of the person as required, or unreasonable danger to the community or an individual will result. If such a determination is made by the court, it may impose any one or more of the following conditions of release:

(1) require the execution of an appearance bond in a specified amount with good and sufficient surety or sureties approved by the court;

(2) place the person in the custody of a designated person or organization agreeing to supervise him;

(3) place restrictions on the travel, association, or place of abode of the person during the period of release;

(4) impose any other conditions deemed reasonably necessary to assure appearance as required, including a condition that the person return to custody after specified hours.

(B) A person charged with the offense of burglary in the first degree pursuant to Section 16-11-311 may have his bond hearing for that charge in summary court unless the solicitor objects."

Domestic violence, bond, court required to consider certain factors

SECTION 13. Section 16-25-120(A) and (B) of the 1976 Code is amended to read:

"(A) In addition to the provisions of Section 17-15-30, the court must consider the factors provided in subsection (B) when considering release of a person on bond who is charged with a violent offense, as defined in Section 16-1-60, when the victim of the offense is a household member, as defined in Section 16-25-10, and the person:

(1) is subject to the terms of a valid order of protection or restraining order at the time of the offense in this State or another state; or

(2) has a previous conviction involving the violation of a valid order of protection or restraining order in this State or another state.

(B) The court must consider the following factors before release of a person on bond who is subject to the provisions of subsection (A):

(1) whether the person has a history of domestic violence, as defined in this article, or a history of other violent offenses, as defined in Section 16-1-60;

(2) the mental health of the person;

(3) whether the person has a history of violating the orders of a court or other governmental agency; and

(4) whether the person poses a potential threat to another person."

Bond, amendment of an order, clarification as to court with jurisdiction over the offense may amend an order

SECTION 14. Section 17-15-50 of the 1976 Code is amended to read:

"Section 17-15-50. The court with jurisdiction of the offense, at any time after notice and hearing, may amend the order to impose additional or different conditions of release."

Bond, revocation, ten-day summary court concurrent jurisdiction with the circuit court to revoke bond

SECTION 15. Section 17-15-55 of the 1976 Code, as last amended by Act 144 of 2014, is further amended by adding an appropriately lettered subsection at the end to read:

"( ) For the purpose of bond revocation only, a summary court has concurrent jurisdiction with the circuit court for ten days from the date bond is first set on a charge by the summary court to determine if bond should be revoked."

Part IV

Social Policy

Domestic violence, warrantless arrest and search, investigation required to be documented on incident report form, discretionary arrest

SECTION 16. Section 16-25-70(A) and (B) of the 1976 Code, as last amended by Act 319 of 2008, is further amended to read:

"(A) A law enforcement officer may arrest, with or without a warrant, a person at the person's place of residence or elsewhere if the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony pursuant to the provisions of Section 16-25-20, 16-25-65, or 16-25-125, even if the act did not take place in the presence of the officer. The officer may, if necessary, verify the existence of probable cause related to a violation pursuant to the provisions of this chapter by telephone or radio communication with the appropriate law enforcement agency. A law enforcement agency must complete an investigation of an alleged violation of this chapter even if the law enforcement agency was not notified at the time the alleged violation occurred. The investigation must be documented on an incident report form which must be maintained by the investigating agency. If an arrest warrant is sought, the law enforcement agency must present the results of the investigation and any other relevant evidence to a magistrate who may issue an arrest warrant if probable cause is established.

(B) A law enforcement officer may arrest, with or without a warrant, a person at the person's place of residence or elsewhere if physical

manifestations of injury to the alleged victim are present and the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony under the provisions of Section 16-25-20 or 16-25-65 even if the act did not take place in the presence of the officer. A law enforcement officer may not make an arrest if he determines probable cause does not exist after consideration of the factors set forth in subsection (D) and observance that no physical manifestation of injury is present. The officer may, if necessary, verify the existence of an order of protection by telephone or radio communication with the appropriate law enforcement agency."

Victims' compensation, definition of "victim" revised

SECTION 17. Section 16-3-1110(8) of the 1976 Code is amended to read:

"(8) 'Victim' means a person who suffers direct or threatened physical, emotional, or financial harm as the result of an act by someone else, which is a crime. The term includes immediate family members of a homicide victim or of any other victim who is either incompetent or a minor and includes an intervenor. The term also includes a minor who is a witness to a domestic violence offense pursuant to Section 16-25-20 or Section 16-25-65."

Department of Social Services, domestic violence victims' access to childcare services

SECTION 18. The Department of Social Services in consultation with the South Carolina Voucher Program is directed to study current regulations and policies to ensure a domestic violence survivor may apply for childcare and receive childcare services while living in a traditional shelter or while sheltering in the home. The availability of such childcare must be designed to assist the survivor in receiving necessary services related to the care of the child in order to encourage participation in relevant court hearings if the survivor so chooses. The Department of Social Services and the South Carolina Voucher Program shall review relevant regulations as provided in this SECTION and report to the General Assembly by January 1, 2016, on whether current regulations are sufficient to meet the requirements of this SECTION or new regulations must be submitted to the General Assembly.

Pretrial Intervention Program, batterers' treatment program requirements

SECTION 19. Section 17-22-90(7) of the 1976 Code is amended to read:

"(7) if the offense is domestic violence pursuant to Section 16-25-20, agree in writing to successful completion of a batterer's treatment program selected and approved by the Circuit Solicitor with jurisdiction over the offense or the Attorney General if the offense is prosecuted by the Attorney General's Office. If the offender moves to a different circuit after entering a treatment program selected by the Circuit Solicitor, the Circuit Solicitor for the county in which the offender resides shall have the authority to select and approve the batterer's treatment program."

Domestic Violence Advisory Committee created

SECTION 20. Chapter 25, Title 16 of the 1976 Code is amended by adding:

"Article 3

Domestic Violence Advisory Committee

Section 16-25-310. For purposes of this article:

(1) 'Committee' means the Domestic Violence Advisory Committee.

(2) 'Household member' means a household member as defined in Section 16-25-10.

(3) 'Meeting' means both in-person meetings and meetings through telephone conferencing.

(4) 'Provider of medical care' means a licensed health care practitioner who provides, or a licensed health care facility through which is provided, medical evaluation or treatment, including dental and mental health evaluation or treatment.

(5) 'Working day' means Monday through Friday, excluding official state holidays.

Section 16-25-320. (A) There is created a multidisciplinary Domestic Violence Advisory Committee composed of:

(1) the Attorney General of the State of South Carolina, or a designee, who serves ex officio;

(2) the Director of the South Carolina Department of Social Services, or a designee, who serves ex officio;

(3) the Director of the South Carolina Department of Health and Environmental Control, or a designee, who serves ex officio;

(4) the Director of the South Carolina Criminal Justice Academy, or a designee, who serves ex officio;

(5) the Chief of the South Carolina Law Enforcement Division, or a designee, who serves ex officio;

(6) the Director of the South Carolina Department of Alcohol and Other Drug Abuse Services, or a designee, who serves ex officio;

(7) the Director of the South Carolina Department of Mental Health, or a designee, who serves ex officio;

(8) a county coroner or medical examiner, appointed by the Governor on the recommendation of the South Carolina Criminal Justice Academy, who serves ex officio;

(9) a solicitor, appointed by the Governor on the recommendation of the Attorney General, who serves ex officio;

(10) a sheriff, appointed by the Governor on the recommendation of the Sheriffs' Association;

(11) a victim advocate, appointed by the Governor on the recommendation of the State Office of Victim Assistance of the Office of the Governor;

(12) a physician with experience in treating victims of domestic violence, appointed by the Governor on the recommendation of the South Carolina Medical Association;

(13) two members of the public at large dedicated to the issue of domestic violence, appointed by the Governor;

(14) a police chief, appointed by the Governor on the recommendation of the Law Enforcement Officers' Association;

(15) one member of the South Carolina Senate, appointed by the Senate Judiciary Committee Chairman; and

(16) one member of the South Carolina House of Representatives, appointed by the House Judiciary Committee Chairman.

(B)(1) If an individual enumerated in subsection (A)(1) through (7) designates an employee to serve as the committee member, the designee must have administrative or program responsibilities for domestic violence.

(2) A member appointed by the Governor shall serve a term of four years and until a successor is appointed and qualifies.

(C) The members of the committee shall elect a chairman and vice chairman from among the membership by a majority vote. The chairman and vice chairman shall serve terms of two years.

(D) The committee shall hold meetings at least quarterly. A majority of the committee constitutes a quorum for the purpose of holding a meeting.

(E) Each ex officio member shall provide sufficient staff and administrative support to carry out the responsibilities of this article.

Section 16-25-330. (A) The purpose of the Domestic Violence Advisory Committee is to decrease the incidences of domestic violence by:

(1) developing an understanding of the causes and incidences of domestic violence;

(2) developing plans for and implementing changes within the agencies represented on the committee which will prevent domestic violence; and

(3) advising the Governor and the General Assembly on statutory, policy, and practice changes which will prevent domestic violence.

(B) To achieve its purpose, the committee shall:

(1) undertake annual statistical studies of the incidences and causes of domestic violence in this State, including an analysis of:

(a) community and public and private agency involvement with the victims and their families;

(b) whether the abuser has a previous criminal record involving domestic violence or assault and battery;

(c) recidivism rates;

(d) the presence of alcohol or drug use;

(e) whether the abuser has participated in a batterer treatment program or other similar treatment program and the name of the program;

(f) the success or failure rate of approved treatment programs;

(g) married versus unmarried rates of violence; and

(h) the rate of domestic violence per county;

(2) consider training, including cross-agency training, consultation, technical assistance needs, and service gaps that would decrease the likelihood of domestic violence;

(3) determine the need for changes to any statute, regulation, policy, or procedure to decrease the incidences of domestic violence and include proposals for changes to statutes, regulations, policies, and procedures in the committee's annual report;

(4) educate the public regarding the incidences and causes of domestic violence, specific steps the public can undertake to prevent domestic violence, and the support that civic, philanthropic, and public

service organizations can provide in assisting the committee to educate the public;

(5) develop and implement policies and procedures for its own governance and operation;

(6) submit to the Governor and the General Assembly a publicly available annual written report and any other reports prepared by the committee including, but not limited to, the committee's findings and recommendations; and

(7) review closed domestic violence cases selected by the Attorney General or solicitor's representative on the committee to provide the commission with the best opportunity to fulfill its duties under the section.

Section 16-25-340. Upon request of the committee and as necessary to carry out the committee's purpose and duties, the committee immediately must be provided:

(1) by a provider of medical care, access to information and records regarding a person whose death is being reviewed by the department pursuant to this article;

(2) access to all information and records maintained by any state, county, or local government agency including, but not limited to, birth certificates, law enforcement investigation data, county coroner or medical examiner investigation data, parole and probation information and records, and information and records of social services and health agencies that provided services to the victim, alleged perpetrator, and other household members.

Section 16-25-350. When necessary in the discharge of the duties of the committee and upon application of the committee, the clerks of court shall issue a subpoena or subpoena duces tecum to any state, county, or local agency, board, or commission or to a representative of any state, county, or local agency, board, or commission or to a provider of medical care to compel the attendance of witnesses and production of documents, books, papers, correspondence, memoranda, and other relevant records to the discharge of the department's duties. Failure to obey a subpoena or subpoena duces tecum issued pursuant to this section may be punished as contempt.

Section 16-25-360. (A) Meetings of the committee are closed to the public and are not subject to Chapter 4, Title 30, the Freedom of Information Act, when the committee and department are discussing an individual case of domestic violence.

(B) Except as provided in subsection (C), meetings of the committee are open to the public and subject to the Freedom of Information Act when the committee is not discussing an individual case of domestic violence.

(C) Information identifying a victim or a household member, guardian, or caretaker of a victim, or an alleged or suspected perpetrator of domestic violence may not be disclosed during a public meeting, and information regarding the involvement of any agency with the victim, alleged perpetrator, and other household members may not be disclosed during a public meeting.

(D) Violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned not more than six months, or both.

Section 16-25-370. (A) All information and records acquired by the committee in the exercise of their purposes and duties pursuant to this article are confidential, exempt from disclosure under Chapter 4, Title 30, the Freedom of Information Act, and only may be disclosed as necessary to carry out the committee's and department's duties and purposes.

(B) Statistical compilations of data which do not contain information that would permit the identification of a person to be ascertained are public records.

(C) Reports of the committee which do not contain information that would permit the identification of a person to be ascertained are public information.

(D) Except as necessary to carry out the committee's purposes and duties, members of the committee and persons attending their meeting may not disclose what transpired at a meeting which is not public under Section 16-25-360 and may not disclose information, the disclosure of which is prohibited by this section.

(E) Members of the committee, persons attending a committee meeting, and persons who present information to the committee may not be required to disclose in any civil or criminal proceeding information presented in or opinions formed as a result of a meeting, except that information available from other sources is not immune from introduction into evidence through those sources solely because it was presented during proceedings of the committee or department or because it is maintained by the committee or department. Nothing in this subsection prevents a person from testifying to information obtained independently of the committee or which is public information.

(F) Information, documents, and records of the committee are not subject to subpoena, discovery, or the Freedom of Information Act, except that information, documents, and records otherwise available from other sources are not immune from subpoena, discovery, or the Freedom of Information Act through those sources solely because they were presented during proceedings of the committee or department or because they are maintained by the committee or department.

(G) Violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned for not more than six months, or both."

Community Domestic Violence Coordinating Councils reconstituted

SECTION 21. Chapter 25, Title 16 of the 1976 Code is amended by adding:

"Article 5

Community Domestic Violence Coordinating Councils

Section 16-25-510. The circuit solicitor shall facilitate the development of community domestic violence coordinating councils in each county or judicial circuit based upon public-private sector collaboration.

Section 16-25-520. The purpose of a community domestic violence coordinating council is to:

(1) increase the awareness and understanding of domestic violence and its consequences;

(2) reduce the incidence of domestic violence in the county or area served; and

(3) enhance and ensure the safety of battered individuals and their children.

Section 16-25-530. The duties and responsibilities of a community domestic violence coordinating council include, but are not limited to:

(1) promoting effective strategies of intervention for identifying the existence of domestic violence and for intervention by public and private agencies;

(2) establishing interdisciplinary and interagency protocols for intervention with survivors of domestic violence;

(3) facilitating communication and cooperation among agencies and organizations that are responsible for addressing domestic violence;

(4) monitoring, evaluating, and improving the quality and effectiveness of domestic violence services and protections in the community;

(5) providing public education and prevention activities; and

(6) providing professional training and continuing education activities.

Section 16-25-540. Membership on a community domestic violence coordinating council may include, but is not limited to, representatives from magistrates court, family court, law enforcement, solicitor's office, probation and parole, batterer intervention programs or services, nonprofit battered individual's program advocates, counseling services for children, legal services, victim assistance programs, the medical profession, substance abuse counseling programs, the clergy, survivors of domestic violence, local department of social services, and the education community. Members on the council shall develop memoranda of agreement among and between themselves to ensure clarity of roles and responsibilities in providing services to victims of domestic violence.

Section 16-25-550. Each community domestic violence coordinating council is responsible for generating revenue for its operation and administration."

Health education, subject of domestic violence to be included

SECTION 22. Section 59-32-30(A)(2) of the 1976 Code is amended to read:

"(2) Beginning with the 1988-1989 school year, for grades six through eight, instruction in comprehensive health must include the following subjects: community health, consumer health, environmental health, growth and development, nutritional health, personal health, prevention and control of diseases and disorders, safety and accident prevention, substance use and abuse, dental health, mental and emotional health, and reproductive health education. Sexually transmitted diseases are to be included as a part of instruction. At the discretion of the local board, instruction in family life education or pregnancy prevention education or both may be included, but instruction in these subjects may not include an explanation of the methods of contraception before the

sixth grade. Beginning with the 2016-2017 school year, for grades six through eight, instruction in comprehensive health education also must include the subject of domestic violence."

Repeal

SECTION 23. Section 43-1-260 of the 1976 Code is repealed.

Part V

Permanent Restraining Orders

Permanent restraining orders, emergency restraining orders

SECTION 24. Chapter 3, Title 16 of the 1976 Code is amended by adding:

"Article 18

Permanent Restraining Orders

Section 16-3-1900. For purposes of this article:

(1) 'Complainant' means a victim of a criminal offense that occurred in this State, a competent adult who resides in this State on behalf of a minor child who is a victim of a criminal offense that occurred in this State, or a witness who assisted the prosecuting entity in the prosecution of a criminal offense that occurred in this State.

(2) 'Conviction' means a conviction, adjudication of delinquency, guilty plea, nolo contendere plea, or forfeiture of bail.

(3) 'Criminal offense' means an offense against the person of an individual when physical or psychological harm occurs, including both common law and statutory offenses contained in Sections 16-3-1700, 16-3-1710, 16-3-1720, 16-3-1730, 16-25-20, 16-25-30, 16-25-65 and 23-3-430; criminal sexual conduct offenses pled down to assault and battery of a high and aggravated nature; domestic violence offenses pled down to assault and battery or assault and battery of a high and aggravated nature; and the common law offense of attempt, punishable pursuant to Section 16-1-80.

(4) 'Family' means a spouse, child, parent, sibling, or a person who regularly resides in the same household.

(5) 'Respondent' means a person who was convicted of a criminal offense for which the victim was the subject of the crime or the witness who assisted the prosecuting entity in prosecuting the criminal offense.

(6) 'Victim' means:

(a) a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a criminal offense; or

(b) the spouse, parent, child, or lawful representative of a victim who is deceased, a minor, incompetent, or physically or psychologically incapacitated.

'Victim' does not include a person who is the subject of an investigation for, charged with, or has been convicted of the offense in question; a person, including a spouse, parent, child, or lawful representative, who is acting on behalf of a suspect, juvenile offender, or defendant, unless such actions are required by law; or a person who was imprisoned or engaged in an illegal act at the time of the offense.

(7) 'Witness' means a person who has been or is expected to be summoned to testify for the prosecution, or who by reason of having relevant information is subject to being called or likely to be called as a witness for the prosecution, whether or not any action or proceeding has been commenced.

Section 16-3-1910. (A) The circuit court and family court have jurisdiction over an action seeking a permanent restraining order.

(B) To seek a permanent restraining order, a person must:

(1) request the order in general sessions court or family court, as applicable, at the time the respondent is convicted for the criminal offense committed against the complainant; or

(2) file a summons and complaint in common pleas court in the county in which:

(a) the respondent resides when the action commences;

(b) the criminal offense occurred; or

(c) the complainant resides, if the respondent is a nonresident of the State or cannot be found.

(C) The following persons may seek a permanent restraining order:

(1) a victim of a criminal offense that occurred in this State;

(2) a competent adult who resides in this State on behalf of a minor child who is a victim of a criminal offense that occurred in this State; or

(3) a witness who assisted the prosecuting entity in the prosecution of a criminal offense that occurred in this State.

(D) A complaint must:

(1) state that the respondent was a person convicted of a criminal offense for which the victim was the subject of the crime or for which the witness assisted the prosecuting entity;

(2) state when and where the conviction took place, and the name of the prosecuting entity and court;

(3) be verified; and

(4) inform the respondent of his right to retain counsel to represent the respondent at the hearing on the complaint.

(E) A complainant shall provide his address to the court and to any appropriate law enforcement agencies. The complainant's address must be kept under seal, omitted from all documents filed with the court, and is not subject to Freedom of Information Act requests pursuant to Section 30-4-10, et seq. The complainant may designate an alternative address to receive notice of motions or pleadings from the respondent.

(F) The circuit court must provide forms to facilitate the preparation and filing of a summons and complaint for a permanent restraining order by a complainant not represented by counsel. The court must not charge a fee for filing a summons and complaint for a permanent restraining order.

(G) A complainant shall serve his summons and complaint for a permanent restraining order along with a notice of the date, time, and location of the hearing on the complaint pursuant to Rule 4 of the South Carolina Rules of Civil Procedure. The summons must require the respondent to answer or otherwise plead within thirty days of the date of service.

(H) The court may enter a permanent restraining order by default if the respondent was served in accordance with the provisions of this section and fails to answer as directed, or fails to appear on a subsequent appearance or hearing date agreed to by the parties or set by the court.

(I) The hearing on a permanent restraining order may be done electronically via closed circuit television or through other electronic means when possible. If the respondent is confined in a Department of Corrections facility, the complainant may come to the Department of Probation, Parole and Pardon Services in Richland County to have the hearing held electronically via closed circuit television or through other electronic means.

(J) Upon a finding that the respondent was convicted of a criminal offense for which the victim was the subject of the crime or for which the witness assisted the prosecuting entity, as applicable, the court may issue a permanent restraining order. In determining whether to issue a permanent restraining order, physical injury to the victim or witness is not required.

(K) The terms of a permanent restraining order must protect the victim or witness and may include enjoining the respondent from:

(1) abusing, threatening to abuse, or molesting the victim, witness, or members of the victim's or witness' family;

(2) entering or attempting to enter the victim's or witness' place of residence, employment, education, or other location; and

(3) communicating or attempting to communicate with the victim, witness, or members of the victim's or witness' family in a way that would violate the provisions of this section.

(L) A permanent restraining order must conspicuously bear the following language: 'Violation of this order is a felony criminal offense punishable by up to five years in prison.'

(M)(1) A permanent restraining order remains in effect for a period of time to be determined by the judge. If a victim or witness is a minor at the time a permanent restraining order is issued on the minor's behalf, the victim or witness, upon reaching the age of eighteen, may file a motion with the circuit court to have the permanent restraining order removed.

(2) The court may modify the terms of a permanent restraining order upon request of the complainant, including extending the duration of the order or lifting the order.

(N) Notwithstanding another provision of law, a permanent restraining order is enforceable throughout this State.

(O) Law enforcement officers shall arrest a respondent who is acting in violation of a permanent restraining order after service and notice of the order is provided. A respondent who is in violation of a permanent restraining order is guilty of a felony, if the underlying conviction that was the basis for the permanent restraining order was a felony and, upon conviction, must be imprisoned not more than five years. If the underlying conviction that was the basis for the permanent restraining order was a misdemeanor, a respondent who is in violation of a permanent restraining order is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than three years, or both.

(P) Permanent restraining orders are protection orders for purposes of Section 20-4-320, the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, as long as all other criteria of Article 3, Chapter 4, Title 20 are met. However, permanent restraining orders are not orders of protection for purposes of Section 16-25-30.

(Q) The remedies provided by this section are not exclusive, but are additional to other remedies provided by law.

Section 16-3-1920. (A) The magistrates court has jurisdiction over an action seeking an emergency restraining order.

(B) An action for an emergency restraining order must be filed in the county in which:

(1) the respondent resides when the action commences;

(2) the criminal offense occurred; or

(3) the complainant resides, if the respondent is a nonresident of the State or cannot be found.

(C) A summons and complaint for an emergency restraining order may be filed by:

(1) a victim of a criminal offense that occurred in this State;

(2) a competent adult who resides in this State on behalf of a minor child who is a victim of a criminal offense that occurred in this State; or

(3) a witness who assisted the prosecuting entity in the prosecution of a criminal offense that occurred in this State.

(D) The complaint must:

(1) state that the respondent was convicted of a criminal offense for which the victim was the subject of the crime or for which the witness assisted the prosecuting entity;

(2) state when and where the conviction took place, and the name of the prosecuting entity and court;

(3) be verified; and

(4) inform the respondent of his right to retain counsel to represent the respondent at the hearing on the complaint.

(E) A complainant shall provide his address to the court and to any appropriate law enforcement agencies. The complainant's address must be kept under seal, omitted from all documents filed with the court, and is not subject to Freedom of Information Act requests pursuant to Section 30-4-10, et seq. The complainant may designate an alternative address to receive notice of motions or pleadings from the respondent.

(F) The court must provide forms to facilitate the preparation and filing of a summons and complaint for an emergency restraining order by a complainant not represented by counsel. The court must not charge a fee for filing a summons and complaint for an emergency restraining order.

(G)(1) Except as provided in subsection (H), the court shall hold a hearing on an emergency restraining order within fifteen days of the filing of a summons and complaint, but not sooner than five days after service has been perfected upon the respondent.

(2) The court shall serve a copy of the summons and complaint upon the respondent at least five days before the hearing in the same

manner required for service as provided in the South Carolina Rules of Civil Procedure.

(3) The hearing may be done electronically via closed circuit television or through other electronic means when possible. If the respondent is confined in a Department of Corrections facility, the complainant may come to the Department of Probation, Parole and Pardon Services in Richland County to have the hearing held electronically via closed circuit television or through other electronic means.

(4) The court may issue an emergency restraining order upon a finding that:

(a) the respondent was convicted of a criminal offense for which the victim was the subject of the crime or for which the witness assisted the prosecuting entity, as applicable; and

(b) a restraining order has expired, is set to expire, or is not available and the common pleas court is not in session for the complainant to obtain a permanent restraining order.

In determining whether to issue an emergency restraining order, physical injury to the victim or witness is not required.

(H)(1) Within twenty-four hours after the filing of a summons and complaint seeking an emergency restraining order, the court may hold an emergency hearing and issue an emergency restraining order without giving the respondent notice of the motion for the order if:

(a) the respondent was convicted of a criminal offense for which the victim was the subject of the crime or for which the witness assisted the prosecuting entity, as applicable;

(b) a restraining order has expired, is set to expire, or is not available and the common pleas court is not in session for the complainant to obtain a permanent restraining order;

(c) it clearly appears from specific facts shown by a verified complaint or affidavit that immediate injury, loss, or damage will result to the victim or witness before the respondent can be heard; and

(d) the complainant certifies to the court that one of the following has occurred:

(i) efforts have been made to serve the notice; or

(ii) there is good cause to grant the remedy because the harm that the remedy is intended to prevent would likely occur if the respondent were given prior notice of the complainant's efforts to obtain judicial relief.

In determining whether to issue an emergency restraining order, physical injury to the victim or witness is not required.

(2) An emergency restraining order granted without notice must be endorsed with the date and hour of issuance and entered on the record with the magistrates court. The order must be served upon the respondent together with a copy of the summons, complaint, and a Rule to Show Cause why the order should not be extended until the hearing for a permanent restraining order.

(I) The terms of an emergency restraining order must protect the victim or witness and may include temporarily enjoining the respondent from:

(1) abusing, threatening to abuse, or molesting the victim, witness, or members of the victim's or witness' family;

(2) entering or attempting to enter the victim's or witness' place of residence, employment, education, or other location; and

(3) communicating or attempting to communicate with the victim, witness, or members of the victim's or witness' family in a way that would violate the provisions of this section.

(J) An emergency restraining order conspicuously must bear the following language: 'Violation of this order is a felony criminal offense punishable by up to five years in prison.'

(K) The court shall serve the respondent with a certified copy of the emergency restraining order and provide a copy to the complainant and to the local law enforcement agencies having jurisdiction over the area where the victim or witness resides. Service must be made without charge to the complainant.

(L)(1) An emergency restraining order remains in effect until a hearing on a restraining order. However, if a complainant does not seek a permanent restraining order pursuant to Section 16-3-1910 within forty-five days of the issuance of an emergency restraining order, the emergency restraining order no longer remains in effect.

(2) The court may modify the terms of an emergency restraining order.

(M) Notwithstanding another provision of law, an emergency restraining order is enforceable throughout this State.

(N) Law enforcement officers shall arrest a respondent who is acting in violation of an emergency restraining order after service and notice of the order is provided. An arrest warrant is not required. A respondent who is in violation of an emergency restraining order is guilty of a felony, if the underlying conviction that was the basis for the emergency restraining order was a felony and, upon conviction, must be imprisoned not more than five years. If the underlying conviction that was the basis for the emergency restraining order was a misdemeanor, a respondent who is in violation of an emergency restraining order is guilty of a

misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than three years, or both.

(O) Emergency restraining orders are protection orders for purposes of Section 20-4-320, the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, as long as all other criteria of Article 3, Chapter 4, Title 20 are met. However, permanent restraining orders are not orders of protection for purposes of Section 16-25-30.

(P) The remedies provided by this section are not exclusive but are additional to other remedies provided by law."

Part VI

Expungement

Expungement, first offense, third degree domestic violence offenses included

SECTION 25. Section 22-5-910 of the 1976 Code, as last amended by Act 276 of 2014, 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 subsection does not apply to:

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

(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.

(B) Following a first offense conviction for domestic violence in the third degree pursuant to Section 16-25-20(D), the defendant after five 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.

(C) If the defendant has had no other conviction during the three-year period as provided in subsection (A), or during the five-year period as provided in subsection (B), 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.

(D) 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.

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

Part VII

Savings Clause, Severability Clause, and Effective Date

Savings clause

SECTION 26. 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 clause

SECTION 27. 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 28. This act takes effect upon approval by the Governor.

Ratified the 2nd day of June, 2015.

Approved the 4th day of June, 2015.

No. 59

(R90, S78)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "FORFEITED LANDS EMERGENCY DEVELOPMENT ACT" BY ADDING SECTION 12-59-140 SO AS TO AUTHORIZE THE COUNTY COUNCIL TO PETITION THE DEPARTMENT OF REVENUE TO ALLOW THE COUNTY'S FORFEITED LAND COMMISSION TO UTILIZE EMERGENCY PROCEDURES, TO SPECIFY THE PROCESS BY WHICH THE PETITION IS SUBMITTED, AND TO SPECIFY THE EMERGENCY PROCEDURES; AND BY ADDING SECTION 12-59-150 SO AS TO PROHIBIT AN IMMEDIATE FAMILY MEMBER OF A COUNTY FORFEITED LAND COMMISSION MEMBER FROM PURCHASING LAND FROM THE FORFEITED LAND COMMISSION ON WHICH THEIR RELATIVE SERVES, AND TO PROVIDE EXCEPTIONS.

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

Citation

SECTION 1. This act may be referred to and cited as the "Forfeited Lands Emergency Development Act".

Emergency procedures for county forfeited land commission

SECTION 2. Article 1, Chapter 59, Title 12 of the 1976 Code is amended by adding:

"Section 12-59-140. (A) The county council may petition the Department of Revenue for authority to use the procedures provided for in this section when the number and percentage of subdivided properties in the county that have been bid into the commission have, and are reasonably continued to have:

(1) a significant adverse effect on county ad valorem tax collections that severely affect continued essential public services in the county; or

(2) a significant adverse effect on economic development and employment in the county resulting from the limited number of properties available for sale and improvement.

(B) For purposes of this section, 'subdivided properties' refer to a parcel or parcels of real property, residential or commercial, made up of multiple lots.

(C) The petition to the Department of Revenue must provide for:

(1) all necessary documentation to support the past and anticipated future adverse impacts, including historical data on the number and percentage of properties bid into the forfeited land commission;

(2) the loss of ad valorem tax revenues associated with these properties;

(3) the impact of any millage increases imposed by the county to compensate for such lost ad valorem tax revenues;

(4) the past and projected future impact on the ability of the county to deliver essential public services; and

(5) the past and projected future impact on county development and employment opportunities.

(D) If the Department of Revenue approves the petition, the county's forfeited land commission is authorized to utilize the emergency procedures contained in this section for a period not to exceed five years from the date of approval. This authorization may be extended for additional one-year increments, not to exceed two one-year extensions. Petitions for extensions must contain the same types of documentation specified in subsection (C).

(E) Notwithstanding any other provision of law:

(1) The forfeited land commission of any county may, at its discretion, establish a revolving fund to pay for its legal and other expenses. This fund shall be established and maintained by the county

treasurer from a portion of the proceeds of the sale of forfeited lands in an amount not exceeding fifty percent of the sale price of any forfeited land, in whole or in part. Legal and other expenses for which the funds may be expended may not include compensation to any members of the commission, but may include:

(a) payment of legal or other expenses in connection with the commission's decision to accept or reject a forfeited land to be held as an asset of the county;

(b) payment of legal or other expenses in connection with the commission's decision to obtain clear title to a forfeited land pursuant to Section 12-61-10;

(c) payment of a commission to a certified realtor or broker not to exceed three percent of the sales price of any forfeited land, in whole or in part;

(d) the cost of advertising the sale of forfeited lands, including the cost of any multiple realty listing established or provided by commercial realtors or brokers; and

(e) the cost of any clean up of a site, including demolition and disposal costs, intended to make the property salable.

(2) The acquisition of clear title to forfeited lands shall be considered an industrial or commercial development project pursuant to Chapter 29, Title 4, for which a county council may issue special revenue bonds for the purpose of initial funding of revolving funds under this section. Payment of the principal and interest for such bonds may be made from the proceeds of the sale of the forfeited lands.

(3) The forfeited land commission of a county that has established a revolving fund under this section shall dissolve or reduce the amount of funds held by the county treasurer in the fund when it is no longer required for the timely and effective marketing and sale of forfeited lands. The released funds will be deposited into the general fund of the county not later than thirty days from the date of decision by the commission or the date of the expiration of the authorization and, if necessary, may be used to complete any payment of principal and interest remaining from the sale of any special revenue bonds used for the initial establishment of the revolving fund.

(4) The authorized representative of a forfeited land commission that elects to clear tax titles pursuant to Section 12-61-10 may bring multiple actions to the court of common pleas in a single suit, if all of the properties included in the suit were previously owned by a single, individual, partnership, or corporation.

(5) The payment of the expenses of forfeited land commissions exercising authority under this section shall include the collection of its

expenses as a part of the sale price of forfeited lands by former owners pursuant to Section 12-59-60 and the disposition of the proceeds of land sales pursuant to Section 12-59-100.

(6) Deductions from 'value' pursuant to Section 12-24-30(B) shall include any lien or encumbrance on realty in possession of a forfeited land commission which may subsequently be waived or reduced after the transfer under a signed contract or agreement between the lien holder and the buyer existing before the transfer.

(7) Investments by county treasurers under Section 12-45-220(A) may include sums held by the treasurer on behalf of a forfeited land commission under this section.

(F) The provisions of this section do not apply to property for which legal ownership by the defaulting taxpayer was acquired solely through the laws of intestacy through more than one generation."

Certain purchasers prohibited from buying forfeited land

SECTION 3. Article 1, Chapter 59, Title 12 of the 1976 Code is amended by adding:

"Section 12-59-150. An immediate family member of a county forfeited land commission member may not purchase land from the forfeited land commission on which their relative serves, unless the sale is through a competitive bid process or a listing open to members of the general public which has been made available for at least ten days. For purposes of this section, an immediate family member is a spouse, parent, sibling, or child of a forfeited land commission member."

Time effective

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

Ratified the 3rd day of June, 2015.

Approved the 4th day of June, 2015.

No. 60

(R92, S389)

AN ACT TO AMEND CHAPTER 37, TITLE 33, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SOUTH CAROLINA BUSINESS DEVELOPMENT CORPORATIONS, SO AS TO FURTHER PROVIDE FOR THE MANNER IN WHICH THESE CORPORATIONS ARE ORGANIZED, REGULATED, AND PERMITTED TO OPERATE.

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

Business Development Corporation revisions

SECTION 1. Chapter 37, Title 33 of the 1976 Code is amended to read:

"CHAPTER 37

Business Development Corporations

Article 1

General Provisions

Section 33-37-10. As used in this chapter:

(1) 'Corporation' means a South Carolina business development corporation created pursuant to this chapter.

(2) 'Area of operations' means the entirety of the areas that comprise Federal Reserve Districts Five and Six as the geographic area in which the corporation is authorized to transact business pursuant to this chapter.

(3) 'Financial institution' means any banking corporation or trust company, building and loan association, insurance company or related corporation, partnership, foundation, federal or state agency, or other institution engaged primarily in lending or investing funds including, without limitation, the Small Business Administration, an agency of the United States Government.

(4) 'Member' means a financial institution authorized to do business in this State which undertakes to lend money to a corporation created pursuant to this chapter, upon its call and as provided by this chapter.

(5) 'Board of directors' means the board of directors of the corporation created pursuant to this chapter.

(6) 'Loan call' means the right of the corporation to call for loans by the members to the corporation as provided in Section 33-37-460 of this chapter.

(7) 'Loan call agreement' means the loan agreement between the corporation and its members describing the terms, conditions, and loan limits of the corporation's right to make loan calls to its members.

(8) 'Loan limit' means, for a member, the maximum amount subject to loan call at any one time by the corporation to the member as provided in the loan call agreement.

Section 33-37-20. The corporation shall not deposit any of its funds in any banking institution unless the institution has been designated as a depository by a vote of a majority of the directors present at an authorized meeting of the board of directors, exclusive of any director who is an officer or director of the depository so designated.

Section 33-37-30. RESERVED

Section 33-37-40. RESERVED

Section 33-37-50. The corporation may have offices in those places within or outside of the State, other than the location of the principal office as set forth in the declaration of charter as required in Section 33-37-210, as may be fixed by the board of directors.

Section 33-37-60. Under no circumstances is the credit of the State pledged in this chapter.

Section 33-37-70. The corporation and its subsidiary corporation are not subject to taxes based upon or measured by income which are levied now or later by the State. The securities, evidences of indebtedness, and shares of the capital stock issued by the corporation and its subsidiary corporation, their transfer, income from them, and deposits of financial institutions invested in them are free at all times from taxation within the State. The corporation and its subsidiary corporation are not subject to a corporation license tax or fee imposed by Chapter 20, Title 12. Notwithstanding the above provisions, should the corporation or any of the corporation's subsidiaries apply for and receive a charter to operate as a bank, then the corporation or the subsidiary chartered as a bank is subject to all taxes or license fees applicable to banks.

Section 33-37-80. Any stockholder, member, or other holder of any securities, evidences of indebtedness, or shares of the capital stock of the corporation or any of its subsidiaries who realizes a loss from the sale, redemption or other disposition of any securities, evidences of indebtedness, or shares of the capital stock of the corporation, including any such loss realized on a partial or complete liquidation of the corporation, and who is not entitled to deduct such loss in computing any of the stockholder's, member's or other holder's taxes to the State, must be entitled to credit against any taxes subsequently becoming due to the State from the stockholder, member or other holder a percentage of such loss equivalent to the highest rate of tax assessed for the year in which the loss occurs upon mercantile and business corporations.

Article 3

Charter and Amendments; Organization; Powers

Section 33-37-210. Twenty-five or more persons, a majority of whom shall be residents of this State, who may desire to create a business development corporation under the provisions of this chapter for the purpose of promoting, developing, and advancing the prosperity and economic welfare of the State and, to that end, to exercise the powers and privileges provided in this chapter, may be incorporated in the following manner. Those persons shall, by declaration of charter filed with the Secretary of State, under their hands and seals, set forth:

(1) the name of the corporation, which shall include the words 'Business Development Corporation of South Carolina';

(2) the location of the principal office of the corporation; and

(3) the purposes for which the corporation is founded, which must be to: (i) promote, stimulate, develop, and advance the business prosperity and economic welfare of the corporation's area of operations and its citizens; (ii) encourage and assist through loans, investments, or other business transactions, in the location of new business and industry in its area of operations, and to rehabilitate and assist existing business and industry; (iii) stimulate and assist in the expansion of all kinds of business activity which will tend to promote the business development and maintain the economic stability of its area of operations, provide maximum opportunities for employment, encourage thrift, and improve the standard of living of the citizens of its area of operations; (iv) cooperate and act in conjunction with other organizations, public or private, in the promotion and advancement of industrial, commercial, agricultural, and recreational developments in its area of operations; and

(v) provide financing for the promotion, development, and conduct of all kinds of business activity in its area of operations. However, in no event shall the corporation or its subsidiaries use state or federal funds provided for use exclusively in South Carolina in any other state as long as the programs providing these funds exist in South Carolina.

Section 33-37-220. The declaration of charter shall state:

(a) the amount of total authorized capital stock and the number of shares in which it is divided;

(b) the par value of each share;

(c) the amount of capital stock with which the corporation will commence business;

(d) if there is more than one class of stock, a description of the different classes; and

(e) the names and post office addresses of the subscribers of stock and the number of shares subscribed by each. The aggregate of the subscription is the amount of capital with which the corporation will commence business. The declaration of charter may also contain any provision consistent with the laws of this State for the regulation of the affairs of the corporation or creating, defining, limiting, and regulating its powers. The declaration of charter must be in accordance with the provisions of Section 33-2-102.

Section 33-37-230. If a corporation organized pursuant to this chapter shall fail to begin business within three years from the effective date of its charter, then the charter shall become null and void.

Section 33-37-240. The first meeting of the corporation must be called by a notice signed by three or more of the incorporators, stating the time, place, and purpose of the meeting, a copy of the notice must be mailed or delivered to each incorporator at least five days before the day appointed for the meeting. The first meeting may be held without such notice upon agreement in writing to that effect signed by all the incorporators. There must be recorded in the minutes of the meeting a copy of the notice or the unanimous agreement of the incorporators.

At the first meeting the incorporators shall organize by choosing by ballot a temporary clerk, by the adoption of bylaws, by the election by ballot of directors, and by action upon those other matters within the powers of the corporation as the incorporators may see fit. The temporary clerk must be sworn and shall make and attest a record of the proceedings. Ten of the incorporators shall be a quorum for the transaction of business.

Section 33-37-250. In furtherance of the purposes for which the corporation is founded and in addition to the powers conferred on business corporations by this title, the corporation, subject to the restrictions and limitations contained in this chapter, may:

(1) elect, appoint, and employ officers, agents, and employees;

(2) make contracts and incur liabilities for any of the purposes of the corporation, except that the corporation may not incur secondary liability by way of guaranty or endorsement of the obligations of any person, firm, corporation, joint-stock company, association, or trust, or in any other manner;

(3) borrow money only from (i) the members, (ii) the Small Business Administration, an agency of the United States Government, and (iii) other lending sources approved by the board of directors of the corporation for the purposes of the corporation, issue its bonds, debentures, notes, or other evidences of indebtedness, whether secured or unsecured, and secure them by mortgage, pledge, deed of trust, or other lien on its property, franchises, rights and privileges of every kind and nature, or any part of them or interest in them, without securing stockholder or member approval. Except as provided in Section 33-37-465 and item (9), a loan to the corporation may not be secured in any manner unless all outstanding loans to the corporation are secured equally and ratably in proportion to the unpaid balance of the loans and in the same manner;

(4) make loans or participate with the Small Business Administration, an agency of the United States Government, in loans to any person, firm, corporation, joint-stock company, association, or trust and establish and regulate the terms and conditions of the loans and the charges for interest and service connected with them;

(5) purchase, receive, hold, lease, or otherwise acquire and sell, convey, transfer, lease, or otherwise dispose of real and personal property, together with rights and privileges incidental and appurtenant to it and the use of it including, but not limited to, real or personal property acquired by the corporation in the satisfaction of debts or enforcement of obligations;

(6) acquire all or part of the good will, business rights, real and personal property, and other assets, of any persons, firms, corporations, joint-stock companies, associations, or trusts, and to assume, undertake, or pay the obligations, debts, and liabilities of the person, firm, corporation, joint-stock company, association, or trust;

(7) acquire improved or unimproved real estate for the purpose of constructing industrial plants or other business establishments or for the

purpose of disposing of it to others for the construction of industrial plants or other business establishments, and to transfer, lease, or otherwise dispose of industrial plants or business establishments;

(8) acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of the stock, shares, bonds, debentures, notes, or other securities and evidences of interest in or indebtedness of any person, firm, corporation, joint-stock company, association, or trust, and to exercise all the rights, powers, and privileges of ownership, including the right to vote, while the owner or holder;

(9) mortgage, pledge, or otherwise encumber a property right or thing of value acquired pursuant to the powers contained in items (5) through (8), as security for the payment of a part of the purchase price of it;

(10) cooperate with and avail itself of the facilities of the Department of Commerce and similar governmental agencies, including the Small Business Administration, an agency of the United States Government, and cooperate with and assist and otherwise encourage organizations in the various communities of the State in the promotion, assistance, and development of the business prosperity and economic welfare of those communities or of the corporation's area of operations or of any part of them; and

(11) do all acts and things necessary or convenient to carry out the powers expressly granted in this chapter.

Section 33-37-260. The charter may be amended by the votes of the stockholders and the members of the corporation voting separately by classes. The amendments require approval by the affirmative vote of two-thirds of the votes to which the stockholders are entitled and two-thirds of the votes to which the members are entitled. Provisions of the charter setting forth the classes and authorized shares of stock of the corporation may be amended by the affirmative vote of a majority of the votes to which the stockholders are entitled. If the charter so provides, the board of directors shall have the authority to set the terms of a class or series of stock as provided by Section 33-6-102. No amendment of the charter which is inconsistent with the general purposes expressed in this chapter or which eliminates or curtails the right of the Secretary of State to examine the corporation or the obligation of the corporation to make reports as provided by law may be made without amendment of this chapter. No amendment of the charter which increases the obligation of a member to make loans to the corporation, makes a change in the principal amount, interest rate, or maturity date or in the security or credit position of an outstanding loan of a member to the corporation,

affects a member's right to withdraw from membership as provided in Section 33-37-430, or affects a member's voting rights as provided in Sections 33-37-440 and 33-37-450 may be made without the consent of each member affected by the amendment.

Section 33-37-270. Within thirty days after any meeting at which an amendment of the charter has been adopted, articles of amendment signed and sworn to by the president, treasurer, and a majority of the directors, setting forth the amendment and the due adoption of the amendment, must be submitted to the Secretary of State, who shall examine them and, if he finds that they conform to the requirements of this chapter, shall so certify and endorse his approval on it. Thereupon, the articles of amendment must be filed in the Office of the Secretary of State, and no such amendment shall take effect until the articles of amendment have been filed as is required above.

Section 33-37-280. In addition to the powers conferred on the corporation by Section 33-37-250, the corporation may organize and incorporate or create pursuant to this title one or more subsidiary business entities as the board of directors may direct, and these entities shall have all those powers conferred on or permitted to them by this title or, subject to required regulatory approval, Title 34. However, these subsidiary entities are not subject to any restrictions or limitations provided for in this chapter which are applicable to the corporation, except those restrictions and limitations as may be included in the subsidiary entity's articles of incorporation or other applicable governing documents.

Article 5

Members and Stockholders; Loans to Corporation

Section 33-37-410. In addition to other persons and notwithstanding any provision of general or special law or any provision in their respective charters, agreements of association, articles of organization, or trust indentures:

(1) All domestic corporations organized for the purpose of carrying on business within this State, including without implied limitation, public utility companies and insurance and casualty companies, foreign corporations licensed to do business in the State, and all trusts, may acquire, purchase, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of bonds, securities, or other evidences of

indebtedness created by or the shares of the capital stock of the corporation and while owners of the stock may exercise all the rights, powers, and privileges of ownership, including the right to vote on it, all without the approval of a regulatory authority of the State.

(2) All financial institutions may become members of the corporation and make loans to the corporation as provided in this chapter.

(3) A financial institution which does not become a member of the corporation may not acquire any shares of the capital stock of the corporation. In the event a nonmember financial institution becomes an owner of shares in the corporation but does not become a member, these shares shall automatically become nonvoting shares and may not be considered for the purpose of determining a quorum.

(4) Each financial institution which becomes a member of the corporation may acquire, purchase, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of bonds, securities, or other evidences of indebtedness created by or the shares of the capital stock of the corporation and while owners of the stock may exercise all the rights, powers, and privileges of ownership, including the right to vote on it, all without the approval of a regulatory authority of the State. The amount of the capital stock of the corporation which may be acquired by a member pursuant to the authority granted in this section may not exceed five percent of the capital and surplus of the member. The amount of capital stock of the corporation which a member may acquire pursuant to the authority granted in this section is in addition to the amount of capital stock in corporations which the member otherwise is authorized to acquire. A shareholder may acquire or hold more than ten percent of the outstanding shares of the corporation, however all shares in excess of ten percent automatically become nonvoting shares.

Section 33-37-420. Any financial institution may request membership in the corporation by making application to the board of directors on that form and in that manner as the board of directors may require, and the membership becomes effective upon acceptance of the application by the board.

Section 33-37-430. Membership in the corporation must be for the duration of the corporation; provided, that upon written notice given to the corporation three years in advance a member may withdraw from membership in the corporation at the expiration date of the notice.

Section 33-37-440. The stockholders and the members of the corporation shall have the following powers of the corporation:

(1) to elect directors;

(2) to make, amend, and repeal bylaws;

(3) to amend the charter; and

(4) to exercise those powers of the corporation as may be conferred on the stockholders and the members by the bylaws.

Section 33-37-450. (A) As to all matters requiring action by the members and the stockholders of the corporation, the members and the holders of each class of stock, of which there are then shares authorized and outstanding for which votes are entitled to be cast, shall vote separately on the matters by classes and, except as otherwise provided in this chapter, these matters require the affirmative vote of a majority of the votes to which the members present or represented at the meeting are entitled and the affirmative vote of a majority of the votes entitled to be cast with respect to the shares of each class of stock of which there are holders present or represented at the meeting.

(B) Unless otherwise provided in the charter of the corporation, each stockholder has one vote, in person or by proxy, for each share of capital stock held by him, and each member has one vote, in person or by proxy. However, a member having a loan limit of more than one thousand dollars has one additional vote, in person or by proxy, for each additional one thousand dollars of the member's loan limit as determined pursuant to the loan call agreement with the corporation as provided in Section 33-37-460.

Section 33-37-460. Each member of the corporation must make loans to the corporation when called upon pursuant to a written loan call agreement approved by the board of directors of the corporation and entered into between the corporation and all members. The loan call agreement must describe the mutual agreement of the corporation and the members as to the loan limits of each member, the method for determining the loan limits, the terms and conditions of each member's rights and obligations pertaining to loan calls by the corporation, and the corporation's rights to make loan calls of the members. The loan call agreement may be modified and amended unilaterally by the corporation only for the purpose of adding new members as parties to the loan call agreement if the new members execute and deliver addendums to the loan call agreement binding them to all terms, conditions, and loan limits of the agreement. The corporation and any member may agree mutually to increase the loan limit of the member if all other members have the

opportunity to increase their loan limits in the same proportion or percentage relative to their original loan limits as provided in the loan call agreement. The loan call agreement is subject to the following further conditions and limitations:

(1) All loan limits must be established at the thousand dollar amount nearest to the amount computed in accordance with this section.

(2) A loan to the corporation under the loan call agreement may not be made if, immediately after the loan, the total amount of the obligations of the corporation under the loan call agreement exceeds ten times the greater of the net worth of the corporation or the amount then paid in on the outstanding capital stock of the corporation.

(3) The total amount outstanding on loans to the corporation made by a member at any one time under the loan call agreement may not exceed:

(a) ten percent of the total amount then outstanding or committed, or both, under the loan call agreement; or

(b) any federal or state statutory or regulatory limitations applicable to the members.

(4) Subject to item (3)(a), each loan call made by the corporation must be prorated among the members of the corporation in substantially the same proportion that the loan limit of each member bears to the aggregate of the loan limits of all members. Loan calls may require all members to fund the loan call contemporaneously with the loan call or, alternatively, may require that the loan call be funded on a revolving basis in periodic disbursements by groups of members as designated by the corporation on a rotating basis so that, in a single loan call, the disbursement by one designated group may retire at a future date the outstanding balance of another group of members.

(5) All loans to the corporation by members must be evidenced by bonds, debentures, notes, or other evidences of indebtedness of the corporation which are freely transferable at all times. For administrative purposes, loans made by members pursuant to loan calls by the corporation must be funded by one or more members, designated by the corporation, which shall sell participation interests to other members in the proportions provided in this section.

(6) A member is not obligated to make loans to the corporation pursuant to calls made after the withdrawal of the member.

Section 33-37-465. A member may make short-term loans to the corporation independently of the loan calls made pursuant to Section 33-37-460. These short-term loans are not subject to the limitations and restrictions described in Section 33-37-460. When the purpose of the

short-term loan is to provide funds to the corporation for disbursement of a loan, the corporation may grant to the member funding the short-term loan a security interest in or collateral assignment of the loan on the condition that the security interest or collateral assignment is terminated upon payment of the short-term loan.

Section 33-37-470. The board of directors have the power to issue shares of capital stock of the corporation in the classes, series, and denominations set forth in the charter of the corporation, to the same extent and subject to the same restrictions as are otherwise applicable to business corporations organized under the laws of South Carolina under Chapters 1 through 20 of this title. However, the corporation may not issue shares of any series or class of stock with rights, restrictions, or other attributes which would impair or limit the rights of members under this chapter or impair or limit the rights given to stockholders generally under this chapter.

Article 7

Directors and Officers

Section 33-37-610. The business and affairs of the corporation must be managed and conducted by a board of directors, a president and treasurer and those other officers and agents as the corporation by its bylaws shall authorize.

Section 33-37-620. The board of directors shall consist of such number, not more than twenty-one, as must be determined in the first instance by the incorporators and thereafter annually by the members and the stockholders of the corporation. The board of directors may exercise all the powers of the corporation except those as are conferred by law or by the bylaws of the corporation upon the stockholders or members and shall choose and appoint all the agents and officers of the corporation and fill all vacancies except vacancies in the office of director, which must be filled as provided in Section 33-37-630. The board of directors must be elected as provided in Section 33-37-630.

Section 33-37-630. The board of directors must be elected in the first instance by the incorporators and after that time at each annual meeting of the corporation or, if no annual meeting is held in any year, at the time fixed by the bylaws, at a special meeting held in lieu of the annual meeting. At each annual meeting, or at each special meeting held in lieu

of the annual meeting, the members of the corporation shall elect two-thirds of the board of directors, and the stockholders shall elect the remaining directors in the manner prescribed in the charter of the corporation. The directors must hold office until the next annual meeting of the corporation or special meeting held in lieu of the annual meeting after their election and until their successors are elected and qualified unless sooner removed in accordance with the provisions of the bylaws. A vacancy in the office of a director elected by the members must be filled by the directors elected by the members, and a vacancy in the office of a director elected by the stockholders must be filled by the directors elected by the stockholders.

Section 33-37-640. Directors and officers are not responsible for losses unless the losses have been occasioned by the wilful misconduct of those directors and officers.

Article 9

Application of General Corporation Law

Section 33-37-910. Chapters 1 through 20 of this title apply to every corporation organized pursuant to this chapter, except as otherwise provided in Chapters 1 through 20 of this title or by this chapter. If there is a conflict between the provisions of Chapters 1 through 20 of this title and Chapter 37 with respect to a corporation organized under this chapter, this chapter controls.

Article 10

Capital Access Program

Section 33-37-1010. For purposes of this article:

(1) 'CAP' means the Capital Access Program created in this article.

(2) 'BDC' means Business Development Corporation of South Carolina.

(3) 'Financial institution' means a bank, trust company, savings bank, savings and loan association, or cooperative bank chartered by the State or a national banking association, federal savings and loan association, or federal savings bank, if that financial institution has offices located in South Carolina.

(4) 'Participating financial institution' means a financial institution participating in the Capital Access Program.

(5) 'Small business' means:

(a) a retail or service business with annual sales not exceeding two million dollars;

(b) a wholesale business with annual sales not exceeding five million dollars;

(c) a manufacturing business with no more than fifty employees; or

(d) another business with annual revenue not exceeding two million dollars.

(6) 'State fund' and 'state fund account' means the funds appropriated by the General Assembly of South Carolina for the CAP, provided to BDC as custodian for the State of South Carolina, and deposited by BDC into one or more interest-bearing trust accounts maintained by it as custodian for the State of South Carolina.

(7) 'Loss reserve account' means one or more interest-bearing trust accounts maintained by BDC for holding and administering the loan loss reserve pursuant to this article.

Section 33-37-1020. (A) Upon appropriation of funds by the General Assembly for the CAP in the minimum initial sum of two million five hundred thousand dollars, those funds and funds resulting from later appropriations to the state fund must be provided to BDC for deposit in the state fund account.

(B) BDC shall establish the CAP to provide a loan loss reserve from the state fund to assist participating financial institutions making loans to small businesses located in South Carolina that otherwise find it difficult to obtain regular bank financing.

(C) The assistance must be provided by BDC through transfers by it from a state fund account into a loss reserve account maintained by, in the name of, and controlled by BDC as custodian to provide loan loss reserves for loans made to those small businesses.

Section 33-37-1030. A financial institution desiring to become a participating financial institution shall execute an agreement in a form BDC prescribes, containing the terms and provisions provided in Section 33-37-1040 and other terms and provisions BDC considers necessary or appropriate.

Section 33-37-1040. A participating financial institution originating a loan to a small business pursuant to this article shall:

(1) use its existing business and banking network to market and perpetuate the CAP so as to promote economic development among small businesses in South Carolina;

(2) provide financing to small businesses for their business purposes including, without limitation, expansion, start-up, purchase of fixed assets or inventory, facility or technology upgrading, and working capital;

(3) limit loans outstanding to one small business borrower pursuant to this article and the CAP to an aggregate balance outstanding of two hundred fifty thousand dollars or a lesser amount the BDC determines, in the exercise of its discretion for the benefit of the CAP and the small business community at large in this State;

(4) limit loans made pursuant to this article and under the CAP to those that are not guaranteed or otherwise assisted by another governmental entity or program;

(5) set aside an amount of at least one and one-half percent but no more than three and one-half percent of the principal amount of the loan, into the loss reserve account;

(6) obtain from the small business an amount equal to the reserve contribution made by the participating financial institution with respect to the loan;

(7) forward the funds collected and determined pursuant to items (5) and (6) to BDC for deposit into the loss reserve account together with a written report in the form and with the content BDC prescribes; and

(8) report annually to BDC, in the manner and with the supporting information BDC prescribes, the outstanding balance of loans made by it pursuant to the CAP, and a projection and estimate of loans it anticipates making pursuant to the program in the succeeding year.

Section 33-37-1050. After receipt of the funds and report provided in Section 33-37-1040(7), BDC shall transfer from the state fund account to the loss reserve account an amount equal to one hundred fifty percent of the total of the contributions of the participating financial institution and the small business. BDC shall maintain accurate records to determine the allocation and allocable share of each participating financial institution in and to the loan loss reserves in the loss reserve account and shall provide a report of the allocation to each participating financial institution annually. BDC also shall provide the report to a participating financial institution upon its written request during the year, but not more often than quarterly, and to the South Carolina Department of Commerce quarterly. In addition, the BDC shall provide

an internal quarterly report on the project job creation and capital investment associated with each loan.

Section 33-37-1060. If the participating financial institution suffers a loss on a loan made pursuant to the CAP and this article, it may request that all or a portion of its allocated loan reserve in the loss reserve account be applied to the loan. Upon receipt by BDC of a certification of loss by the participating financial institution, BDC shall release the funds in the account to repay the loan in whole or in part, in an amount not to exceed the actual loss incurred by the participating financial institution. BDC shall prescribe the form and content of the certification report.

Section 33-37-1070. Earnings or interest from the principal of the state fund account and the loss reserve account must be paid monthly to BDC. In the event the interest paid to the BDC amounts to less than fifty thousand dollars in any year, the difference between the amount paid from interest and fifty thousand dollars must be paid to the BDC from the state fund account, if available, in January of the following year:

(1) as compensation for its administration and management of the CAP and the accounts; and

(2) for economic development in South Carolina for the purposes and within the meanings set forth in this chapter and in the corporate charter of BDC.

Section 33-37-1080. If a participating financial institution that elects to discontinue its participation in the CAP has funds on deposit in the loss reserve account, the funds must be forfeited by the institution to the state fund and used in the CAP as loss reserves as provided in this article.

Section 33-37-1090. An independent certified public accountant, as elected annually by the Board of Directors of the BDC, shall conduct an annual certified audit of its management, administration, and recordkeeping in connection with the CAP and provide the audit to the South Carolina Board of Financial Institutions upon its request, the General Assembly upon its request, and the South Carolina Department of Commerce. Annual reports to the South Carolina Department of Commerce and the General Assembly also must include projected capital investment and job creation associated with each CAP loan provided.

Section 33-37-1100. If a loan is not made by participating financial institutions for three consecutive years and the General Assembly does not appropriate additional funds for the program for those three consecutive years, BDC may pay over to the participating financial institutions their allocable shares of funds in the loss reserve account and pay over to the State of South Carolina, as directed by the South Carolina Board of Financial Institutions, funds held in the state fund account."

Time effective

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

Ratified the 3rd day of June, 2015.

Approved the 4th day of June, 2015.

No. 61

(R94, H3156)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 5 TO CHAPTER 15, TITLE 63 ENACTING THE "UNIFORM DEPLOYED PARENTS CUSTODY AND VISITATION ACT" SO AS TO ADDRESS ISSUES OF CUSTODIAL RESPONSIBILITY WHEN A PARENT IN THE UNIFORMED SERVICE IS BEING DEPLOYED; TO PROVIDE THAT A COURT MUST HAVE JURISDICTION PURSUANT TO THE UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT TO ISSUE AN ORDER UNDER THIS ARTICLE; TO REQUIRE PROMPT NOTICE OF DEPLOYMENT TO THE OTHER PARENT; TO PROVIDE THAT THE CUSTODIAL RESPONSIBILITIES OF A DEPLOYING PARENT MAY BE ASSIGNED FOR THE DURATION OF THE DEPLOYMENT BY A TEMPORARY AGREEMENT ENTERED INTO BY THE PARENTS OR WITH THE DEPLOYING PARENT'S CONSENT, BY A COURT ISSUING A TEMPORARY ORDER GRANTING CUSTODIAL RESPONSIBILITIES AND TO FURTHER PROVIDE CERTAIN REQUIREMENTS AND LIMITATIONS OF AN AGREEMENT OR COURT ORDER; TO PROVIDE FOR THE TERMINATION

OF A TEMPORARY AGREEMENT OR A TEMPORARY ORDER; TO PROVIDE THAT THIS ARTICLE SUPERSEDES THE FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, EXCEPT CERTAIN PROVISIONS IN THAT ACT; AND TO PROVIDE THAT THIS ARTICLE DOES NOT AFFECT THE VALIDITY OF A TEMPORARY COURT ORDER CONCERNING CUSTODIAL RESPONSIBILITY DURING DEPLOYMENT ENTERED BEFORE THIS ARTICLE'S EFFECTIVE DATE.

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

Child custody and visitation, Uniform Deployed Parents Custody and Visitation Act

SECTION 1. Chapter 15, Title 63 of the 1976 Code is amended by adding:

"Article 5

Uniform Deployed Parents Custody and Visitation Act

Subarticle 1

General Provisions

Section 63-15-500. This chapter may be cited as the 'Uniform Deployed Parents Custody and Visitation Act'.

Section 63-15-502. As used in this article:

(1) 'Adult' means an individual who is at least eighteen years of age or an emancipated minor.

(2) 'Caretaking authority' means the right to live with and care for a child on a day-to-day basis, including physical custody, parenting time, right to access, and visitation.

(3) 'Child' means:

(a) an unemancipated individual who has not attained eighteen years of age; or

(b) an adult son or daughter by birth or adoption or under the law of this State, other than this article, who is the subject of an existing court order concerning custodial responsibility.

(4) 'Close and substantial relationship' means a relationship in which a significant bond exists between a child and a nonparent.

(5) 'Court' means an entity authorized under the law of this State, other than this article, to establish, enforce, or modify a decision regarding custodial responsibility.

(6) 'Custodial responsibility' is a comprehensive term that includes any and all powers and duties relating to caretaking authority and decision-making authority for a child. The term includes custody, physical custody, legal custody, parenting time, right to access, visitation, and the authority to designate limited contact with a child.

(7) 'Decision-making authority' means the power to make important decisions regarding a child, including decisions regarding the child's education, religious training, health care, extra-curricular activities, and travel. The term does not include day-to-day decisions that necessarily accompany a grant of caretaking authority.

(8) 'Deploying parent' means a service member, who is deployed or has been notified of impending deployment, and is:

(a) a parent of a child under the law of this State other than this article; or

(b) an individual other than a parent who has custodial responsibility of a child under the law of this State other than this article;

(9) 'Deployment' means the movement or mobilization of a service member to a location for more than ninety days but fewer than eighteen months pursuant to an official order that:

(a) is designated as unaccompanied;

(b) does not authorize dependent travel; or

(c) otherwise does not permit the movement of family members to that location.

(10) 'Family member' includes a sibling, aunt, uncle, cousin, stepparent, or grandparent of a child and an individual recognized to be in a familial relationship with a child under the law of this State other than this article.

(11) 'Limited contact' means the opportunity for a nonparent to visit with a child for a limited period of time. The term includes authority to take the child to a place other than the residence of the child.

(12) 'Nonparent' means an individual other than a deploying parent or other parent.

(13) 'Other parent' means an individual who, in common with a deploying parent, is:

(a) the parent of a child under the law of this State other than this article; or

(b) an individual other than a parent with custodial responsibility of a child under the law of this State other than this article.

(14) 'Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(15) 'Return from deployment' means the conclusion of a service member's deployment as specified in uniformed service orders.

(16) 'Service member' means a member of a uniformed service.

(17) 'Sign' means, with present intent to authenticate or adopt a record to:

(a) execute or adopt a tangible symbol; or

(b) attach to or logically associate with the record an electronic symbol, sound, or process.

(18) 'State' means a state of the United States, the District of Columbia, Puerto Rico, and the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(19) 'Uniformed service' means:

(a) active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States;

(b) the Merchant Marine, the commissioned corps of the Public Health Service or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(c) the National Guard.

Section 63-15-504. In addition to other relief provided by the law of this State, other than this article, if a court finds that a party to a proceeding under this article has acted in bad faith or intentionally failed to comply with this article or a court order issued pursuant to this article, the court may assess reasonable attorney's fees and costs of the opposing party and order other appropriate relief.

Section 63-15-506. (A) A court may issue an order regarding custodial responsibility pursuant to this article only if the court has jurisdiction pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act. If the court has issued a temporary order regarding custodial responsibility pursuant to Subarticle 3, the residence of the deploying parent is not changed by reason of the deployment for the purposes of the Uniform Child Custody Jurisdiction and Enforcement Act during the deployment.

(B) If a court has issued a permanent order regarding custodial responsibility before notice of deployment and the parents modify that

If the last act shown on the opposite page is not complete, it will be continued in the next Advance Sheet.

JAMES H. HARRISON
Code Commissioner
P. O. Box 11489
Columbia, S.C. 29211