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2016 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.

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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. 132

(R134, S255)

AN ACT TO AMEND SECTION 17-1-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXPUNGEMENT AND THE PROCEDURE FOR RETENTION AND DESTRUCTION OF CRIMINAL RECORDS, SO AS TO CLARIFY WHEN DESTRUCTION OF CERTAIN RECORDS RELATING TO ARREST AND BOOKING IS REQUIRED, TO GIVE THE SOLICITOR DISCRETION TO NOTIFY THE STATE LAW ENFORCEMENT DIVISION TO AMEND A PERSON'S RECORD IF A PERSON PLEADS GUILTY TO A LESSER INCLUDED OFFENSE, AND TO DELETE PROVISIONS WHICH EXCLUDE EXPUNGEMENT FOR CERTAIN WILDLIFE AND DRIVING OFFENSES; BY ADDING SECTION 17-1-60 SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON OR ENTITY TO PUBLISH ON THE PERSON'S OR ENTITY'S WEBSITE OR ANY OTHER PUBLICATION THE ARREST AND BOOKING RECORDS OF A PERSON AND REMOVAL OR REVISION OF THOSE RECORDS THAT REQUIRES THE PAYMENT OF A FEE OR OTHER CONSIDERATION, TO PROVIDE PROCEDURES FOR THE REMOVAL OF SUCH RECORDS UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE A PENALTY FOR A VIOLATION, AND TO PROVIDE EXCEPTIONS; TO AMEND SECTION 17-22-950, AS AMENDED, RELATING TO EXPUNGEMENT OF CERTAIN CRIMINAL CHARGES IN SUMMARY COURT, SO AS TO PROVIDE FURTHER PROCEDURES FOR SUMMARY COURT ORDERS OF EXPUNGEMENT AND THE REMOVAL OF RECORDS FROM ALL INTERNET-BASED PUBLIC RECORDS; TO AMEND SECTION 22-5-910, AS AMENDED, RELATING TO EXPUNGEMENT OF CRIMINAL RECORDS, SO AS TO DELETE PROVISIONS WHICH EXCLUDE EXPUNGEMENT FOR CERTAIN WILDLIFE AND DRIVING OFFENSES; AND TO AMEND SECTION 22-5-920, AS AMENDED, RELATING TO YOUTHFUL OFFENDER CONVICTIONS, SO AS TO DELETE PROVISIONS WHICH EXCLUDE EXPUNGEMENT FOR CERTAIN WILDLIFE AND DRIVING OFFENSES.

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

Expungement, procedures for destruction of criminal records, lesser-included offenses, removal of exclusion on certain wildlife and driving offenses

SECTION 1. Section 17-1-40 of the 1976 Code, as last amended by Act 276 of 2014, is further amended to read:

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

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

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

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

disclosure, except by court order. At the end of the three years and one hundred twenty days from the date of the expungement order, the records must be destroyed unless they are being retained to address an action, complaint, or inquiry that has been initiated.

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

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

(4) If a person pleads guilty to a lesser included offense and the solicitor deems it appropriate, the solicitor shall notify the State Law Enforcement Division (SLED) and SLED shall request that the person's record contained in the National Crime Information Center (NCIC) database or other similar database reflects the lesser included offense rather than the offense originally charged.

(C)(1) If a person's record is expunged pursuant to Article 9, Title 17, Chapter 22, because the person was charged with a criminal offense, or was issued a courtesy summons pursuant to Section 22-3-330 or another provision of law, and the charge was discharged, proceedings against the person were dismissed, or the person was found not guilty of the charge, then law enforcement and prosecution agencies shall retain the unredacted incident and supplemental reports, and investigative files under seal for three years and one hundred twenty days. A law enforcement or prosecution agency may retain the information indefinitely for purposes of ongoing or future investigations, other law enforcement or prosecution purposes, administrative hearings, and to defend the agency and the agency's employees during litigation proceedings. The information must remain under seal. The information is not a public document, is exempt from disclosure, except by court order, and is not subject to an order for destruction of arrest records.

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

(3) If a person other than the person whose record is expunged is charged with the offense, a prosecution agency may provide the attorney representing the other person with unredacted incident and supplemental reports. The attorney shall not provide copies of the reports to a person

or entity nor share the contents of the reports with a person or entity, except during judicial proceedings or as allowed by court order.

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

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

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

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

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

Publication of arrest and booking records, unlawful under certain circumstances, procedures for removal of such information

SECTION 2. Chapter 1, Title 17 of the 1976 Code is amended by adding:

"Section 17-1-60. (A) For purposes of this section, a person or entity who publishes on the person's or entity's website or any other publication the arrest and booking records, including booking photographs, of a person who is arrested and booked in South Carolina is deemed to be transacting business in South Carolina.

(B) It is unlawful for a person or entity to obtain, or attempt to obtain, the arrest and booking records, including booking photographs, of a person who is arrested and booked in South Carolina knowing:

(1) the arrest and booking records will be published on a website or any other publication; and

(2) removal or revision of the arrest or booking records requires the payment of a fee or other consideration.

(C) It is unlawful for a person or entity to require the payment of a fee or other consideration to remove, revise, or refrain from posting to a website or any other publication the arrest and booking records,

including booking photographs, of a person who is arrested and booked in South Carolina.

(D)(1) A person or entity who publishes on the person or entity's website or any other publication the arrest and booking records, including booking photographs, of a person who is arrested and booked in South Carolina shall remove the arrest and booking records from the person or entity's website or any other publication without requiring the payment of a fee or other consideration within thirty days of the receipt of a request to remove the arrest and booking records, if the request:

(a) is made in writing via certified mail, return receipt requested, to the registered agent, principal place of business, or primary residence of the person or entity who publishes the website or any other publication;

(b) includes the person's name, date of arrest, and the name of the arresting law enforcement agency;

(c) contains certified documentation that the original charges stemming from the arrest were discharged, dismissed, expunged, or the person was found not guilty; and

(d) includes a complete and accurate description of where the arrest and booking records are located, including, but not limited to, the uniform resource locator (URL) and e-edition, if applicable.

(2) If the original charges stemming from the arrest were discharged or dismissed as a result of the person pleading to a lesser included offense, or a different offense, the person or entity who publishes the website or any other publication is not required to remove the arrest and booking records from the person or entity's website or any other publication; however, the person or entity shall revise the arrest and booking records published on the person or entity's website or any other publication to reflect the lesser included offense, or different offense, instead of the original charges, without requiring the payment of a fee or other consideration within thirty days of the receipt of a request to remove the arrest and booking records pursuant to item (1).

(3) This subsection does not apply to the following:

(a) motion picture producers and distributors, and their products as released in theaters, to DVD, pay-per-view, broadcast, cable and satellite television, as well as Internet services;

(b) acts done by the publisher, owner, agent, employee, or retailer of a newspaper, periodical, books, radio station, radio network, television station, television broadcast network, or cable television network in the publication or dissemination in print or electronically of:

(i) news, history, entertainment, or commentary; or

(ii) an advertisement of or for another person, when the publisher, owner, agent, or employee did not have actual knowledge of the false, misleading, or deceptive character of the advertisement, did not prepare the advertisement, or did not have a direct financial interest in the sale or distribution of the advertised product or service.

(4) A person or entity who violates this subsection is not subject to the criminal penalty provided in subsection (F); however, the person or entity is subject to a civil cause of action as provided in subsection (G).

(E)(1) This section does not apply to a state or local government agency.

(2) Except as otherwise provided by state law, it is unlawful for an employee of a state or local government agency to provide the arrest or booking records, including booking photographs, of a person who is arrested and booked in South Carolina knowing:

(a) the arrest and booking records will be published on a nongovernmental website or any other publication; and

(b) removal or revision of the arrest or booking records requires the payment of a fee or other consideration.

(F)(1) A person or entity who violates this section, except for subsection (D), is guilty of a misdemeanor, and, upon conviction, must be fined not more than one thousand dollars or be imprisoned not more than sixty days, or both.

(2) Each arrest and booking record obtained, attempted to obtain, or provided, and each payment solicited or accepted in violation of this section constitutes a separate violation.

(G)(1) Except as provided in item (2), a person who suffers a loss or harm as a result of a violation of this section may file a civil cause of action against a person or entity who violates this section for damages suffered, along with costs, attorney's fees, and any other legal or equitable relief.

(2) A person who suffers a loss or harm as a result of a violation of this section may not file a civil cause of action against a state or local government agency pursuant to this section; however, the person may file a civil cause of action against an employee of a state or local government agency who violates subsection (E)(2) pursuant to the South Carolina Tort Claims Act. A state or local government agency may not be substituted for an employee of the state or local government agency in a civil cause of action against the employee."

Expungement, summary court expungement orders, removal of Internet-based public records

SECTION 3. Section 17-22-950 of the 1976 Code, as last amended by Act 276 of 2014, is further amended to read:

"Section 17-22-950. (A) If criminal charges are brought in a summary court, the accused person is found not guilty or the charges are dismissed or nolle prossed, and the accused person was fingerprinted for the charges, the summary court, at no cost to the accused person, immediately shall issue an order to expunge the criminal records, including any associated bench warrants, of the accused person unless the dismissal of the charges occurs at a preliminary hearing or the accused person has charges pending in summary court and a court of general sessions and the charges arise out of the same course of events. Upon issuance of the order, the summary court shall obtain and verify the presence of all necessary signatures and provide copies of the completed expungement order to all governmental agencies which must receive the order, including, but not limited to, the arresting law enforcement agency; the detention facility or jail; the solicitor's office; the clerk of court, but only in cases in which the charges were appealed to the circuit court or remanded to the summary court from general sessions court; the summary court where the arrest or bench warrants originated; the summary court that was involved in any way in the criminal process of the charges or bench warrants; and SLED.

(B) If criminal charges are brought in a summary court, the accused person is found not guilty or the charges are dismissed or nolle prossed, and the person was not fingerprinted for the charges, the accused person may apply to the summary court, at no cost to the accused person, for an order to expunge the criminal records, including any associated bench warrants, of the accused person unless the dismissal of the charges occurs at a preliminary hearing or the accused person has charges pending in summary court and a court of general sessions and the charges arise out of the same course of events. Upon application, and after verification that the charges are appropriate for expungement, the summary court shall issue an order to expunge the criminal records, obtain and verify all necessary signatures, and provide copies of the completed expungement order to the arresting law enforcement agency and all summary courts that were involved in the criminal process of the charges. The summary court is not required to provide copies of the completed expungement order to SLED.

(C) An expungement pursuant to this section must occur no sooner than the appeal expiration date and no later than thirty days after the appeal expiration date.

(D) A summary court shall provide a copy of a completed expungement order issued pursuant to this section to the applicant or the applicant's counsel of record. The copy must be certified or marked with the court's raised seal.

(E) Criminal charges must be removed pursuant to this section from all Internet-based public records no later than thirty days from the disposition date, regardless of whether the accused person applies to the summary court for expungement pursuant to subsection (B). All other criminal records must be destroyed or retained pursuant to the provisions of Section 17-1-40.

(F) A prosecution or law enforcement agency may file an objection to a summary court expungement. If an objection is filed, the expungement must be heard by the judge of a general sessions court. The prosecution's or law enforcement agency's reason for objecting must be that the accused person has other charges pending or the charges are not eligible for expungement. The prosecution or law enforcement agency shall notify the accused person of the objection. The notice must be given in writing at the most current address on file with the summary court, or through the accused person's attorney, no later than thirty days after the accused person is found not guilty or the accused person's charges are dismissed or nolle prossed.

(G) The Office of Court Administration shall provide uniform application forms to be used for expungements pursuant to this section."

Expungement, removal of exclusion on certain wildlife and driving offenses

SECTION 4. Section 22-5-910(A) of the 1976 Code, as last amended by Act 58 of 2015, is further amended to read:

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

Expungement, youthful offenders, removal of exclusion on certain wildlife and driving offenses

SECTION 5. Section 22-5-920(B) of the 1976 Code, as last amended by Act 273 of 2010, is further amended to read:

"(B)(1) Following a first offense conviction as a youthful offender for which a defendant is sentenced pursuant to the provisions of Chapter 19, Title 24, Youthful Offender Act, the defendant, after five years from the date of completion of the defendant's sentence, including probation and parole, may apply, or cause someone acting on the defendant's behalf to apply, to the circuit court for an order expunging the records of the arrest and conviction.

(2) However, this section does not apply to:

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

(b) an offense classified as a violent crime in Section 16-1-60; or

(c) an offense contained in Chapter 25, Title 16, except as otherwise provided in Section 16-25-30.

(3) If the defendant has had no other conviction during the five-year period following completion of the defendant's sentence, including probation and parole, for a first offense conviction as a youthful offender for which the defendant was sentenced pursuant to the provisions of Chapter 19, Title 24, Youthful Offender Act, the circuit court may issue an order expunging the records. No person may have the person's records expunged under this section more than once. A person may have the person's record expunged even though the conviction occurred before the effective date of this section. A person eligible for a sentence pursuant to the provisions of Chapter 19, Title 24, Youthful Offender Act, and who is not sentenced pursuant to those provisions, is not eligible to have the person's record expunged pursuant to the provisions of this section."

Time effective

SECTION 6. This act takes effect ninety days after approval by the Governor. This act applies retroactively to allow for the expungement of offenses charged, discharged, dismissed, or nolle prossed prior to the effective date of this act, and persons convicted or found not guilty prior to the effective date of this act.

Ratified the 11th day of February, 2016.

Approved the 16th day of February, 2016.

No. 133

(R136, H3145)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 15-3-700 SO AS TO PROVIDE A PERSON IS IMMUNE FROM CIVIL LIABILITY FOR PROPERTY DAMAGE RESULTING FROM HIS FORCIBLE ENTRY INTO A MOTOR VEHICLE FOR THE PURPOSE OF REMOVING A MINOR OR VULNERABLE ADULT FROM THE VEHICLE IF THE PERSON HAS A REASONABLE GOOD FAITH BELIEF THAT FORCIBLE ENTRY INTO THE VEHICLE IS NECESSARY BECAUSE THE MINOR OR VULNERABLE ADULT IS IN IMMINENT DANGER OF SUFFERING HARM.

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

Immunity for property damage incurred in rescue from locked vehicle

SECTION 1. Article 5, Chapter 3, Title 15 of the 1976 Code is amended by adding:

"Section 15-3-700. A person is immune from civil liability for property damage resulting from his forcible entry into a motor vehicle for the purpose of removing a minor or vulnerable adult from the vehicle if the person has a reasonable good faith belief that forcible entry into the vehicle is necessary because the minor or vulnerable adult is in imminent danger of suffering harm."

Time effective

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

Ratified the 11th day of February, 2016.

Approved the 16th day of February, 2016.

No. 134

(R137, H3874)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-6-3770 SO AS TO PROVIDE FOR AN INCOME TAX CREDIT TO AN INDIVIDUAL OR BUSINESS THAT CONSTRUCTS, PURCHASES, OR LEASES CERTAIN SOLAR ENERGY PROPERTY AND PLACES IT IN SERVICE IN THIS STATE, AND TO PROVIDE A DEFINITION OF "SOLAR ENERGY PROPERTY"; AND TO AMEND SECTION 12-6-3587, RELATING TO THE PURCHASE AND INSTALLATION OF CERTAIN SOLAR ENERGY SYSTEMS, SO AS TO ALLOW AN INCOME TAX CREDIT FOR CERTAIN COSTS INCURRED BY THE TAXPAYER IN THE PURCHASE AND INSTALLATION OF GEOTHERMAL MACHINERY AND EQUIPMENT, AND TO PROVIDE A DEFINITION OF "GEOTHERMAL MACHINERY AND EQUIPMENT".

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

Income tax credit for certain solar energy property

SECTION 1. A. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

"Section 12-6-3770. (A) A taxpayer who constructs, purchases, or leases solar energy property located on the Environmental Protection Agency's National Priority List, National Priority List Equivalent Sites, or on a list of related removal actions, as certified by the Department of Health and Environmental Control, located in the State of South Carolina, and places it in service in this State during the taxable year, is allowed an income tax credit equal to twenty-five percent of the cost, including the cost of installation, of the property. The credit is earned in the year in which the solar energy property is placed in service, but must

be taken in five equal annual installments, beginning in the year in which the solar energy property is placed in service. Unused credit may be carried forward for five taxable years from the year in which the credit was able to be taken. A lessor shall give a taxpayer who leases solar energy property from him a statement that describes the solar energy property and states the cost of the property upon request. A credit is not allowed pursuant to this section to the extent the cost of the solar energy property is provided by public funds. For purposes of this section, 'public funds' does not include federal grants or tax credits.

(B) If the solar energy property with respect to which the credit was claimed is disposed of, taken out of service, or moved out of the State in a year in which the installment of a credit accrues, then the credit expires and the taxpayer may not take any remaining installments of the credit.

(C) A credit for each installation of solar energy property placed in service may not exceed two million five hundred thousand dollars. The credit is allowed on a first-come, first-served basis, and the total amount of credits available to be taken, pursuant to the five equal annual installments, for all taxpayers in a taxable year, may not exceed two million five hundred thousand dollars in the aggregate.

(D) A taxpayer who claims any other state credit allowed with respect to solar energy property may not take the credit allowed in this section with respect to the same property. A taxpayer may not take the credit allowed in this section for solar energy property the taxpayer leases from another unless the taxpayer obtains the lessor's written certification that the lessor will not claim a credit pursuant to this section with respect to the property.

(E) The Department of Revenue may promulgate regulations necessary to implement the provisions of this section.

(F) For purposes of this section, 'solar energy property' means any nonresidential solar energy equipment with a nameplate capacity of at least two thousand kilowatts (2,000 kw AC) that uses solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, daylighting, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat. The term also includes related devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy."

B. This section takes effect in income tax years beginning after 2015. The provisions of this act are repealed on December 31, 2017, except that if the credit allowed by Section 12-6-3770, as added by this act, is

earned before the repeal, the provisions of Section 12-6-3770 continue to apply until the credits have been fully claimed.

Income tax credit for certain geothermal machinery and equipment

SECTION 2. A. Section 12-6-3587 of the 1976 Code is amended to read:

"Section 12-6-3587. (A) There is allowed as a tax credit against the income tax liability of a taxpayer imposed by this chapter an amount equal to twenty-five percent of the costs incurred by the taxpayer in the purchase and installation of a solar energy system, small hydropower system, or geothermal machinery and equipment for heating water, space heating, air cooling, energy-efficient daylighting, heat reclamation, energy-efficient demand response, or the generation of electricity in or on a facility in South Carolina and owned by the taxpayer. The tax credit allowed by this section must not be claimed before the completion of the installation. The amount of the credit in any year may not exceed three thousand five hundred dollars for each facility or fifty percent of the taxpayer's tax liability for that taxable year, whichever is less. If the amount of the credit exceeds three thousand five hundred dollars for each facility, the taxpayer may carry forward the excess for up to ten years.

(B) 'System' includes all controls, tanks, pumps, heat exchangers, and other equipment used directly and exclusively for the solar energy system. The term 'system' does not include any land or structural elements of the building such as walls and roofs or other equipment ordinarily contained in the structure. A credit may not be allowed for a solar system unless the system is certified for performance by the nonprofit Solar Rating and Certification Corporation or a comparable entity endorsed by the State Energy Office.

(C) For purposes of this section, 'small hydropower system' means new generation capacity on a nonimpoundment or on an existing impoundment that:

(1) meets licensing standards as defined by the Federal Energy Regulatory Commission (FERC);

(2) is a run-of-the-river facility with a capacity not to exceed 5MW; or

(3) consists of a turbine in a pipeline or in an irrigation canal.

(D) For purposes of this section, 'geothermal machinery and equipment' means machinery and equipment for use at the taxpayer's residence that either:

(1) is a heat pump that uses the ground or groundwater as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure; or

(2) uses the internal heat of the earth as a substitute for traditional energy for water heating or active space heating or cooling; and

(3) on the date of installation, meets or exceeds applicable federal Energy Star requirements."

B. The provisions contained in this section related to geothermal machinery and equipment are repealed January 1, 2019.

C. This section takes effect on January 1, 2016.

Time effective

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

Ratified the 11th day of February, 2016.

Approved the 16th day of February, 2016.

No. 135

(R138, H3881)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40-29-327 SO AS TO PROVIDE EACH LICENSED MANUFACTURED HOUSING RETAIL DEALER LOCATION MUST HAVE ONE AUTHORIZED OFFICIAL REPRESENTING THE DEALERSHIP, TO PROVIDE AN AUTHORIZED OFFICIAL WHO IS NOT THE DEALER MUST HOLD A MANUFACTURED HOME RETAIL SALESPERSON OR RETAIL DEALER LICENSE, AND TO PROVIDE THE MANUFACTURED HOUSING BOARD MUST BE NOTIFIED IN WRITING WITHIN TWENTY DAYS IF THE AUTHORIZED OFFICIAL CHANGES.

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

Authorized officials required in each location, licensure, notice requirements

SECTION 1. Chapter 29, Title 40 of the 1976 Code is amended by adding:

"Section 40-29-327. Each licensed manufactured housing retail dealer location must have one authorized official representing the dealership. An authorized official who is not the dealer must hold a manufactured home retail salesperson or retail dealer license. The board must be notified in writing within twenty days if the authorized official changes."

Time effective

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

Ratified the 11th day of February, 2016.

Approved the 16th day of February, 2016.

No. 136

(R140, H4507)

AN ACT TO AMEND SECTION 23-25-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CREATION, PURPOSE, AND MEMBERSHIP OF THE SOUTH CAROLINA LAW ENFORCEMENT OFFICERS HALL OF FAME ADVISORY COMMITTEE, SO AS TO INCREASE THE MEMBERSHIP TO INCLUDE THE PRESIDENT OF THE SOUTH CAROLINA FRATERNAL ORDER OF POLICE, OR HIS DESIGNEE.

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

South Carolina Law Enforcement Officers Hall of Fame Advisory Committee, membership revised

SECTION 1. Section 23-25-20(B) of the 1976 Code is amended to read:

"(B) There is created a South Carolina Law Enforcement Officers Hall of Fame Advisory Committee. The committee shall consist of the following ex officio members:

(1) the Director of the Department of Public Safety, who shall serve as chairman;

(2) the Chief of the State Law Enforcement Division;

(3) the Director of the Department of Corrections;

(4) the President of the South Carolina Sheriffs' Association, or his designee;

(5) the Executive Director of the South Carolina Law Enforcement Officers Association;

(6) the President of the South Carolina Police Chiefs Association, or his designee;

(7) a representative of the Natural Resources Enforcement Division, to be appointed by the Director of the Department of Natural Resources; and

(8) the President of the South Carolina Fraternal Order of Police, or his designee."

Time effective

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

Ratified the 25th day of February, 2016.

Approved the 2nd day of March, 2016.

No. 137

(R141, H4660)

AN ACT TO AMEND SECTION 38-43-50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LIMITED LINE AND SPECIAL PRODUCER LICENSURE, SO AS TO PROVIDE

THAT A LICENSED PROPERTY CASUALTY INSURANCE PRODUCER MAY PLACE SURPLUS LINES INSURANCE THROUGH A LICENSED INSURANCE BROKER WITHOUT BEING APPOINTED BY THE SURPLUS LINES INSURER; AND TO AMEND SECTION 38-1-20, RELATING TO DEFINITIONS CONCERNING THE INSURANCE LAW OF THIS STATE, AND SECTION 38-45-10, RELATING TO DEFINITIONS CONCERNING INSURANCE BROKERS AND SURPLUS PROPERTY LINES INSURANCE, BOTH SO AS TO MAKE CONFORMING CHANGES TO RELATED TERMS.

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

Property and casualty licensees exemption

SECTION 1. Section 38-43-50 of the 1976 Code is amended to read:

"Section 38-43-50. (A) All applicants for a limited lines or special producer's license must be vouched for by an official or a licensed representative of the insurer for which the applicant proposes to act, who shall certify whether the applicant has been appointed a producer to represent it and that it has duly investigated the character and record of the applicant and has satisfied itself that he is trustworthy and qualified to act as its producer and intends to hold himself out in good faith as an insurance producer. When a contract of a producer is canceled by the insurer represented, that insurer shall notify the department of the cancellation within thirty days stating the cause of the termination. The records furnished by insurers are for the use of the department solely and not for public inspection.

(B) When appointing a producer, the insurer shall certify on a form prescribed by the director whether the applicant has been appointed a producer to represent it and that it has duly investigated the character and record of the applicant and has satisfied itself that he is trustworthy and qualified to act as its producer and intends to hold himself out in good faith as an insurance producer. An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.

(C) To appoint a producer as its agent, the appointing insurer shall file, in a format approved by the director or his designee, a notice of appointment within fifteen days from the date the agency contract is executed or the first insurance application is submitted. An insurer also

may elect to appoint a producer to all or some insurers within the insurer's holding company system or group by the filing of a single appointment request. Each appointment must be accompanied by an appointment fee paid by the insurer as prescribed in Section 38-43-80.

(D) Upon receipt of the notice of appointment, the director or his designee shall verify within a reasonable time not to exceed thirty days that the insurance producer is eligible for appointment. If the insurance producer is determined to be ineligible for appointment, the insurance director or his designee shall notify the insurer within five days of its determination.

(E) When placing surplus lines insurance through a licensed insurance broker, a producer licensed for property and casualty insurance is not required to be appointed by the surplus lines insurer.

(F) An insurer shall remit a renewal appointment fee in the amount set forth in Section 38-43-80."

Insurance terminology, conforming changes

SECTION 2. Section 38-1-20(21) and (56) of the 1976 Code is amended to read:

"(21) 'Eligible surplus lines insurer' means a nonadmitted insurer with which a licensed broker, or a licensed producer as provided in Section 38-45-10(8)(b)(ii), may place surplus lines insurance.

(56) 'Surplus lines insurance' means insurance in this State of risks located or to be performed in this State, permitted to be placed through a licensed broker, or a licensed broker as provided in Section 38-45-10(8)(b)(ii), with a nonadmitted insurer eligible to accept the insurance, other than reinsurance, wet marine and transportation insurance, insurance independently procured, and life and health insurance and annuities. Excess and stop-loss insurance coverage upon group life, accident, and health insurance or upon a self-insured's life, accident, and health benefits program may be approved as surplus lines insurance."

Insurance terminology, conforming changes

SECTION 3. Section 38-45-10(8) and (10) of the 1976 Code is amended to read:

"(8)(a) 'Insurance broker' means a property and casualty insurance producer licensed by the director or his designee who:

(i) sells, solicits, or negotiates insurance on behalf of an insured;

(ii) takes or transmits other than for himself an application for insurance or a policy of insurance to or from an insured;

(iii) advertises or otherwise gives notice that he receives or transmits a surplus lines application or policy;

(iv) receives or delivers a policy of surplus lines insurance for an insured on behalf of a surplus lines insurer;

(v) receives, collects, or transmits a premium of surplus lines insurance; or

(vi) performs another act in the making of a surplus lines insurance contract for or with an insured.

(b) An insurance broker's license is not required of:

(i) a broker's office employee acting within the confines of the broker's office, under the direction and supervision of the licensed broker and within the scope of the broker's license, in the acceptance of request for insurance and payment of premiums and the performance of clerical, stenographic, and similar office duties; or

(ii) a producer licensed for property and casualty insurance who places surplus lines insurance through a licensed insurance broker.

(c) An insurance broker, or an insurance producer as provided in subitem (b)(ii), may place that insurance either with an eligible surplus lines insurer or with a licensed insurance producer appointed by an insurance carrier licensed in this State.

(10) 'Surplus lines insurance' means any property and casualty insurance permitted to be placed directly or through a surplus lines broker, or an insurance producer as provided in subitem (b)(ii), with a surplus lines insurer eligible to accept the insurance as defined in Section 38-1-20(56)."

Time effective

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

Ratified the 25th day of February, 2016.

Approved the 2nd day of March, 2016.

No. 138

(R142, H4857)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 58-27-255 SO AS TO REQUIRE COAL COMBUSTION RESIDUALS RESULTING FROM THE PRODUCTION OF ELECTRICITY TO BE PLACED IN A CLASS 3 LANDFILL AND TO PROVIDE EXCEPTIONS.

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

Coal combustion residuals disposal

SECTION 1. Article 1, Chapter 27, Title 58 of the 1976 Code is amended by adding:

"Section 58-27-255. (A) Coal combustion residuals that result from an electrical utility, an electric cooperative, a governmental entity, a corporation, or an individual producing electricity for sale or distribution by burning coal must be placed in a commercial Class 3 solid waste management landfill, unless the coal combustion residuals are:

(1) located contiguous with the electric generating unit;

(2) intended to be beneficially reused;

(3) placed into beneficial reuse; or

(4) placed in an appropriate landfill which meets the standards of the Department of Health and Environmental Control Regulation 61-107, and that is owned or operated by the entity that produced the electricity which resulted in the coal combustion residuals.

(B) The 'beneficial reuse' of coal combustion residuals, as used in this section, is subject to the applicable regulations as promulgated by the Department of Health and Environmental Control."

Other provisions or requirements unaffected

SECTION 2. Nothing in this act affects any other provisions or requirements of law or regulation applicable to coal combustion residuals.

Provisions to sunset in five years

SECTION 3. The provisions of this act are repealed five years from the act's effective date, unless reenacted or otherwise extended by the General Assembly.

Time effective

SECTION 4. This act takes effect upon approval by the Governor and applies to the disposal of coal combustion residuals placed in a landfill on or after that date.

Ratified the 25th day of February, 2016.

Approved the 2nd day of March, 2016.

No. 139

(R143, S937)

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 REDESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THE AIKEN COUNTY VOTING 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:

Designation of voting precincts

SECTION 1. Section 7-7-40(B) of the 1976 Code, as last amended by Act 13 of 2015, is further amended to read:

"(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-03-16 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."

Time effective

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

Ratified the 10th day of March, 2016.

Approved the 14th day of March, 2016.

No. 140

(R144, S975)

AN ACT TO AMEND SECTION 42-3-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MANNER OF APPOINTMENT OF THE CHAIRMAN OF THE WORKERS' COMPENSATION COMMISSION, SO AS TO DELETE A PROHIBITION OF THE SERVING OF CONSECUTIVE TERMS BY THE CHAIRMAN, TO PROVIDE THE GOVERNOR MAY REAPPOINT A CHAIRMAN, AND TO PROVIDE MEMBERS APPOINTED TO THE WORKERS' COMPENSATION COMMISSION ARE SUBJECT TO REMOVAL BY THE GOVERNOR IN CERTAIN CIRCUMSTANCES.

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

Reappointment of chairman permitted, removal of commissioners

SECTION 1. Section 42-3-20(B) of the 1976 Code is amended to read:

"(B) The Governor, with the advice and consent of the Senate, shall designate one of the seven commissioners as chairman for a term of two years. At the conclusion of a commissioner's two-year term as chairman, the Governor shall appoint or reappoint a commissioner to serve as chairman. If the Governor does not appoint or reappoint a chairman at the expiration of the two-year term, a majority of the commission shall elect from among their members an interim chairman who shall serve until the Governor appoints another chairman. A deputy commissioner

is not eligible to serve as chairman. Any person appointed to the commission is subject to removal as provided in Section 1-3-240(C)."

Time effective

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

Ratified the 10th day of March, 2016.

Approved the 14th day of March, 2016.

No. 141

(R145, S1002)

AN ACT TO AMEND SECTION 4-23-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE BOUNDARIES OF THE MURRELL'S INLET-GARDEN CITY FIRE DISTRICT, SO AS TO REVISE THE BOUNDARIES; AND TO REPEAL SECTION 4-23-15 RELATING TO THE BOUNDARIES OF THE SAME DISTRICT.

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

Boundaries of Murrell's Inlet-Garden City Fire District

SECTION 1. Section 4-23-10 of the 1976 Code is amended to read:

"Section 4-23-10. There is established the Murrell's Inlet-Garden City Fire District in Georgetown and Horry Counties. Effective January 1, 2016, the district consists of that area shown on the official map prepared by and on file with the Revenue and Fiscal Affairs Office designated as document F-43-51-16, and as shown on certified copies of the official map which must be kept on file at the fire district."

Repeal

SECTION 2. Section 4-23-15 of the 1976 Code is repealed.

Time effective

SECTION 3. This act takes effect upon approval by the Governor. This act applies to all property tax years beginning after 2015, and the auditor of each respective county shall adjust the millage levy appropriately for each taxpayer within the district to reflect the provisions of this act.

Ratified the 10th day of March, 2016.

Approved the 14th day of March, 2016.

No. 142

(R146, H3251)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-1-310 SO AS TO REQUIRE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO ESTABLISH THE MATERNAL MORBIDITY AND MORTALITY REVIEW COMMITTEE TO REVIEW AND STUDY MATERNAL DEATHS AND TO REPORT THE FINDINGS TO THE GENERAL ASSEMBLY.

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

Legislative findings

SECTION 1. The General Assembly finds that:

(1) the South Carolina rate of maternal death is higher than the United States average;

(2) maternal deaths are a serious public health concern and have a tremendous family and societal impact;

(3) maternal deaths are significantly underestimated and inadequately documented, preventing efforts to identify and reduce or eliminate the causes of death;

(4) no processes exist in this State for the confidential identification, investigation, or dissemination of findings regarding maternal deaths;

(5) the federal Centers for Disease Control and Prevention and the American College of Obstetricians and Gynecologists have determined

that maternal deaths and severe maternal morbidity should be investigated through state-based maternal morbidity and mortality reviews in order to institute the systemic changes needed to decrease maternal mortality; and

(6) there is a need to establish a program to review maternal deaths and maternal morbidity to develop strategies for the prevention of maternal deaths in South Carolina.

Maternal Morbidity and Mortality Review Committee

SECTION 2. Chapter 1, Title 44 of the 1976 Code is amended by adding:

"Section 44-1-310. (A) The Department of Health and Environmental Control shall establish a Maternal Morbidity and Mortality Review Committee to review maternal deaths and to develop strategies for the prevention of maternal deaths. The committee must be multidisciplinary and composed of members deemed appropriate by the department. The committee also may review severe maternal morbidity. The department may contract with an external organization to assist in collecting, analyzing, and disseminating maternal mortality information, organizing and convening meetings of the committee, and performing other tasks as may be incident to these activities, including providing the necessary data, information, and resources to ensure successful completion of the ongoing review required by this section.

(B) The committee shall:

(1) identify maternal death cases, as defined as a death within one year of pregnancy with a direct or indirect causation related to the pregnancy or postpartum period;

(2) review medical records and other relevant data;

(3) contact family members and other affected or involved persons to collect additional data;

(4) consult with relevant experts to evaluate the records and data;

(5) make determinations regarding the preventability of maternal deaths;

(6) develop recommendations for the prevention of maternal deaths; and

(7) disseminate findings and recommendations pursuant to subsection (F).

(C)(1) Health care providers and pharmacies licensed pursuant to Title 40 shall provide reasonable access to the committee to all relevant medical records associated with a case under review by the committee.

(2) A health care provider, health care facility, or pharmacy providing access to medical records pursuant to this subsection are not liable for civil damages or subject to criminal or disciplinary action for good faith efforts in providing the records.

(D)(1) Information, records, reports, statements, notes, memoranda, or other data collected pursuant to this section are not admissible as evidence in any action of any kind in any court or before another tribunal, board, agency, or person. The information, records, reports, statements, notes, memoranda, or other data must not be exhibited nor their contents disclosed, in whole or in part, by an officer or a representative of the department or another person, except as necessary for the purpose of furthering the review of the committee of the case to which they relate. A person participating in a review may not disclose the information obtained except in strict conformity with the review project.

(2) All information, records of interviews, written reports, statements, notes, memoranda, or other data obtained by the department, the committee, and other persons, agencies, or organizations authorized by the department pursuant to this section are confidential.

(E)(1) All proceedings and activities of the committee, opinions of members of the committee formed as a result of the proceedings and activities, and records obtained, created, or maintained pursuant to this section, including records of interviews, written reports, and statements procured by the department or another person, agency, or organization acting jointly or under contract with the department in connection with the requirements of this section, are confidential and are not subject to the provisions of Chapter 4, Title 30 relating to open meetings or public records, or subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding. However, this section must not be construed to limit or restrict the right to discover or use in any civil or criminal proceeding anything that is available from another source and entirely independent of the committee's proceedings.

(2) Members of the committee must not be questioned in a civil or criminal proceeding regarding the information presented in or opinions formed as a result of a meeting or communication of the committee. However, this section must not be construed to prevent a member of the committee from testifying to information obtained independently of the committee or which is public information.

(F) Reports of aggregated nonindividually identifiable data for the previous calendar year must be compiled and disseminated by March first of the following year in an effort to further study the causes and problems associated with maternal deaths. Reports must be distributed to the General Assembly, the Director of the Department of Health and

Environmental Control, health care providers and facilities, key governmental agencies, and others necessary to reduce the maternal death rate.

(G) Members shall serve without compensation, and are ineligible for the usual mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions."

Time effective

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

Ratified the 10th day of March, 2016.

Approved the 14th day of March, 2016.

No. 143

(R147, H3534)

AN ACT TO AMEND SECTION 2-77-15, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF "ELIGIBLE INSTITUTION" AS IT PERTAINS TO THE SOUTH CAROLINA HIGHER EDUCATION EXCELLENCE ENHANCEMENT PROGRAM, SO AS TO INCLUDE INSTITUTIONS THAT OFFER AT LEAST ONE NONSECTARIAN PROGRAM AT THE BACCALAUREATE LEVEL, HISTORICALLY SINGLE GENDER WOMEN'S INSTITUTIONS OF TRADITIONAL STUDENTS, AND INSTITUTIONS ACCREDITED BY AN ORGANIZATION THAT IS RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION AND ALSO RECEIVES TITLE III FUNDING; AND TO AMEND SECTION 2-77-20, AS AMENDED, RELATING TO THE ALLOCATION OF APPROPRIATED FUNDS AMONG ELIGIBLE INSTITUTIONS, SO AS TO REQUIRE THE COMMISSION ON HIGHER EDUCATION ANNUALLY TO REVIEW AND DETERMINE WHETHER EACH ELIGIBLE INSTITUTION APPROPRIATELY USED THESE FUNDS, AND TO PROVIDE REQUIREMENTS FOR FUNDING REDUCTIONS AND ALTERNATE FUNDING DISTRIBUTIONS WHEN THE

COMMISSION FINDS AN ELIGIBLE INSTITUTION INAPPROPRIATELY USED THESE FUNDS.

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

"Eligible institutions", definition expanded

SECTION 1. Section 2-77-15(1) of the 1976 Code, as last amended by Act 162 of 2005, is further amended to read:

"(1) 'Eligible institution' means a four-year institution of higher learning or an institution of higher learning that is accredited to offer, and is actively offering, at least one nonsectarian program at the baccalaureate level:

(a)(i) at which sixty percent or more of the enrolled undergraduate students were low-income and educationally disadvantaged students, for the four consecutive years immediately preceding the then current year and which is defined in Part B, Subchapter III, Chapter 28, Title 20 of the United States Code; or

(ii) which is an historically single gender women's institution of traditional students, as evidenced by ninety percent or more of full-time female undergraduates under twenty-five years of age for the four consecutive years immediately preceding the current year;

(b)(i) that is accredited by the Southern Association of Colleges and Schools; or

(ii) which receives Title III funding and is accredited by an accrediting organization recognized by the United States Department of Education;

(c) that is organized as a nonprofit corporation or is a public institution; and

(d) that has its main campus located in South Carolina."

Funding allocation process revised

SECTION 2. Section 2-77-20(C) of the 1976 Code, as last amended by Act 74 of 2011, is further amended to read:

"(C)(1) An institution seeking to qualify as an eligible institution must submit an annual application to the commission. The commission must certify the eligibility of institutions seeking contracts pursuant to this section. Subject to the provisions of item (2), and less any

allocations made pursuant to item (2), the funds appropriated for this program must be allocated equally among the eligible institutions.

(2) The Commission on Higher Education, or its successor, annually shall review and determine if funds allocated to a school pursuant to item (1) have been properly used by the school pursuant to Section 2-77-30. If the Commission on Higher Education, or its successor, determines these funds were used inappropriately by a school, the funds must be returned, and the following year that school's allocation must be reduced by fifty percent of the amount appropriated to each eligible institution pursuant to item (1). The balance remaining from a school's reduced allocation must be distributed equally among the remaining eligible institutions."

Time effective

SECTION 3. This act takes effect July 1, 2016.

Ratified the 10th day of March, 2016.

Approved the 14th day of March, 2016.

No. 144

(R148, H3972)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 6-29-1210 SO AS TO ESTABLISH THAT UNDEVELOPED PROPERTY MAY BE TRANSFERRED WITHOUT THE SUBMISSION OF A LAND DEVELOPMENT OR LAND USE PLAN AND THAT A LOCAL GOVERNMENT MAY REQUIRE THE GRANTEE TO FILE A PLAT AT THE TIME THE DEED IS RECORDED; AND TO AMEND SECTION 30-5-30, RELATING TO PREREQUISITES TO RECORDING, SO AS TO ESTABLISH THAT THE SUBMISSION OF A LAND DEVELOPMENT OR LAND USE PLAN IS NOT A PREREQUISITE TO RECORDING AND THAT A LOCAL GOVERNMENT MAY REQUIRE THE GRANTEE TO FILE A PLAT AT THE TIME THE DEED IS RECORDED.

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

Local planning, land development plan not required to execute a deed

SECTION 1. Article 7, Chapter 29, Title 6 of the 1976 Code is amended by adding:

"Section 6-29-1210. Under this chapter, the submission of a land development plan or land use plan is not a prerequisite and must not be required before the execution of a deed transferring undeveloped real property. A local governmental entity may still require the grantee to file a plat at the time the deed is recorded."

Prerequisites for recording, land development plan not a prerequisite

SECTION 2. Section 30-5-30 of the 1976 Code is amended to read:

"Section 30-5-30. Except as otherwise provided by statute, before any deed or other instrument in writing can be recorded in this State, it must be acknowledged or proved by the method described in subsection (A) or (B).

(A)(1) The execution of the deed or other instrument must be first proved by the affidavit of a subscribing witness to the instrument, taken before some officer within this State competent to administer an oath. If the affidavit is taken without the limits of this State, it may be taken before:

(a) a commissioner appointed by dedimus issued by the clerk of the court of common pleas of the county in which the instrument is to be recorded;

(b) a commissioner of deeds of this State;

(c) a clerk of a court of record who shall make certificate of the deed or other instrument under his official seal;

(d) a justice of the peace who shall append to the certificate his official seal;

(e) a notary public who shall affix to the deed or other instrument his official seal within the state of his appointment, which is a sufficient authentication of his signature, residence, and official character;

(f) before a minister, ambassador, consul general, consul, or vice consul, or consular agent of the United States of America; or

(g) in the case of any officer or enlisted man of the United States Army, Air Force, Navy, Marine Corps, or Coast Guard on active duty outside the State or any civilian employee of any such organization on active duty outside the continental confines of the United States, any commissioned officer of the Army, Air Force, Navy, Marine Corps, or Coast Guard, if the probating officer states his rank, branch, and organization.

(2) The Uniform Recognition of Acknowledgments Act must be complied with or the person executing it shall submit an affidavit subscribed to before a person authorized to perform notarial acts herein or by the Uniform Recognition of Acknowledgments Act that the signature on the deed or other instrument is his signature and that the instrument was executed for the uses and purposes stated in the instrument.

(B) A deed or other instrument must be signed by the grantor, mortgagor, vendor, or lessor and the signing must be acknowledged by the grantor, mortgagor, vendor, or lessor in the presence of two witnesses, taken before some officer within this State competent to administer an oath. If the acknowledgment is taken without the limits of this State, it may be taken before:

(1) a commissioner appointed by dedimus issued by the clerk of the court of common pleas of the county in which the instrument is to be recorded;

(2) a commissioner of deeds of this State;

(3) a clerk of a court of record who shall make certificate of the deed or other instrument under his official seal;

(4) a justice of the peace who shall append to the certificate his official seal;

(5) a notary public who shall affix to the deed or other instrument his official seal within the state of his appointment, which is a sufficient authentication of his signature, residence, and official character;

(6) before a minister, ambassador, consul general, consul, or vice consul, or consular agent of the United States of America; or

(7) in the case of any officer or enlisted man of the United States Army, Air Force, Navy, Marine Corps, or Coast Guard on active duty outside the State or any civilian employee of any such organization on active duty outside the continental confines of the United States, any commissioned officer of the Army, Air Force, Navy, Marine Corps, or Coast Guard, if the probating officer states his rank, branch, and organization.

(C) Where the instrument is acknowledged by the grantor or maker, the form of acknowledgement must be in substance as follows:

'South Carolina,

_____ County.

I (here give the name of the official and his official title), do hereby certify that (here give the name of the grantor or maker), personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and (where an official seal is required by law) official seal this the _ day of _ (year).

_____

Signature of Officer'

(D) The submission of a land development plan or land use plan is not a prerequisite and must not be required before the execution of a deed transferring undeveloped real property. A local governmental entity may still require the grantee to file a plat at the time the deed is recorded."

Time effective

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

Ratified the 10th day of March, 2016.

Approved the 14th day of March, 2016.

No. 145

(R149, H4151)

AN ACT TO AMEND SECTION 12-21-735, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STAMP TAX ON CIGARETTES, SO AS TO REQUIRE AND PROVIDE FOR THE PROPER AFFIXING OF STAMPS, INCLUDING

PROVISIONS FOR EXEMPT PACKAGES, UNIQUE SERIAL NUMBERING OF STAMPS, REVOCATION OF THE LICENSE OF A PERSON VIOLATING THESE PROVISIONS, LIMITATIONS ON THE RECEIPT AND SALE OF UNTAXED CIGARETTES, TO PROVIDE FOR RETURN AND PAYMENT OF THE TAX, AND TO AUTHORIZE THE DEPARTMENT OF REVENUE TO PROMULGATE REGULATIONS NECESSARY TO ESTABLISH, IMPLEMENT, AND ENFORCE THESE PROVISIONS.

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

Stamp tax on cigarettes

SECTION 1. Section 12-21-735 of the 1976 Code is amended to read:

"Section 12-21-735. (A) Each person or distributor of cigarettes taxable under this article, first receiving untaxed cigarettes for sale or distribution in this State, is subject to the tax imposed in Section 12-21-620. The taxes imposed on cigarettes pursuant to this chapter must be paid by affixing stamps in the manner and at the time provided in this section. Except as otherwise provided in this section, stamps must be affixed to each individual package of cigarettes by distributors before being sold, distributed, or shipped to another person. A distributor may affix stamps only to packages of cigarettes obtained directly from a manufacturer or importer with a valid permit issued pursuant to 26 U.S.C. Section 5713. If cigarettes are manufactured in this State and sold directly to consumers in this State by a manufacturer or importer, the cigarette packages must be stamped by a licensed distributor before being sold.

(B) Only manufacturers or importers with a valid permit issued pursuant to 26 U.S.C. Section 5713, or licensed distributors, may receive or possess unstamped packages of cigarettes. Only a manufacturer or importer with a valid permit issued pursuant to 26 U.S.C. Section 5713 may ship or otherwise cause to be delivered unstamped packages of cigarettes in, into, or from this State, except that a licensed distributor may transfer, transport, or cause to be transported unstamped cigarettes from a facility owned by the distributor to another facility, wherever located, owned by the distributor.

(C) A qualified distributor licensed pursuant to this chapter may sell cigarettes without South Carolina stamps affixed to the package, provided that:

(1) the cigarettes are set forth in separate stock for sale to a licensed distributor of cigarettes in another state;

(2) if the cigarettes are not in the possession of a qualified distributor licensed pursuant to this chapter, the cigarettes must be in the possession of a person having immediate evidence of a license in business as a distributor of cigarettes in the another state, and the cigarettes must be purchased for the purpose of resale in the other state;

(3) the cigarettes, at the time of sale by the distributor, properly are stamped with revenue stamps authorized and issued by another state for use on the cigarettes, if the other state requires revenue stamps, or any applicable tax imposed on the cigarettes by the other state has been paid if the law of the other state permits the sale of the cigarettes to consumers in a package not bearing a stamp; and

(4) at all times there is accompanying the cigarettes an invoice, indicating the purchase date, the name, address, and telephone number of the seller, and the name, address, and telephone number of the purchaser. A distributor shall have on file a record of each sale, the original purchase order, a copy of the invoice, and a signed receipt from the purchaser showing that the purchase was made exclusively for resale in another state.

(D) Cigarettes may be sold by qualified distributors without revenue stamps affixed to the package when exempted from tax by Section 12-21-100. A distributor that receives or possesses cigarettes intended for sale or distribution into or within this State which are exempt from the taxes imposed pursuant to this chapter shall affix stamps that indicate the package of cigarettes is exempt from tax.

(E) The department shall prescribe, prepare, and furnish stamps of denominations and quantities as necessary for the payment of the tax imposed by this chapter. The department also shall cause to be prepared and distributed to licensed distributors stamps that indicate that a package of cigarettes is exempt from the taxes imposed pursuant to this chapter.

(1) The stamps must be of a type that when affixed on each individual package the stamps cannot be removed without being mutilated or destroyed.

(2) The department, by rules and regulations, shall designate the type of stamps to be applied.

(3) The stamps must be sold only in amounts of thirty thousand or multiples of thirty thousand.

(4) In addition to stamps, the department, by rules and regulations, may authorize licensed distributors to use other devices which imprint distinctive indicia evidencing the payment of the tax upon each

individual package. The machines must be constructed in a manner as accurately records or meters the number of impressions or tax stamps made. The tax meter machines or other devices must be kept available at all reasonable times for inspection by the department.

(5) The department, by rules and regulations, may authorize a process allowing for a credit for damaged tax stamps, for product returned as unsellable, and for product unrecoverable as a result of bad debt.

(6) A distributor is allowed a tax credit for the purchase of one stamping machine and equipment acquired by the distributor within one year of implementation by the department. The credit may be claimed beginning in the first calendar month following the purchase of the machine and equipment and continuing for the immediately succeeding seventeen months. The amount of the credit equals the direct costs actually incurred by the distributor to acquire the stamping machine and equipment, as determined by the department, divided by eighteen, with the maximum cumulative credit equaling one hundred seventy-five thousand dollars. The direct costs must exclude costs for shipping, installation, or for ongoing maintenance related to the machine. Any tax credit must be applied only to the tax remitted pursuant to this chapter. The department may promulgate regulations necessary to implement the provisions of this credit.

(7) The department, by rules and regulations, may authorize the sale of stamps to a distributor on thirty-day credit periods. Those persons authorized to pay tax by such means are required to execute a bond with a solvent surety company qualified to do business in this State, in an amount of one hundred ten percent of the distributor's estimated tax liability for thirty days, but not less than two thousand dollars, and conditioned upon the distributor paying all taxes due the State arising from this section. This form of payment is in lieu of cash or its equivalent. Payment for each month's liability is due on or before the twentieth day of each month, including Sundays and holidays. At the discretion of the department, default in the bonding and payment provisions by any distributor may result in the revocation of the distributor's privilege to purchase stamps.

(F) All stamps prescribed by the department must be designed and furnished in a fashion that permits identification of the distributor that affixed the stamp to the particular package of cigarettes by means of a serial number or other mark on the stamp. A stamp on a package of cigarettes must note whether the taxes prescribed in this chapter were paid or whether the package of cigarettes was exempt from the taxes.

(G) Stamps only may be affixed to packages of cigarettes that are listed on the South Carolina Tobacco Directory published by the Office of the Attorney General pursuant to Section 11-48-30.

(H) The department may appoint manufacturers and distributors of cigarettes, in or out of this State, as agents to buy or affix stamps to be used in paying the tax imposed by this chapter, but the agent at all times has the right to appoint a person in his employ who is to affix the stamps to any cigarette under the agent's control.

(1) When the department sells and delivers to an agent, the agent is entitled to receive as compensation for his services and expenses as an agent in affixing and accounting for the taxes represented by the stamps and to retain out of the money to be paid by the agent for the stamps a discount of four and twenty-five one hundredths percent of the face value of the stamps.

(2) The department, by rules and regulations, shall provide a method of purchasing stamps.

(I) The department may promulgate regulations necessary to enforce this section.

(J) For the limited purpose of recovering the costs incurred by the department associated with the installation and operation of the cigarette stamp program, annually the department may retain up to four hundred thousand dollars of tax revenue generated pursuant to Section 12-21-620(A)(1), not to exceed actual costs. By March fifteenth of each year, the department must report to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee the costs incurred by the department associated with the operation of the cigarette tax stamp program."

Time effective

SECTION 2. This act takes effect on January 1, 2019, except that Section 12-21-735(I) takes effect upon approval by the Governor.

Ratified the 10th day of March, 2016.

Approved the 14th day of March, 2016.

No. 146

(R150, H4639)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-103-17 SO AS TO PROVIDE THE COMMISSION ON HIGHER EDUCATION MAY ENTER INTERSTATE RECIPROCITY AGREEMENTS THAT AUTHORIZE ACCREDITED DEGREE-GRANTING INSTITUTIONS OF HIGHER EDUCATION IN THIS STATE TO OFFER POSTSECONDARY DISTANCE EDUCATION IN A CERTAIN MANNER, TO PROVIDE RELATED POWERS AND DUTIES OF THE COMMISSION, TO PROVIDE PARTICIPATION IN THESE RECIPROCITY AGREEMENTS IS VOLUNTARY TO ELIGIBLE INSTITUTIONS OF HIGHER EDUCATION IN THIS STATE, TO PROVIDE INSTITUTIONS OF HIGHER EDUCATION IN THIS STATE THAT DO NOT PARTICIPATE IN ANY INTERSTATE RECIPROCITY AGREEMENT ENTERED INTO BY THE COMMISSION ARE NOT PROHIBITED FROM OFFERING POSTSECONDARY DISTANCE EDUCATION, AND TO CLARIFY THAT NO PROVISION OF THIS ACT PROHIBITS OR REDUCES THE AUTHORITY OF THE COMMISSION TO LICENSE INSTITUTIONS OF HIGHER EDUCATION OFFERING DISTANCE EDUCATION IN THIS STATE IF THE INSTITUTION IS NOT A PARTICIPANT IN THE INTERSTATE RECIPROCITY AGREEMENT IN WHICH THE COMMISSION PARTICIPATES.

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

Interstate reciprocity for postsecondary distance education

SECTION 1. Article 1, Chapter 103, Title 59 of the 1976 Code is amended by adding:

"Section 59-103-17. (A) The Commission on Higher Education may enter into interstate reciprocity agreements, including, but not limited to, the State Authorization Reciprocity Agreement, that authorize accredited degree-granting institutions of higher education that offer postsecondary distance education to do so through such reciprocity agreements. The commission shall administer these agreements and

shall approve or disapprove participation in these agreements by accredited degree-granting institutions of higher education in this State. The commission may assume and exercise all powers, duties, and responsibilities associated with and required under the terms of an interstate reciprocity agreement.

(B) The commission may develop policies, procedures, or regulations necessary for the implementation of this section, including the establishment of fees to be paid by participating institutions to cover direct and indirect administrative costs incurred by the commission. Participation in interstate reciprocity agreements shall be voluntary to eligible institutions of higher education in this State.

(C) Nothing in this section may be construed to prohibit institutions of higher education in this State that do not participate in any interstate reciprocity agreement entered into by the commission from offering postsecondary distance education.

(D) Nothing in this section may be construed to prohibit or reduce the commission's authority over institutions of higher education offering distance education in this State if the institution is not a participant in the interstate reciprocity agreement in which the commission participates."

Time effective

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

Ratified the 10th day of March, 2016.

Approved the 14th day of March, 2016.

No. 147

(R151, H4666)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 7 TO CHAPTER 25, TITLE 16 SO AS TO ENTITLE THE ARTICLE THE "DOMESTIC VIOLENCE FATALITY REVIEW COMMITTEES", ESTABLISH THE DOMESTIC VIOLENCE FATALITY REVIEW COMMITTEES IN EACH CIRCUIT, PROVIDE APPROPRIATE PROTOCOLS WHICH MUST BE FOLLOWED BY THE COMMITTEES, PROVIDE FOR THE

COMPOSITION OF THE COMMITTEES, PROVIDE FOR CONFIDENTIALITY OF CERTAIN INFORMATION BY THE COMMITTEES AND OTHER PERSONS, AND PROVIDE PENALTIES FOR THE RELEASE OF CONFIDENTIAL INFORMATION.

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

Domestic Violence Fatality Review Committees established

SECTION 1. Chapter 25, Title 16 of the 1976 Code is amended by adding:

"Article 7

Domestic Violence Fatality Review Committees

Section 16-25-710. This article may be cited as the 'Domestic Violence Fatality Review Committees'.

Section 16-25-720. (A) Each Circuit Solicitor shall establish an interagency circuit-wide Domestic Violence Fatality Review Committee to assist local agencies in identifying and reviewing domestic violence deaths, including homicides and suicides, and facilitating communication among the various agencies involved in domestic violence cases pursuant to the provisions of this chapter or any other relevant provision of law.

(B) The South Carolina Commission on Prosecution Coordination shall:

(1) develop a protocol for domestic violence fatality reviews; and

(2) develop a protocol that must be used as a guideline to assist coroners and other persons who perform autopsies on domestic violence victims in the identification of domestic violence, in the determination of whether domestic violence contributed to the death or whether domestic violence occurred prior to death but was not the actual cause of death, and in the proper written reporting procedures for domestic violence, including the designation of the cause and mode of death.

(C) Domestic violence fatality review committees may be comprised of, but not limited to, the following:

(1) experts in the field of forensic pathology;

(2) medical personnel with expertise in domestic violence;

(3) coroners and medical examiners;

(4) criminologists;
(5) assistant solicitors;
(6) domestic violence abuse organization staff;
(7) legal aid attorneys who represent victims of abuse;
(8) a representative of the local bar associations;
(9) local and state law enforcement personnel;
(10) representatives of local agencies that are involved with domestic violence abuse reporting;
(11) county health department staff who deal with domestic violence victims' health issues;
(12) representatives of local child abuse agencies; and
(13) local professional associations of persons described in this subsection.

(D) An oral or written communication or a document shared within or produced by a domestic violence fatality review committee related to a domestic violence death is confidential and not subject to disclosure pursuant to Chapter 4, Title 30, the Freedom of Information Act, or discoverable by a third party. An oral or written communication or a document provided by a third party to a domestic violence fatality review committee is confidential and not subject to disclosure pursuant to the Freedom of Information Act or discoverable by a third party. However, recommendations of a domestic violence fatality review committee upon the completion of a review may be disclosed at the discretion of a majority of the members of the committee.

(E) Only deaths in which the investigation is closed and there is not a pending prosecution may be reviewed by a domestic violence fatality review committee.

(F) Upon request of the domestic violence fatality review committee and as necessary to carry out the committee's purpose and duties, as allowed by law, 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 committee pursuant to this article;

(2) access to all information and records maintained by any state, county, or local governmental 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 16-25-730. Meetings of the committee are closed to the public and are not subject to the provisions of the Freedom of Information Act when the committee is discussing an individual case. A 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 16-25-740. (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 the Freedom of Information Act, and only may be disclosed as necessary to carry out the committee's duties and purposes.

(B) 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 the Freedom of Information Act, and may not disclose information, the disclosure of which is prohibited by this section.

(C) 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 because it is maintained by the committee. Nothing in this subsection prevents a person from testifying to information obtained independently of the committee or which is public information.

(D) 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 because they are maintained by the committee.

(E) Except as necessary to carry out the committee's purposes and duties, members of the committee are not to keep in their possession copies of information, documents, and records subpoenaed or otherwise obtained by or created by the committee. Upon the completion of an investigation, all information, documents, and records subpoenaed or otherwise obtained by or created by the committee shall remain with the Office of the Circuit Solicitor and retained pursuant to that office's policies.

(F) A 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.

Section 16-25-750. Each domestic fatality review committee shall make recommendations, when appropriate to, but not limited to, the Domestic Violence Advisory Committee created pursuant to Section 16-25-310 regarding:

(1) training, including cross-agency training, consultation, technical assistance needs, and service gaps that would decrease the likelihood of domestic violence;

(2) 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;

(3) education of 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;

(4) training of medical examiners, coroners, law enforcement, and other emergency responders on the causes and identification of domestic violence incidents, indicators, and injuries; and

(5) the development and implementation of policies and procedures for its own governance and operation."

Time effective

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

Ratified the 10th day of March, 2016.

Approved the 15th day of March, 2016.

No. 148

(R153, S850)

AN ACT TO AMEND SECTION 38-9-180, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO STANDARD

VALUATION, SO AS TO DEFINE NECESSARY TERMS, TO PRESCRIBE NEW REQUIREMENTS FOR THE DIRECTOR OR HIS DESIGNEE CONCERNING VALUING RESERVE LIABILITIES FOR OUTSTANDING INSURANCE POLICIES BASED UPON THE EFFECTIVE DATE OF THE POLICY OR CONTRACT, TO ALTER THE ACTUARIAL OPINION REQUIREMENTS FOR ALL LIFE INSURANCE POLICIES, TO UPDATE REFERENCES TO REQUIRE THAT THE COMMISSIONER'S RESERVE VALUATION METHOD BE USED FOR POLICIES ISSUED AFTER MARCH 23, 1960, AND POLICIES ISSUED AFTER THE EFFECTIVE DATE OF THIS ACT, TO PROVIDE A NEW FORMULA TO COMPUTE THE CALENDAR YEAR STATUTORY INTEREST RATE, TO UPDATE REFERENCES TO REFLECT THE COMMISSIONER'S RESERVE VALUATION METHODS, TO PROVIDE THE MINIMUM RESERVE REQUIRED IF THE PREMIUM CHARGED BY A COMPANY IS LESS THAN THE VALUATION NET PREMIUM FOR THE POLICY OR CONTRACT, TO PRESCRIBE THE MINIMUM STANDARD OF VALUATION FOR ACCIDENT AND HEALTH INSURANCE CONTRACTS ISSUED ON OR AFTER THE OPERATIVE DATE OF THE OPERATION MANUAL, TO PRESCRIBE THE OPERATIVE DATE FOR THE VALUATION MANUAL AND WHAT THE VALUATION MANUAL MUST SPECIFY, TO ESTABLISH REQUIREMENTS FOR A COMPANY THAT USES A PRINCIPLE-BASED VALUATION, TO DEFINE CONFIDENTIAL INFORMATION AND TO PROVIDE PRIVILEGE FOR AND CONFIDENTIALITY OF CONFIDENTIAL INFORMATION, AND TO PROVIDE EXEMPTIONS IN CERTAIN CIRCUMSTANCES; TO AMEND SECTION 38-63-510, RELATING TO STANDARD NONFORFEITURE LAW FOR LIFE INSURANCE, SO AS TO DEFINE THE TERM "OPERATIVE DATE OF THE VALUATION MANUAL"; AND TO AMEND SECTION 38-63-600, RELATING TO THE BASIS FOR CALCULATING ADJUSTED PREMIUMS AND PRESENT VALUES OF POLICIES ISSUED ON OR AFTER JANUARY 1, 1989, SO AS TO PROVIDE THAT THE COMMISSIONERS' STANDARD MORTALITY TABLE SHALL BE USED TO DETERMINE THE MINIMUM NONFORFEITURE STANDARD FOR POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL.

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

Standard Valuation Law

SECTION 1. Section 38-9-180 of the 1976 Code is amended to read:

"Section 38-9-180. (A) This section is known as the 'Standard Valuation Law'.

(B) For the purposes of this section, the following definitions shall apply on or after the operative date of the valuation manual:

(1) 'Accident and health insurance' means contracts that incorporate morbidity risk and provide protection against economic loss resulting from accident, sickness, or medical conditions and as may be specified in the valuation manual.

(2) 'Appointed actuary' means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in subsection (D)(5).

(3) 'Company' means an entity which:

(a) has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this State and has at least one such policy in force or on claim; or

(b) has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit-type contracts in this State.

(4) 'Deposit-type contract' means contracts that do not incorporate mortality or morbidity risks and as may be specified in the valuation manual.

(5) 'Life insurance' means contracts that incorporate mortality risk, including annuity and pure endowment contracts, and as may be specified in the valuation manual.

(6) 'NAIC' means the National Association of Insurance Commissioners.

(7) 'Policyholder behavior' means any action a policyholder, contract holder or any other person with the right to elect options, such as a certificate holder, may take under a policy or contract subject to this section including, but not limited to, lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections prescribed by the policy or contract but excluding events of mortality or morbidity that

result in benefits prescribed in their essential aspects by the terms of the policy or contract.

(8) 'Principle-based valuation' means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with subsection (O) as specified in the valuation manual.

(9) 'Qualified actuary' means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements and who meets the requirements specified in the valuation manual.

(10) 'Tail risk' means a risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or where there are observed events of very significant size or magnitude.

(11) 'Valuation manual' means the manual of valuation instructions adopted by the NAIC as specified in this section or as subsequently amended.

(C)(1) The director or his designee annually shall value, or cause to be valued, the reserve liabilities, referred to as reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this State issued prior to the operative date of the valuation manual. However, for an alien insurer the valuation is limited to their United States business. In calculating the reserves he may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves required in this section of a foreign or an alien insurer, he may accept any valuation made, or caused to be made, by the insurance supervisory official of a state or another jurisdiction when the valuation complies with the minimum standard provided in this section.

(2) The provisions set forth in subsections (E) through (M) apply to all policies and contracts, as appropriate, subject to this section issued on or after March 24, 1960, and prior to the operative date of the valuation manual and the provisions set forth in subsections (N) and (O) must not apply to any such policies and contracts.

(3) The minimum standard for the valuation of policies and contracts issued prior to March 24, 1960, must be that provided by the laws in effect immediately prior to that date.

(4) The director or his designee annually shall value, or cause to be valued, the reserve liabilities, hereinafter called reserves, for all outstanding life insurance contracts, annuity and pure endowment contracts, accident and health contracts, and deposit-type contracts of

every company issued on or after the operative date of the valuation manual. In lieu of the valuation of the reserves required of a foreign or alien company, the director or his designee may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in this section.

(5) The provisions set forth in subsections (M), (N), and (O) apply to all policies and contracts issued on or after the operative date of the valuation manual.

(D)(1) Every life insurance company doing business in this State annually shall submit to the director or his designee the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the director by regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this State. The director by regulation shall define the specifics of this opinion and add other items necessary to its scope.

(2)(a) Every life insurance company, except as exempted by or pursuant to regulation, also annually must include in the opinion required in item (1) an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the director by regulation, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.

(b) The director may provide by regulation for a transition period for establishing higher reserves which the qualified actuary considers necessary in order to render the opinion required by this subsection.

(3) Each opinion required by item (2) is governed by the following provisions:

(a) A memorandum, in form and substance acceptable to the director or his designee as specified by regulation, must be prepared to support each actuarial opinion.

(b) If the insurance company fails to provide a supporting memorandum at the request of the director or his designee within a period specified by regulation or the director or his designee determines

that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the regulations or is otherwise unacceptable to the director or his designee, the director or his designee may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare supporting memorandum required by the director or his designee.

(4) Every opinion is governed by the following provisions:

(a) The opinion must be submitted with the annual statement reflecting the valuation of reserve liabilities for each year ending after December 30, 1993.

(b) The opinion must apply to all business in force including individual and group health insurance plans, in form and substance acceptable to the director or his designee as specified by regulation.

(c) The opinion must be based on standards adopted by the Actuarial Standards Board and on additional standards the director by regulation prescribes.

(d) For an opinion required to be submitted by a foreign or alien company, the director or his designee may accept the opinion filed by that company with the insurance supervisory official of another state if the director or his designee determines that the opinion reasonably meets the requirements applicable to a company domiciled in this State.

(e) For the purposes of this subsection, 'qualified actuary' means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in regulations.

(f) Except in cases of fraud or wilful misconduct, the qualified actuary must not be liable for damages to a person, other than the insurance company and the director or his designee, for an act, an error, an omission, a decision, or conduct with respect to the actuary's opinion.

(g) Disciplinary action by the director or his designee against the company or the qualified actuary must be defined in regulations by the director.

(h) A memorandum in support of the opinion and related material provided by the company to the director or his designee must be kept confidential by the director or his designee and must not be made public or subject to subpoena, other than for the purpose of defending an action seeking damages from a person by reason of action required by this subsection or by regulations promulgated under it. However, the memorandum or other material may be released by the director or his designee with the written consent of the company or to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the director or

his designee for preserving the confidentiality of the memorandum or other material. Once a portion of the confidential memorandum is cited by the company in its marketing, is cited before a governmental agency other than a state insurance department, or is released by the company to the news media all portions of the confidential memorandum are no longer confidential.

(5)(a) Every company with outstanding life insurance contracts, accident and health insurance contracts or deposit-type contracts in this State and subject to regulation by the director annually shall submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this State. The valuation manual will prescribe the specifics of this opinion including any items deemed to be necessary to its scope.

(b) Every company with outstanding life insurance contracts, accident and health insurance contracts or deposit-type contracts in this State and subject to regulation by the director, except as exempted in the valuation manual, annually shall include in the opinion required by item (5)(a), an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.

(c) Each opinion required by this item must be governed by the following provisions:

(i) A memorandum, in form and substance as specified in the valuation manual, and acceptable to the director or his designee, shall be prepared to support each actuarial opinion.

(ii) If the insurance company fails to provide a supporting memorandum at the request of the director or his designee within a period specified in the valuation manual or the director or his designee determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the valuation manual or is otherwise unacceptable to the director or his designee, the director or his designee may engage a qualified actuary at the expense of the

company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the director or his designee.

(d) Every opinion must be governed by the following provisions:

(i) The opinion must be in form and substance as specified in the valuation manual and acceptable to the director or his designee.

(ii) The opinion must be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after the operative date of the valuation manual.

(iii) The opinion applies to all policies and contracts subject to item (5)(b), plus other actuarial liabilities as may be specified in the valuation manual.

(iv) The opinion must be based on standards adopted by the Actuarial Standards Board or its successor, and on additional standards as prescribed in the valuation manual.

(v) In the case of an opinion required to be submitted by a foreign or alien company, the director or his designee may accept the opinion filed by that company with the insurance supervisory official of another State if the director or his designee determines that the opinion reasonably meets the requirements applicable to a company domiciled in this State.

(vi) Except in cases of fraud or wilful misconduct, the appointed actuary is not liable for damages to a person, other than the insurance company and the director, for an act, error, omission, decision or conduct with respect to the appointed actuary's opinion.

(vii) Disciplinary action by the director against the company or the appointed actuary must be defined in regulations by the director.

(E)(1) Except as otherwise provided in item (3) and subsection (F), the minimum standard for the valuation of policies and contracts issued before March 24, 1960, is that provided by the laws in effect immediately before that date except the minimum standards for the valuation of annuities and pure endowments purchased under group annuity and pure endowment contracts issued before the effective date is that provided for by the laws in effect immediately before that date but replacing the interest rates as specified in the laws by an interest rate of five percent a year.

(2) Except as otherwise provided in item (3) and subsection (F), the minimum standard for the valuation of policies and contracts issued after March 23, 1960, is the commissioner's reserve valuation methods defined in subsections (G), (H), and (K), five percent interest for group annuity and pure endowment contracts and three and one-half percent interest for all other policies and contracts, or for policies and contracts

other than annuity and pure endowment contracts issued after May 25, 1975, four percent interest for policies issued before January 1, 1979, five and one-half percent interest for single premium life insurance policies, and four and one-half percent interest for all other policies issued after December 31, 1978, and the following tables:

(a) for ordinary policies of life insurance issued on the standard basis, excluding disability and accidental death benefits in the policies, the Commissioner's 1941 Standard Ordinary Mortality Table for the policies issued before the operative date stated in Section 38-63-650, the Commissioner's 1958 Standard Ordinary Mortality Table for the policies issued on or after the operative date of Section 38-63-590 of the Standard Nonforfeiture Law for Life Insurance, and before the operative date of Section 38-63-590 of the Standard Nonforfeiture Law for Life Insurance, if for any category of policies issued on female risks all modified net premiums and present values referred to in this section may be calculated according to an age not more than three years younger than the actual age of the insured; for policies issued before January 1, 1979, and not more than six years younger than the actual age of the insured or policies issued after December 31, 1978, and before the operative date of Section 38-63-600; and for policies issued on or after the operative date of Section 38-63-600 of the Standard Nonforfeiture Law for Life Insurance the Commissioner's 1980 Standard Ordinary Mortality Table, at the election of the company for one or more specified plans of life insurance, the Commissioner's 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, or any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for the policies;

(b) for industrial life insurance policies issued on the standard basis, excluding disability and accidental death benefits in the policies, the 1941 Standard Industrial Mortality Table for policies issued before the operative date stated in Section 38-63-650; for all policies issued on or after operative date, the 1941 Standard Industrial Mortality Table or the Commissioner's 1961 Standard Industrial Mortality Table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for policies, according to which of these tables is used to calculate adjusted premiums and present values as specified in Section 38-63-580;

(c) for individual annuity and pure endowment contracts, excluding disability and accidental death benefits in the policies, the

1937 Standard Annuity Mortality Table or, at the option of the company, the Annuity Mortality Table for 1949, Ultimate, or a modification of either of these tables approved by the director or his designee;

(d) for group annuity and pure endowment contracts, excluding disability and accidental death benefits in the policies, the Group Annuity Mortality Table for 1951, a modification of the table approved by the director or his designee or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts;

(e) for total and permanent disability benefits in or supplementary to ordinary policies or contracts, for policies or contracts issued after December 31, 1965, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit or tables of disablement rates and termination rates, adopted after 1980 by the National Association of Insurance Commissioners, approved by regulation promulgated by the director, for use in determining the minimum standard of valuation for the policies; for policies or contracts issued after December 31, 1960, and before January 1, 1966, either the tables or, at the option of the company, the Class (3) Disability Table (1926) and for policies issued before January 1, 1961, the Class (3) Disability Table (1926) or other table approved by the director or his designee. The table, for active lives, must be combined with a mortality table permitted for calculating the reserves for life insurance policies;

(f) for accidental death benefits in or supplementary to policies, for policies issued after December 31, 1965, the 1959 Accidental Death Benefits Table, or any accidental death benefits table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for the policies; for policies issued after December 31, 1960, and before January 1, 1966, either the table or, at the option of the company, the Inter-Company Double Indemnity Mortality Table; and for policies issued before January 1, 1961, the Inter-Company Double Indemnity Mortality Table, or other table approved by the director or his designee. The table must be combined with a mortality table permitted for calculating the reserves for life insurance policies;

(g) for extra benefits provided in life or endowment contracts or policies under which there is payable a series of coupons or guaranteed dividends or a series of constant or variable pure endowments maturing either during the term of the contract and the continuation of the life of

the insured or maturing as a series after the death of the insured, the table or basis of reserves approved by the director or his designee;

(h) for group life insurance, life insurance issued on the substandard basis and other special benefits, the tables approved by the director or his designee;

(3) Except as provided in subsection (F), the minimum standard for the valuation for individual annuity and pure endowment contracts issued on or after the operative date of this item, as defined in this section, and for all annuities and pure endowments purchased on or after the operative date under group annuity and pure endowment contracts, is the commissioner's reserve valuation methods defined in subsections (G) and (H) and the following tables and interest rates:

(a) for individual annuity and pure endowment contracts issued before January 1, 1979, excluding disability and accidental death benefits in the contracts, the 1971 Individual Annuity Mortality Table, or a modification of this table approved by the director or his designee, and six percent interest for single premium immediate annuity contracts, and four percent interest for all other individual annuity and pure endowment contracts;

(b) for individual single premium immediate annuity contracts issued after December 31, 1978, excluding disability and accidental death benefits in the contracts, the 1971 Individual Annuity Mortality Table or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for the contracts, or a modification of these tables approved by the director or his designee, and seven and one-half percent interest;

(c) for individual annuity and pure endowment contracts issued after December 31, 1978, other than single premium immediate annuity contracts, excluding disability and accidental death benefits in the contracts, the 1971 Individual Annuity Mortality Table or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for the contracts, or a modification of these tables approved by the director or his designee, and five and one-half percent interest for single premium deferred annuity and pure endowment contracts and four and one-half percent interest for all other individual annuity and pure endowment contracts;

(d) for annuities and pure endowments purchased before January 1, 1979, under group annuity and pure endowment contracts,

excluding disability and accidental death benefits purchased under the contracts, the 1971 Group Annuity Mortality Table, or a modification of this table approved by the director or his designee, and six percent interest;

(e) for annuities and pure endowments purchased after December 31, 1978, under group annuity and pure endowment contracts, excluding disability and accidental death benefits purchased under the contracts, the 1971 Group Annuity Mortality Table or a group annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for the annuities and pure endowments, or a modification of these tables approved by the director or his designee, and seven and one-half percent interest.

After May 26, 1975, an insurer may file with the director or his designee a written notice of its election to comply with this item after a specified date before January 1, 1979, which is the operative date of this item for the insurer. However, an insurer may elect a different effective date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If an insurer makes no election, the effective date of this item for the insurer is January 1, 1979.

(F)(1) The calendar year statutory valuation interest rates as defined in this subsection must be used in determining the minimum standard for the valuation of:

(a) life insurance policies issued in a particular calendar year, on or after the operative date of Section 38-63-600 of the Standard Nonforfeiture Law for Life Insurance;

(b) individual annuity and pure endowment contracts issued in a particular calendar year after December 31, 1982;

(c) annuities and pure endowments purchased in a particular calendar year after December 31, 1982, under group annuity and pure endowment contracts;

(d) the net increase, if any, in a particular calendar year after January 1, 1983, in amounts held under guaranteed interest contracts.

(2) The calendar year statutory valuation interest rates, I, must be determined as follows and the results rounded to the nearer one-quarter of one percent:

(a) for life insurance,

$I = .03 + W (R(1) - .03) + W* (1/2) * (R(2) - .09)$;

(b) for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with

cash settlement options and from guaranteed interest contracts with cash settlement options,

I = .03 + W (R - .03),

where R(1) is the lesser of R and .09, R(2) is the greater of R and .09, R is the reference interest rate defined in this subsection, and W is the weighting factor defined in this subsection;

(c) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in subitem (b), the formula for life insurance stated in subitem (a) applies to annuities and guaranteed interest contracts with guarantee durations in excess of ten years and the formula for single premium immediate annuities stated in subitem (b) applies to annuities and guaranteed interest contracts with guarantee duration of ten years or less;

(d) for other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in subitem (b) applies;

(e) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in subitem (b) applies.

However, if the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent, the calendar year statutory valuation interest rate for the life insurance policies must be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year must be determined for 1980, using the reference interest rate defined for 1979, and must be determined for each subsequent calendar year regardless of when Section 38-63-600 of the Standard Nonforfeiture Law for Life Insurance becomes operative.

(3) The weighting factors referred to in the formulas stated in this subsection are given in the following tables:

(a) weighting Factors for Life Insurance:

Guarantee Duration Years	Weighting
10 or Less:	.50

More than 10, but not more than 20	.45
More than 20	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance may remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy;

(b) weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options:

Weighting Factors
.80

(c) weighting factors for other annuities and for guaranteed interest contracts, except as stated in subitem (b) of this item are as specified subsubitems (i), (ii), and (iii) according to the rules and definitions in subsubitems (iv), (v), and (vi):

(i) for annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration (Years)	Weighting for Plan Type		
	A	B	C
5 or less	.80	.60	.50
More than five, but not more than 10:	.75	.60	.50
More than 10, but not more than 20:	.65	.50	.45
More than 20:	.45	.35	.35

(ii) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in subsubitem (i) of this subitem increased by:

Plan Type		
A	B	C
.15	.25	.05

(iii) for annuities and guaranteed interest contracts valued on an issue year basis other than those with no cash settlement options, which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than twelve months

beyond the valuation date, the factors shown in subsubitem (i) of this subitem or derived in subsubitem (ii) increased by:

Plan Type		
A	B	C
.05	.05	.05

(iv) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of twenty years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(d) Plan type as used in the above tables is defined as:

(i) Plan Type A:

At any time policyholder may withdraw funds only:

a. with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer;

b. without the adjustment but in installments over five years or more;

c. as an immediate life annuity; or

d. no withdrawal permitted;

(ii) Plan Type B:

Before expiration of the interest rate guarantee, policyholder may withdraw funds only:

a. with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer;

b. without the adjustment but in installments over five years or more; or

c. no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn without the adjustment in a single sum or installments over less than five years;

(iii) Plan Type C:

Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either:

a. without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; or

b. subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

An insurer may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this subsection an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(4) The Reference Interest Rate referred to in item (2) of this subsection is defined as:

(a) for life insurance, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June thirtieth of the calendar year next preceding the year of issue, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.;

(b) for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over twelve months, ending on June thirtieth of the calendar year of issue or year of purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.;

(c) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in subitem (b) with guarantee duration in excess of ten years, the lesser of the average over thirty-six months and the average over twelve months, ending on June thirtieth of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.;

(d) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in subitem (b), with guarantee duration of ten years or less, the average over twelve months, ending on June thirtieth of the calendar year of issue or purchase, of Moody's

Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.;

(e) for other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over twelve months, ending on June thirtieth of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.;

(f) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in subitem (b), the average over twelve months, ending on June thirtieth of the calendar year of the change in the fund, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.;

(5) If Moody's Corporate Bond Yield Average - Monthly Average Corporates is no longer published by Moody's Investors Service, Inc., or if the National Association of Insurance Commissioners determines that Moody's Corporate Bond Yield Average - Monthly Average Corporates as published by Moody's Investors Service, Inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the National Association of Insurance Commissioners and approved by regulation promulgated by the director, may be substituted.

(G) Except as otherwise provided in subsections (H) and (K), reserves according to the commissioner's reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, are the excess, if any, of the present value, at the date of valuation, of future guaranteed benefits provided for by the policies, over the then present value of future modified net premiums. The modified net premiums for the policy are the uniform percentage of the respective contract premiums for the benefits that the present value, at the date of issue of the policy, of the modified net premiums is equal to the sum of the then present value of the benefits provided for by the policy and the excess of item (1) over item (2), as follows:

(1) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net level annual premium may not exceed the net level annual premium on the nineteen

year premium whole life plan for insurance of the same amount at an age one year higher than the age of issue of the policy.

(2) A net one year term premium for the benefits provided for in the first policy year. For a life insurance policy issued after December 31, 1985, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess and which provides an endowment benefit or a cash surrender value or a combination of them in an amount greater than the excess premium, the reserve according to the director's or his designee's reserve valuation method as of a policy anniversary occurring on or before the assumed ending date defined in this section as the first policy anniversary on which the sum of an endowment benefit and cash surrender value then available is greater than the excess premium, except as otherwise provided in subsection (K), is the greater of the reserve as of the policy anniversary calculated as described in the preceding paragraph and the reserve as of the policy anniversary calculated as described in that paragraph, but with the value defined in item (1) being reduced by fifteen percent of the amount of the excess first year premium, all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, the policy being assumed to mature on the date as an endowment, and the cash surrender value provided on the date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in subsection (E)(1) and (F) shall be used.

Reserves according to the commissioner's reserve valuation method for: life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer including a partnership or sole proprietorship or by an employee organization, or both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as amended, disability and accidental death benefits in all policies and contracts, and all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, must be calculated by a method consistent with the principles of subsection (F), except extra premiums charged because of impairments or special hazards must be disregarded in the determination of modified net premiums.

(H) This subsection applies to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer including a partnership or sole proprietorship, or by an employee organization, or both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as amended. Reserves according to the commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding disability and accidental death benefits in the contracts, is the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by the contracts at the end of each respective contract year, over the present value, at the date of valuation, of future valuation considerations derived from future gross considerations, required by the terms of the contract, that become payable before the end of the respective contract year. The future guaranteed benefits must be determined by using the mortality table, if any, and the interest rate, or rates, specified in the contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of the contracts to determine nonforfeiture values.

(I)(1) An insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued after March 23, 1960, must not be less than the aggregate reserves calculated in accordance with the methods set forth in subsections (G), (H), (K), and (L) and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for the policies.

(2) The aggregate reserves for all policies, contracts, and benefits must not be less than the aggregate reserves determined by the appointed actuary to be necessary to render the opinion required by subsection (D).

(J) Reserves for policies and contracts issued before March 24, 1960, may be calculated, at the option of the insurer, according to the standards which produce greater aggregate reserves for all the policies and contracts than the minimum reserves required by the laws in effect immediately before the date. Reserves for a category of policies, contracts, or benefits established by the director or his designee, after March 23, 1960, may be calculated, at the option of the insurer, according to the standards which produce greater aggregate reserves for the category than those calculated according to the minimum standard provided in this section, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, must

not be greater than the corresponding rate or rates of interest used in calculating nonforfeiture benefits. An insurer which adopts a standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided in this section, with the approval of the director or his designee, may adopt a lower standard of valuation, but not lower than the minimum provided in this section. However, for purposes of this subsection, the holding of additional reserves previously determined by the appointed actuary to be necessary to render the opinion required by subsection (D) must not be deemed to be the adoption of a higher standard of valuation.

(K) If in a contract year the gross premium charged by a company on a policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for the policy or contract is the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for the policy or contract, or the reserve calculated by the method actually used for the policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this subsection are those standards stated in subsections (E)(1) and (F). For a life insurance policy issued after December 31, 1985, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess and which provides an endowment benefit or a cash surrender value or a combination of them in an amount greater than the excess premium, this subsection must be applied as if the method actually used in calculating the reserve for the policy were the method described in subsection (G), ignoring the second paragraph of subsection (G). The minimum reserve at each policy anniversary of the policy is the greater of the minimum reserve calculated in accordance with subsection (G), including the second paragraph of that subsection, and the minimum reserve calculated in accordance with this subsection.

(L) For a plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurer based on then estimates of future experience, or for a plan of life insurance or annuity which is of a nature so that the minimum reserves cannot be determined by the methods described in subsections (G), (H), and (K), the reserves which are held under the plan must be:

(1) appropriate in relation to the benefits and the pattern of premiums for that plan;

(2) computed by a method which is consistent with the principles of this Standard Valuation Law, as determined by regulations promulgated by the director.

(M) For accident and health insurance contracts issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection (C)(2).

(N)(1) For policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection (C)(2), except as provided under items (5) or (7).

(2) The operative date of the valuation manual is January first of the first calendar year following July first as of which all of the following have occurred:

(a) The valuation manual has been adopted by the NAIC by an affirmative vote of at least forty-two members, or three-fourths of the members voting, whichever is greater.

(b) The Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than seventy-five percent of the direct premiums written as reported in the following annual statements submitted for 2008: life, accident and health annual statements; health annual statements; or fraternal annual statements.

(c) The Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least forty-two of the following fifty-five jurisdictions: the fifty states of the United States, American Samoa, the American Virgin Islands, the District of Columbia, Guam, and Puerto Rico.

(3) Unless a change in the valuation manual specifies a later effective date, changes to the valuation manual shall be effective on January first following the date when the change to the valuation manual has been adopted by the NAIC by an affirmative vote representing:

(a) at least three-fourths of the members of the NAIC voting, but not less than a majority of the total membership; and

(b) members of the NAIC representing jurisdictions totaling greater than seventy-five percent of the direct premiums written as reported in the following annual statements most recently available prior to the vote in subitem (a): life, accident and health annual statements, health annual statements, or fraternal annual statements.

(4) The valuation manual must specify all of the following:

(a) minimum valuation standards for and definitions of the policies or contracts subject to subsection (C)(2). These minimum valuation standards must be:

(i) the commissioner's reserve valuation method for life insurance contracts, other than annuity contracts, subject to subsection (C)(2);

(ii) the commissioner's annuity reserve valuation method for annuity contracts subject to subsection (C)(2); and

(iii) minimum reserves for all other policies or contracts subject to subsection (C)(2);

(b) the policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation in subsection (O)(1) and the minimum valuation standards consistent with those requirements;

(c) for policies and contracts subject to a principle-based valuation under subsection (O):

(i) requirements for the format of reports to the director under subsection (O)(2)(c) and which must include information necessary to determine if the valuation is appropriate and in compliance with this section;

(ii) assumptions must be prescribed for risks over which the company does not have significant control or influence;

(iii) procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of the procedures;

(d) for policies not subject to a principle-based valuation under subsection (O), the minimum valuation standard must either:

(i) be consistent with the minimum standard of valuation prior to the operative date of the valuation manual; or

(ii) develop reserves that quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring;

(e) other requirements, including, but not limited to, those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules and internal controls; and

(f) the data and form of the data required under subsection (O), with whom the data must be submitted, and may specify other requirements including data analyses and reporting of analyses.

(5) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of the director or his designee, in compliance with this section, then the company shall, with respect to such requirements, comply with minimum valuation standards prescribed by the director by regulation.

(6) The director or his designee may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in this section. The director or his designee may rely upon the opinion, regarding provisions contained within this section, of a qualified actuary engaged by the commissioner of another state, district, or territory of the United States. As used in this item, the term 'engage' includes employment and contracting.

(7) The director or his designee may require a company to change any assumption or method that, in the opinion of the director or his designee, is necessary in order to comply with the requirements of the valuation manual or this section; and the company shall adjust the reserves as required by the director or his designee. The director or his designee may take other disciplinary action as permitted pursuant to Sections 38-2-10 and 38-5-120.

(O)(1) A company must establish reserves using a principle-based valuation that meets the following conditions for policies or contracts as specified in the valuation manual:

(a) Quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts. For polices or contracts with significant tail risk, reflects conditions appropriately adverse to quantify the tail risk.

(b) Incorporate assumptions, risk analysis methods and financial models, and management techniques that are consistent with, but not necessarily identical to, those utilized within the company's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods.

(c) Incorporate assumptions that are prescribed in the valuation manual or for assumptions that are not prescribed, the assumptions must be established using the company's available experience, to the extent it is relevant and statistically credible; or to the extent that company data

is not available, relevant, or statistically credible, be established utilizing other relevant, statistically credible experience.

(d) Provide margins for uncertainty including adverse deviation and estimation error, such that the greater the uncertainty, the larger the margin and resulting reserve.

(2) A company using a principle-based valuation for one or more policies or contracts subject to this section as specified in the valuation manual shall:

(a) establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual;

(b) provide to the director and the company's board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. These controls must be designed to assure that all material risks inherent in the liabilities and associated assets subject to such valuation are included in the valuation, and that valuations are made in accordance with the valuation manual. The certification must be based on the controls in place as of the end of the preceding calendar year; and

(c) develop, and file with the director or his designee upon request, a principle-based valuation report that complies with standards prescribed in the valuation manual.

(3) A principle-based valuation may include a prescribed formulaic reserve component.

(P) A company shall submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual.

(Q)(1) For purposes of this subsection, 'confidential information' means:

(a) a memorandum in support of an opinion submitted pursuant to subsection (D) and any other documents, materials, and other information, including, but not limited to, all working papers, and copies created, produced or obtained by, or disclosed to the director or any other person in connection with the memorandum;

(b) all documents, materials, and other information, including, but not limited to, all working papers, and copies, created, produced or obtained by, or disclosed to the director or any other person in the course of an examination made pursuant to subsection (N)(6); provided, however, that if an examination report or other material prepared in connection with an examination made under Section 38-13-20 is not held as private and confidential information under Section 38-13-10, et seq., an examination report or other material prepared in connection with an

examination made under subsection (N)(6) is not 'confidential information' to the same extent as if such examination report or other material had been prepared under Section 38-13-10, et seq.;

(c) any reports, documents, materials, and other information developed by a company in support of, or in connection with, an annual certification by the company pursuant to subsection (O)(2)(b) evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials, and other information, including, but not limited to, all working papers, and copies, created, produced or obtained by, or disclosed to the director or any other person in connection with such reports, documents, materials, and other information;

(d) any principle-based valuation report developed under subsection (O)(2)(c) of this section and any other documents, materials, and other information, including, but not limited to, all working papers, and copies of them, created, produced or obtained by, or disclosed to the director or any other person in connection with the report; and

(e) any documents, materials, data and other information submitted by a company pursuant to subsection (P), collectively, 'experience data', and any other documents, materials, data and other information, including, but not limited to, all working papers, and copies created or produced in connection with the experience data, in each case that includes any potentially company-identifying or personally identifiable information, that is provided to or obtained by the director or his designee, together with any 'experience data', 'experience materials', and any other documents, materials, data and other information, including, but not limited to, all working papers, and copies, created, produced, or obtained by, or disclosed to the director or any other person in connection with such experience materials.

(2)(a) Except as provided in this subsection, a company's confidential information is confidential by law and privileged, is not subject to disclosure pursuant to the Freedom of Information Act, and is not subject to subpoena or discovery or admissible in evidence in any private civil action; provided, however, that the director or his designee is authorized to use the confidential information in the furtherance of any regulatory or legal action brought against the company as a part of the director's or his designee's official duties.

(b) Neither the director nor any person who received confidential information while acting under the authority of the director is permitted or required to testify in any private civil action concerning any confidential information.

(c) In order to assist in the performance of the director's or his designee's duties, the director or his designee may share confidential information with other state, federal, and international regulatory agencies and with the NAIC and its affiliates and subsidiaries, and in the case of confidential information specified in item (1)(a) and (d) only, with the Actuarial Board for Counseling and Discipline, or its successor, upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal, and international law enforcement officials, provided that such recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of such documents, materials, data and other information in the same manner and to the same extent as required for the director or his designee.

(d) The director or his designee may receive documents, materials, data and other information, including otherwise confidential and privileged documents, materials, data or information, from the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions and from the Actuarial Board for Counseling and Discipline or its successor and shall maintain as confidential or privileged any document, material, data or other 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 other information.

(e) The director or his designee may enter into agreements governing sharing and use of information consistent with item (2).

(f) No waiver of any applicable privilege or claim of confidentiality in the confidential 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 item (2)(c).

(g) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this item (2) must be available and enforced in any proceeding in, and in any court of, this State.

(h) As used in this subsection, 'regulatory agency', 'law enforcement agency' and the 'NAIC' include, but are not limited to, their employees, agents, consultants and contractors.

(3) Notwithstanding item (2), any confidential information specified in item (1)(a) and (d):

(a) may be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under subsection (D) or principle-based valuation report developed under

subsection (O)(2)(c) by reason of an action required by this section or by regulations promulgated under this section;

(b) may otherwise be released by the director with the written consent of the company; and

(c) once any portion of a memorandum in support of an opinion submitted under subsection (D) or a principle-based valuation report developed under subsection (O)(2)(c) is cited by the company in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of the memorandum or report must no longer be confidential.

(R)(1) The director may exempt specific product forms or product lines of a domestic company that is licensed and doing business only in this State from the requirements of subsection (N) provided:

(a) the director has issued an exemption in writing to the company and has not subsequently revoked the exemption in writing; and

(b) the company computes reserves using assumptions and methods used prior to the operative date of the valuation manual in addition to any requirements established by the director and promulgated by regulation.

(2) For any company granted an exemption under this section, subsections (D) through (M) are applicable. With respect to any company applying this exemption, any reference to subsection (N) found in subsections (D) through (M) is not applicable.

(S)(1) A company that has less than three hundred million dollars of ordinary life premium and that is licensed and doing business in this State and that is subject to the requirements of subsections (N) and (O), may hold reserves based on the mortality tables and interest rates defined by the valuation manual for net premium reserves as defined by the valuation manual and using the methodology defined in subsections (G), (I), (J), (K), and (L) as they apply to ordinary life insurance in lieu of the reserves required by subsections (N) and (O), provided that:

(a) if the company is a member of a group of life insurers, the group has combined ordinary life premiums of less than six hundred million dollars;

(b) the company reported total adjusted capital of at least four hundred and fifty percent of authorized control level risk-based capital in the risk-based capital report for the prior calendar year;

(c) the appointed actuary has provided an unqualified opinion on the reserves in accordance with subsection (D) for the prior calendar year; and

(d) the company has provided a certification by a qualified actuary that any universal life policy with a secondary guarantee issued after the operative date of the valuation manual meets the definition of a nonmaterial secondary guarantee universal life product as defined in the valuation manual.

(2) For purposes of item (1), ordinary life premiums are measured as direct premium plus reinsurance assumed from an unaffiliated company, as reported in the prior calendar year annual statement.

(3) A domestic company meeting the requirement of items (1) and (2) may file a statement prior to July first with the director or his designee certifying that these conditions are met for the current calendar year based on premiums and other values from the prior calendar year financial statements. The director or his designee may reject the statement before September first and require a company to comply with the valuation manual requirements for life insurance reserves."

Operative date of the valuation manual defined

SECTION 2. Section 38-63-510 of the 1976 Code is amended to read:

"Section 38-63-510. (1) This article is known and may be cited as the 'Standard Nonforfeiture Law for Life Insurance'.

(2) The term 'operative date of the valuation manual' means January first of the first calendar year that the valuation manual, as defined in Section 38-9-180, is effective."

Commissioners' Standard Mortality table to be used after operative date of the valuation manual

SECTION 3. Section 38-63-600(8) and (9) of the 1976 Code is amended to read:

"(8) All adjusted premiums and present values referred to in this article:

(A) must for all policies of ordinary insurance be calculated on the basis of (i) the Commissioners' 1980 Standard Ordinary Mortality Table or (ii) at the election of the insurer for any one or more specified plans of life insurance, the Commissioners' 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors;

(B) must for all policies of industrial insurance be calculated on the basis of the Commissioners' 1961 Standard Industrial Mortality Table; and

(C) must for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this section for policies issued in that calendar year. However:

(a) At the option of the insurer, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this section, for policies issued in the immediately preceding calendar year.

(b) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by Section 38-63-520, must be calculated on the basis of the mortality table and rate of interest used in determining the amount of the paid-up nonforfeiture benefit and paid-up dividend additions, if any.

(c) An insurer may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

(d) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners' 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioners' 1961 Industrial Extended Term Insurance Table for policies of industrial insurance.

(e) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.

(f) For policies issued prior to the operative date of the valuation manual, any Commissioners' Standard ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the department for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners' 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners' 1980 Extended Term Insurance Table.

For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the Commissioners' Standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners' 1980 Standard Ordinary Mortality Table with or without the Ten-Year Select Mortality Factors or for the Commissioners' 1980 Extended Term Insurance Table. If the director approves, by regulation, any

Commissioners' Standard ordinary mortality table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfetiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

(g) For policies issued prior to the operative date of the valuation manual, any Commissioners' industrial mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the department for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners' 1961 Standard Industrial Mortality Table or the Commissioners' 1961 Industrial Extended Term Insurance Table.

For policies issued on or after the operative date of the valuation manual, the valuation manual must provide the Commissioners' Standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners' 1961 Standard Industrial Mortality Table or the Commissioners' 1961 Industrial Extended Term Insurance Table. If the director approves, by regulation, any Commissioners' Standard industrial mortality table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

(9) The nonforfeiture interest rate is:

(a) for policies issued prior to the operative date of the valuation manual, the nonforfeiture interest rate is per annum for any policy issued in a particular calendar year must be equal to one hundred twenty-five percent of the calendar year statutory valuation interest rate for the policy as defined in the Standard Valuation Law rounded to the nearest one-quarter of one percent, provided, however, that the nonforfeiture interest rate shall not be less than four percent; and

(b) for policies issued on and after the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year must be provided by the valuation manual."

Time effective

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

Ratified the 19th day of April, 2016.

Approved the 21st day of April, 2016.

No. 149

(R154, S1049)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 33-47-1160 SO AS TO ALLOW A MARKETING COOPERATIVE ASSOCIATION WHOSE TERM OF EXISTENCE HAS EXPIRED TO APPLY TO THE SECRETARY OF STATE FOR REINSTATEMENT WITHIN TWO YEARS OF ITS EXPIRATION.

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

Reinstatement of a marketing cooperative association

SECTION 1. Article 13, Chapter 47, Title 33 of the 1976 Code is amended by adding:

"Section 33-47-1160. (A) An association whose term of existence has expired may apply to the Secretary of State for reinstatement within two years after the effective date of expiration. The application must:

(1) recite the name of the association and the effective date of its expiration; and

(2) include revised articles of incorporation with a new term as required by Section 33-47-210(4).

(B) If the Secretary of State determines the application contains the information required by subsection (A) and the information is correct, the Secretary of State shall cancel the expiration and prepare a certificate of reinstatement reciting its determination and the effective date of reinstatement, file the original of the certificate, and provide a copy to the association.

(C) When reinstatement is effective, it relates back to and takes effect as of the effective date of the expiration and the association shall resume carrying on its activities as if the expiration had never occurred."

Time effective

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

Ratified the 19th day of April, 2016.

Approved the 21st day of April, 2016.

No. 150

(R155, S1076)

AN ACT TO AMEND SECTION 48-39-130, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERMITS TO UTILIZE CRITICAL AREAS, SO AS TO ESTABLISH THAT AN INDIVIDUAL DOES NOT NEED TO APPLY FOR A PERMIT TO DREDGE A MANMADE, PREDOMINATELY ARMORED, RECREATIONAL USE OR ESSENTIAL ACCESS CANAL.

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

Dredging permit not required for an individual to dredge in certain circumstances

SECTION 1. Section 48-39-130(D)(10) of the 1976 Code, as added by Act 41 of 2011, is amended to read:

"(10) Dredging in existing navigational canal community developments by individuals, counties, or municipalities of manmade, predominately armored, recreational use canals and essential access canals conveyed to the State or dedicated to the public for that purpose between 1965 and the effective date of this act if the maintenance dredging is authorized by a permit from the United States Army Corps of Engineers pursuant to the Federal Clean Water Act, as amended, or

the Rivers and Harbors Act of 1899. All other department administered certifications for such dredging are deemed waived."

Time effective

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

Ratified the 19th day of April, 2016.

Approved the 21st day of April, 2016.

No. 151

(R156, H3204)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-29-185 SO AS TO ENACT THE "CERVICAL CANCER PREVENTION ACT", TO PROVIDE THAT BEGINNING WITH THE 2016-2017 SCHOOL YEAR, THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL MAY OFFER THE CERVICAL CANCER VACCINATION SERIES TO ADOLESCENT STUDENTS ENROLLING IN THE SEVENTH GRADE OF ANY PUBLIC OR PRIVATE SCHOOL OR HOMESCHOOLING PROGRAM IN THIS STATE, TO PROVIDE THAT NO STUDENT IS REQUIRED TO HAVE THE VACCINE BEFORE ENROLLING IN OR ATTENDING SCHOOL, TO PROVIDE THAT THE DEPARTMENT MAY DEVELOP AN INFORMATIONAL BROCHURE RELATED TO OFFERING THIS VACCINATION WITH SPECIFIC CONTENT REQUIREMENTS, TO REQUIRE THE DEPARTMENT TO DISCLOSE CERTAIN INFORMATION ABOUT THE VACCINATION SERIES, TO DEFINE "CERVICAL CANCER VACCINATION SERIES", TO PROVIDE THAT IMPLEMENTATION OF THIS ACT IS CONTINGENT UPON RECEIPT OF CERTAIN FUNDS, AND TO PROHIBIT THE DEPARTMENT FROM CONTRACTING WITH A HEALTH CARE PROVIDER TO OFFER THE VACCINATION SERIES IF THE HEALTH CARE PROVIDER PERFORMS ABORTIONS.

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

Cervical Cancer Prevention Act

SECTION 1. This act may be cited as the "Cervical Cancer Prevention Act".

Adolescent cervical cancer vaccinations

SECTION 2. Chapter 29, Title 44 of the 1976 Code is amended by adding:

"Section 44-29-185. (A)(1) Beginning with the 2016-2017 school year, the Department of Health and Environmental Control may offer the cervical cancer vaccination series for adolescent students. Adolescent students include children enrolling in the seventh grade in any school, public, private, or home schooling program in this State.

(2) No student is required to have the cervical cancer vaccination series before enrolling in or attending school. Consent of a parent or guardian is required for a student to receive the cervical cancer vaccination from the department, except as provided under Section 63-5-340.

(B)(1) The department may develop and provide, to each school and home schooling program whose grade levels include grade six, informational brochures concerning adolescent vaccinations, including the cervical cancer vaccination series. The brochure specifically must state the benefits and side effects of the cervical cancer vaccination series and that the vaccination series is optional. The brochure must encourage the parent or guardian of a student to take the child to the child's own health care provider to be vaccinated. At the beginning of the school year, each school and home schooling program may provide this informational brochure to the parents or guardians of all students in the sixth grade.

(2) The department shall disclose the benefits, adverse risks, and side effects of the adolescent vaccination series offered, which must take into account medical findings by the health care profession in this State, another state, or any other country. The department shall encourage the parent or guardian of a student to take the child to the child's own health care provider for a full discussion of the benefits and side effects of receiving any adolescent vaccination series.

(C) For the purposes of this section 'cervical cancer vaccination series' means the human papillomavirus vaccination series.

(D) Implementation of this section is contingent upon the appropriation of state and federal funding to the department to fully cover the costs of providing this vaccination series to eligible students as well as the availability of funds to produce the informational brochure provided for in subsection (B)(1).

(E) The department may not contract with a health care provider to offer the vaccination series if the health care provider performs abortions."

Time effective

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

Ratified the 19th day of April, 2016.

Approved the 21st day of April, 2016.

No. 152

(R157, H3265)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT "RONALD ROUSE'S LAW"; TO AMEND SECTION 59-32-30, AS AMENDED, RELATING TO PUBLIC SCHOOL COMPREHENSIVE HEALTH EDUCATION PROGRAMS, SO AS TO PROVIDE THAT STUDENTS MUST RECEIVE INSTRUCTION IN CARDIOPULMONARY RESUSCITATION AND AWARENESS OF THE USE OF AUTOMATED EXTERNAL DEFIBRILLATORS AT LEAST ONCE DURING THE ENTIRE FOUR YEARS OF GRADES NINE THROUGH TWELVE, TO SPECIFY SKILLS THIS INSTRUCTION MUST INCLUDE, TO PROVIDE FOR ADAPTATION OF THE PROGRAM FOR VIRTUAL SCHOOLS, TO PROVIDE FOR WAIVERS IN CERTAIN CIRCUMSTANCES, TO PROVIDE RELATED REQUIREMENTS OF LOCAL SCHOOL DISTRICTS AND THE STATE DEPARTMENT OF EDUCATION; TO PROVIDE STUDENTS WHO HAVE ALREADY COMPLETED THE REQUISITE HEALTH COURSE ARE NOT REQUIRED TO TAKE THE COURSE A SECOND TIME; TO PROVIDE THE

DEPARTMENT MAY INCLUDE LANGUAGE FROM ANY SECTION OF THIS ACT IN THE SOUTH CAROLINA HEALTH AND SAFETY EDUCATION CURRICULUM STANDARDS; AND TO PROVIDE SCHOOL DISTRICTS MUST BEGIN COMPLYING WITH THE PROVISIONS OF THIS ACT NO LATER THAN THE 2017-2018 SCHOOL YEAR.

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 "Ronald Rouse's Law".

Instruction in CPR and AED use awareness in high schools

SECTION 2. Section 59-32-30(A) of the 1976 Code, as last amended by Act 58 of 2015, is further amended by adding an appropriately numbered item at the end to read:

"( ) At least one time during the entire four years of grades nine through twelve, each student shall receive instruction in cardiopulmonary resuscitation (CPR), which must include, but not be limited to, hands-only CPR and must include awareness in the use of an automated external defibrillator (AED). Each school district shall use a program that incorporates the instruction of the psychomotor skills necessary to perform CPR developed by the American Heart Association, the American Red Cross, or an instructional program that is nationally recognized and based on the most current national evidence-based emergency cardiovascular care guidelines for CPR and awareness in the use of an AED. Local and statewide school districts shall coordinate with entities that have the experience and necessary equipment for the instruction of CPR and awareness in the use of AEDs; provided, however, that virtual schools may administer the instruction virtually and are exempt from any in-person instructional requirements. A school district must adopt a policy providing a waiver for this requirement for a student absent on the day the instruction occurred, a student with a disability whose individualized education program indicates such student is unable to complete all or a portion of the hands-only CPR requirement, or a student whose parent or guardian completes, in writing, a form approved by the school district opting out of hands-only CPR instruction and AED awareness. The State Board of

Education shall incorporate CPR training and AED awareness into the South Carolina Health and Safety Education Curriculum Standards and promulgate regulations to implement this section."

Exemption

SECTION 3. Students who have already completed the requisite health course will not be required to take the course a second time.

South Carolina Health and Safety Education Curriculum Standards

SECTION 4. The State Department of Education may include language from any section of this act in the South Carolina Health and Safety Education Curriculum Standards.

Compliance before 2017-2018 school year required

SECTION 5. School districts must begin complying with the provisions of this act no later than the 2017-2018 school year.

Time effective

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

Ratified the 19th day of April, 2016.

Approved the 21st day of April, 2016.

No. 153

(R158, H3325)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 3 TO CHAPTER 61, TITLE 15 SO AS TO ENACT THE "CLEMENTA C. PINCKNEY UNIFORM PARTITION OF HEIRS' PROPERTY ACT"; TO DEFINE NECESSARY TERMS; TO PROVIDE FOR A PRELIMINARY HEARING TO DETERMINE WHETHER THE PROPERTY IN AN ACTION TO PARTITION REAL PROPERTY IS HEIRS' PROPERTY; TO PROVIDE FOR

NOTICE BY PUBLICATION IN A PARTITION ACTION; TO PROVIDE PROCEDURES FOR A COURT TO FOLLOW IN DETERMINING THE VALUE OF THE PROPERTY AND FACTORS FOR A COURT TO CONSIDER FOR DIFFERENT TYPES OF PARTITIONS; TO PROVIDE FOR OPEN-MARKET SALES, SEALED BIDS, OR AUCTIONS, TO DESIGNATE THE EXISTING PROVISIONS OF CHAPTER 61 AS ARTICLE 1; TO AMEND SECTION 15-61-10, RELATING TO PARTITION ACTIONS, SO AS TO PROVIDE FOR A COURT HEARING TO DETERMINE IF THE PARTITION ACTION CONCERNS HEIRS' PROPERTY; AND TO AMEND SECTION 15-61-100, RELATING TO WRITS OF PARTITION, SO AS TO DELETE OBSOLETE REFERENCES.

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

Clementa C. Pinckney Uniform Partition of Heirs' Property Act enacted

SECTION 1. Chapter 61, Title 15 of the 1976 Code is amended by adding:

"Article 3

Clementa C. Pinckney Uniform Partition of Heirs' Property Act

Section 15-61-310. This article may be cited as the 'Clementa C. Pinckney Uniform Partition of Heirs' Property Act'.

Section 15-61-320. As used in this article:

(1) 'Ascendant' means an individual who precedes another individual in lineage, in the direct line of ascent from the other individual.

(2) 'Collateral' means an individual who is related to another individual under the law of intestate succession of this State, but who is not the other individual's ascendant or descendant.

(3) 'Descendant' means an individual who follows another individual in lineage, in the direct line of descent from the other individual.

(4) 'Determination of value' means a court order determining the fair market value of heirs' property under Section 15-61-360 or Section

15-61-400 or adopting the valuation of the property agreed to by all cotenants.

(5) 'Heirs' property' means real property held in tenancy in common that satisfies all of the following requirements as of the filing of a partition action:

(a) there is no agreement in a record binding all of the cotenants that governs the partition of the property;

(b) one or more of the cotenants acquired title from a relative, whether living or deceased; and

(c) any of the following applies:

(i) twenty percent or more of the interests are held by cotenants who are relatives;

(ii) twenty percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or

(iii) twenty percent or more of the cotenants are relatives.

(6) 'Manifest prejudice' or 'Manifest injury' means a result that is obviously unfair or shocking to the conscience and is direct, obvious, and observable when considering the factors under Section 15-61-390(A).

(7) 'Partition by allotment' means a court-ordered partition of the heirs' property where ownership to all or a portion of the heirs' property is granted to one or more cotenants proportionate in value to their interests in the entire heirs' property parcel, with adjustments being made for payment to compensate other cotenants for the value of their respective interests in the heirs' property.

(8) 'Partition by sale' means a court-ordered sale of the entire heirs' property, whether by auction, sealed bids, or open-market sale, conducted under Section 15-61-400.

(9) 'Partition in kind' means the division of heirs' property into physically distinct and separately titled parcels.

(10) '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.

(11) 'Relative' means an ascendant, descendant, or collateral, or an individual otherwise related to another individual by blood, marriage, adoption, or law of this State other than this article, and for purposes of this article, who owned or owns an interest in the heirs' property.

(12) 'Time computed' means computation of time as prescribed by this section, which shall be governed by Rule 6, South Carolina Rules of Civil Procedure, so that when the period of time prescribed or allowed

is seven days or less, intermediate Saturdays, Sundays, and holidays are excluded in the computation.

Section 15-61-330. (A) In an action to partition real property under Article 1, upon motion of a party or from statements contained in the pleadings, the court shall determine, in a preliminary hearing held after the filing of the action, whether the property is heirs' property. If the court determines that the property is heirs' property, the partition of the heirs' property is governed by the provisions of this article, unless all cotenants otherwise agree in a record.

(B) This article supplements the provisions of Article 1 and if the provisions of this article differ from the provisions of Article 1, the provisions of this article control for partitions of heirs' property.

Section 15-61-340. (A) This article does not limit or affect the method by which service of pleading in a partition action may be made.

(B) If the plaintiff in a partition action seeks notice by publication and the court determines that notice by publication is required and, pursuant to Section 15-61-330, that the property may be heirs' property, the plaintiff, not later than ten days after the determination of the court, shall post and maintain while the action is pending a conspicuous sign on the property that is the subject of the action in addition to compliance with the requirements for notice by publication. The sign must state that the action has commenced and identify the name and address of the court and the common designation by which the property is known. The court may require, through its order, the plaintiff to publish on the sign the name of the plaintiff and the known defendants.

Section 15-61-350. Pursuant to Rule 71, South Carolina Rules of Civil Procedure, this article does not affect a court's power, in partition proceedings, to dispense with the issuing of a writ of partition when, in the judgment of the court, it would involve unnecessary expense to issue such a writ. A court may, in all partition proceedings, without recourse to such writ, determine by means of testimony taken before the proper officer and reported to the court whether a partition in kind or partition by allotment among the parties is practicable or expedient and, when such cannot be fairly and equally made, may order the sale of the property and a division of the proceeds according to the rights of the parties. If a court issues a writ of partition and appoints commissioners pursuant to Rule 71, South Carolina Rules of Civil Procedure, each commissioner, in addition to the requirements and disqualifications

applicable to commissioners in Rule 71, must be disinterested and impartial and not a party to or a participant in the action.

Section 15-61-360. (A) Except as otherwise provided in subsections (B) and (C), if a court determines that property that is the subject of a partition action is heirs' property, the court shall determine the fair market value of the property by ordering an appraisal pursuant to subsection (D).

(B) If all cotenants have agreed to the value of the property or to another method of valuation, the court shall adopt that value or the value produced by the agreed method of valuation.

(C) If the court determines that the evidentiary value of an appraisal is outweighed by the cost of the appraisal, the court, after an evidentiary hearing, shall establish by order the fair market value of the property. The court shall send notice of the order to the party that filed the partition action. Within one week from the date notice was sent, the party that filed the partition action shall send a copy of the order establishing the fair market value of the property to all other cotenants with a known address.

(D) If a court orders an appraisal, the court shall appoint a disinterested real estate appraiser licensed in this State to determine the fair market value of the property assuming sole ownership of the fee simple estate. On appointment of the appraiser, the court shall order the appraiser to file with the court a sworn or verified appraisal upon its completion and the court shall send to the party that filed the partition action a notice of the appraisal filing stating:

(1) the appraised fair market value of the property;

(2) that the appraisal is available at the clerk's office; and

(3) that a party may file with the court an objection to the appraisal no later than thirty days after the notice is sent, stating the grounds for the objection.

(E) If an appraisal is filed pursuant to subsection (D), within one week from the date the notice was sent, the party that filed the partition action shall send notice to all other cotenants with a known address, stating:

(1) the appraised fair market value of the property;

(2) that the appraisal is available at the clerk's office; and

(3) that a party may file with the court an objection to the appraisal no later than thirty days after the notice is sent stating the grounds for the objection.

(F) If an appraisal is filed with the court pursuant to subsection (D), the court shall conduct a hearing to determine the fair market value of

the property not sooner than sixty days after a copy of the notice of the appraisal is sent to each party under subsections (D) and (E), whether or not an objection to the appraisal is filed. In addition to the court-ordered appraisal, the court may consider any other evidence of value offered by a party.

(G) After a hearing under subsection (F), but before considering the merits of the partition action, the court, by order, shall determine the fair market value of the property. The court shall send notice of the order to the party that filed the partition action and, within one week from the date notice was sent, the party filing the partition action shall send copies of the fair market value order to all other cotenants with a known address.

(H) The court, in its discretion, shall determine allocation of payment from the parties to cover the costs of the appraisal.

Section 15-61-370. (A) If any cotenant requests partition by sale, after the determination of value pursuant to Section 15-61-360, the party filing the partition action, after receipt of the value information from the clerk's office, shall send notice to the parties that any cotenant, except a cotenant that requested partition by sale, may buy all of the interests of the cotenants that requested partition by sale.

(B) A cotenant, except a cotenant that requested partition by sale, who is interested in purchasing the interests of the cotenants that requested partition by sale, shall notify the court of that interest no later than ten days prior to the date set for the partition trial. A cotenant that did not request partition by sale must be allowed to purchase the interests of any cotenant who requested a partition by sale, as provided in this article, whether default has been entered against the cotenant or not.

(C) The purchase price for each of the interests of a cotenant that requested partition by sale is the value of the entire parcel determined pursuant to Section 15-61-360 multiplied by the cotenant's fractional ownership of the entire parcel.

(D) After the expiration of the period in subsection (B), the following requirements apply:

(1) If only one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall notify the party filing the partition action of that fact. After receiving notice from the court, the party filing the partition action shall notify all the parties of that same fact.

(2) If more than one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court, by order, shall allocate the right to buy those interests among the electing cotenants based on each electing cotenant's existing fractional ownership of the

entire parcel divided by the total existing fractional ownership of all cotenants electing to buy. The court shall send notice of the order to the party that filed the partition action and, within one week from the date notice was sent, the party filing the partition action shall send a copy of the order showing the price to be paid by each electing cotenant to all other cotenants with a known address.

(3) If no cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall notify the party filing the partition action to send notice to all the parties of that fact and the court shall resolve the partition action, by order, pursuant to Section 15-61-380.

(E) If notices are sent to the parties under subsection (D)(1) or (2), the court shall set a date, not sooner than sixty days after the date the notice was sent, by which electing cotenants must pay their apportioned price into the court. After this date, the following requirements apply:

(1) If all electing cotenants timely pay their apportioned price into court, the court shall issue an order reallocating all the interests of the cotenants and disburse the amounts held by the court to the persons entitled to them.

(2) If no electing cotenant timely pays its apportioned price, the court shall resolve the partition action pursuant to Section 15-61-380(A) and (B), as if the interests of the cotenants that requested partition by sale were not purchased.

(3) If one or more but not all of the electing cotenants fail to pay their apportioned price on time, the court, on motion, shall order the party so moving to give notice to the electing cotenants that paid their apportioned price of the interest remaining and the price for all the interests.

(F) Not later than twenty days after notice is sent pursuant to subsection (E)(3), any cotenant who paid may elect to purchase all of the remaining interest by paying the entire price into the court. After an additional twenty-day period, the following requirements apply:

(1) If only one cotenant pays the entire price for the remaining interests, the court shall issue an order reallocating the remaining interests to that cotenant and disburse the amounts held by it to the persons entitled to them.

(2) If no cotenant pays the entire price for the remaining interests, the court shall resolve the partition action pursuant to Section 15-61-380, as if the interests of the cotenants that requested partition by sale were not purchased.

(3) If more than one cotenant pays the entire price for the remaining interests, the court shall reapportion the remaining interests

among those paying cotenants, based on each paying cotenant's original fractional ownership of the entire parcel divided by the total original fractional ownership of all cotenants that paid the entire price for the remaining interests. The court shall issue promptly an order reallocating all of the cotenants' interests, disburse the amounts held by it to the persons entitled to them, and promptly refund any excess payment held by the court.

(G) Not later than forty days after the party filing the partition action sends notice to the parties pursuant to subsection (A), any cotenant entitled to buy an interest under this section may request the court to authorize a sale as part of the pending action of the interests of cotenants named as defendants and served with the complaint, but that did not appear in the action.

(H) If the court receives a timely request under subsection (G), the court, after a hearing, may deny the request or authorize the requested additional sale on such terms as the court determines are fair and reasonable, subject to the following limitations:

(1) A sale authorized under this subsection may occur only after the purchase prices for all interests subject to sale under subsections (A) through (F) have been paid into court and those interests have been reallocated among the cotenants as provided in those subsections.

(2) The purchase price for the interest of a nonappearing cotenant is based on the court's determination of value pursuant to Section 15-61-360.

Section 15-61-380. (A) If all the interests of the cotenants that requested partition by sale are not purchased by other cotenants pursuant to Section 15-61-370 or if, after conclusion of the buyout pursuant to Section 15-61-370, a cotenant remains that has requested a partition in kind or a partition by allotment, the court shall order a partition in kind or a partition by allotment, unless the court, after consideration of the factors listed in Section 15-61-390, finds that partition in kind or partition by allotment may result in manifest prejudice or manifest injury to the cotenants as a group. In considering whether to order partition in kind or partition by allotment, the court shall approve a request by two or more parties to have their individual interests aggregated.

(B) If the court does not order partition in kind or partition by allotment under subsection (A), the court shall order partition by sale pursuant to Section 15-61-400 or, if no cotenant requested partition by sale, the court shall dismiss the action.

(C) If the court orders partition in kind or partition by allotment pursuant to subsection (A), the court may require that one or more

cotenants pay one or more of the other cotenants amounts so that the payments, taken together with the value of the in-kind distributions to the cotenants, will make the partition in kind or the partition by allotment just and proportionate in value to the fractional interests held.

Section 15-61-390. (A) In determining pursuant to Section 15-61-380(A) whether partition in kind or partition by allotment would result in manifest prejudice or manifest injury to the cotenants as a group, the court shall consider the following:

(1) whether the heirs' property practicably can be divided among the cotenants;

(2) whether partition in kind or partition by allotment would apportion the property in such a way that the aggregate fair market value of the parcels resulting from the division would be materially less than the value of the property if it were sold as a whole, taking into account the condition under which a court-ordered sale likely would occur;

(3) evidence of the collective duration of ownership or possession of the property by a cotenant and one or more predecessors in title or predecessors in possession to the cotenant who are or were relatives of the cotenant or each other;

(4) a cotenant's sentimental attachment to the property, including any attachment arising because the property has ancestral or other unique or special value to the cotenant;

(5) the lawful use being made of the property by a cotenant and the degree to which the cotenant would be harmed if the cotenant could not continue the same use of the property;

(6) the degree to which the cotenants have contributed their pro rata share of the property taxes, insurance, and other expenses associated with maintaining ownership of the property or have contributed to the physical improvement, maintenance, or upkeep of the property; and

(7) any other relevant factor.

(B) The court may not consider any one factor in subsection (A) to be dispositive without weighing the totality of all relevant factors and circumstances.

Section 15-61-400. (A) If the court orders a sale of heirs' property, the sale must be an open-market sale unless the court finds that a sale by sealed bids or an auction would be more economically advantageous and in the best interest of the cotenants as a group.

(B) If the court orders an open-market sale and the parties, not later than thirty days after the entry of the order, agree on a real estate broker licensed in this State to offer the property for sale, the court, upon

consultation with the parties, shall appoint the broker and establish a reasonable commission. If the parties do not agree on a broker, the court shall appoint a disinterested real estate broker licensed in this State to offer the property for sale and shall establish a reasonable commission. The broker shall offer the property for sale in a commercially reasonable manner at a price no lower than the determination of value and on the terms and conditions established by the court.

(C) If a broker appointed under subsection (B) obtains within a reasonable time an offer to purchase the property for at least the determination of value:

(1) the broker shall comply with the reporting requirements in Section 15-61-410;

(2) the sale may be completed in accordance with state law other than this article; and

(3) the commission of the real estate broker must be paid from the proceeds of the sale.

(D) If the broker appointed under subsection (B) does not obtain within a reasonable time an offer to purchase the property for at least the determination of value, the court, after a hearing, may:

(1) approve the highest outstanding offer, if any;

(2) redetermine the value of the property and order that the property continue to be offered for an additional time; or

(3) order that the property be sold by sealed bids or at an auction.

(E) If the court orders a sale by sealed bids or an auction, the court shall set terms and conditions of the sale. If the court orders an auction, the auction must be conducted pursuant to procedures governing judicial sales and auctions.

(F) If a purchaser is entitled to a share of the proceeds of the sale, the purchaser is entitled to a credit against the price in an amount equal to the purchaser's share of the proceeds.

Section 15-61-410. (A) Unless required otherwise to do so within a shorter time, a broker appointed under Section 15-61-400, to offer heirs' property for open-market sale shall file a report with the court not later than ten days after receiving an offer to purchase the property for at least the value determined pursuant to Section 15-61-360 or 15-61-400.

(B) The report required by subsection (A) must contain the following information:

(1) a description of the property to be sold to each buyer;

(2) the name of each buyer;

(3) the proposed purchase price;

(4) the terms and conditions of the proposed sale, including the terms of any owner financing;

(5) the amounts to be paid to lienholders;

(6) a statement of contractual or other arrangements or conditions of the broker's commission; and

(7) other material facts relevant to the sale.

Section 15-61-420. This article modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b), except to the extent that South Carolina law, rules, and regulations so authorize."

Sections designated

SECTION 2. Sections 15-61-10 through 15-61-110 are designated as Article 1, Chapter 61, Title 15, to be entitled "General Provisions".

Court shall determine if property is heirs' property

SECTION 3. Section 15-61-10 of the 1976 Code is amended to read:

"Section 15-61-10. (A) All joint tenants and tenants in common who hold, jointly or in common, for a term of life or years or of whom one has an estate for a term of life or years with the other that has an estate of inheritance or freehold in any lands, tenements or hereditaments shall be compellable to make severance and partition of all such lands, tenements and hereditaments.

(B) In an action to partition real property, upon motion of a party or from statements contained in the pleadings, a court shall determine, in a preliminary hearing held after the filing of the action, whether the property is heirs' property. If the court determines that the property is heirs' property, the property must be partitioned under Article 3, Chapter 61, Title 15, unless all of the cotenants otherwise agree in a record."

Rule 71, South Carolina Rules of Civil Procedure shall not affect the power of a court to hear a partition action

SECTION 4. Section 15-61-100 of the 1976 Code is amended to read:

"Section 15-61-100. Nothing in Rule 71, South Carolina Rules of Civil Procedure, concerning partition actions, shall be construed to affect the power of a court hearing a partition action to dispense with the issuing of a writ of partition when, in the judgment of the court, it would involve unnecessary expense to issue such writ. And the court may in all proceedings in partition, without recourse to such writ, determine by means of testimony taken before the proper officer and reported to the court whether a partition in kind among the parties be practicable or expedient and, when such partition cannot be fairly and equally made, may order a sale of the property and a division of the proceeds according to the rights of the parties."

Severability Clause

SECTION 5. 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 6. This act takes effect on January 1, 2017, and applies to partition actions filed on or after that date.

Ratified the 19th day of April, 2016.

Approved the 21st day of April, 2016.

No. 154

(R159, H3545)

AN ACT TO AMEND THE "OMNIBUS CRIME REDUCTION AND SENTENCING REFORM ACT OF 2010", CODE OF LAWS OF SOUTH CAROLINA, 1976, TO AMEND SECTION 16-11-110, RELATING TO ARSON, SO AS TO RESTRUCTURE THE ELEMENTS OF THE DEGREES OF ARSON; TO AMEND SECTION 16-23-500, RELATING TO THE UNLAWFUL POSSESSION OF A FIREARM OR AMMUNITION BY A PERSON CONVICTED OF A VIOLENT CRIME CLASSIFIED AS A FELONY, SO AS TO PROVIDE PROCEDURES FOR THE RETURN OF FIREARMS OR AMMUNITION TO AN INNOCENT OWNER UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 22-3-560, AS AMENDED, RELATING TO THE ABILITY OF MAGISTRATES TO PUNISH BREACHES OF THE PEACE, SO AS TO PROVIDE THAT MAGISTRATES MAY PUNISH BREACHES OF THE PEACE BY A FINE NOT EXCEEDING FIVE HUNDRED DOLLARS OR IMPRISONMENT FOR A TERM NOT EXCEEDING THIRTY DAYS, OR BOTH; TO AMEND SECTION 24-19-10, AS AMENDED, RELATING TO THE DEFINITION OF "YOUTHFUL OFFENDER", SO AS TO PROVIDE THAT IF THE OFFENDER COMMITTED BURGLARY IN THE SECOND DEGREE PURSUANT TO SECTION 16-11-312(B), THE OFFENDER MUST RECEIVE AND SERVE A MINIMUM SENTENCE OF AT LEAST THREE YEARS, NO PART OF WHICH MAY BE SUSPENDED, AND THE PERSON IS NOT ELIGIBLE FOR CONDITIONAL RELEASE UNTIL THE PERSON HAS SERVED THE THREE-YEAR MINIMUM SENTENCE; TO AMEND SECTIONS 24-21-5 AND 24-21-100, RELATING TO ADMINISTRATIVE MONITORING BY THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES, BOTH SO AS TO PROVIDE THE PROCEDURES THE DEPARTMENT SHALL FOLLOW WHEN NOTIFYING PERSONS UNDER ADMINISTRATIVE MONITORING; TO AMEND SECTION 24-21-280, AS AMENDED, RELATING TO COMPLIANCE CREDITS OF PERSONS UNDER THE SUPERVISION OF THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES, SO AS TO PROVIDE THAT AN INDIVIDUAL MAY EARN UP TO TWENTY DAYS OF

COMPLIANCE CREDITS FOR EACH THIRTY-DAY PERIOD IN WHICH THE DEPARTMENT DETERMINES THAT THE INDIVIDUAL HAS SUBSTANTIALLY FULFILLED ALL OF THE CONDITIONS OF SUPERVISION; TO AMEND SECTIONS 44-53-370 AND 44-53-375, BOTH AS AMENDED, RELATING TO CONTROLLED SUBSTANCE OFFENSES, BOTH SO AS TO REMOVE CERTAIN PROVISIONS PERTAINING TO PRIOR AND SUBSEQUENT CONTROLLED SUBSTANCE CONVICTIONS; TO AMEND SECTION 44-53-470, AS AMENDED, RELATING TO WHEN A CONTROLLED SUBSTANCE OFFENSE IS CONSIDERED A SECOND OR SUBSEQUENT OFFENSE, SO AS TO PROVIDE THAT A CONVICTION FOR TRAFFICKING IN CONTROLLED SUBSTANCES MUST BE CONSIDERED A PRIOR OFFENSE FOR PURPOSES OF ANY CONTROLLED SUBSTANCE PROSECUTION; AND TO AMEND SECTION 56-1-396, RELATING TO THE DRIVER'S LICENSE SUSPENSION AMNESTY PERIOD, SO AS TO PROVIDE THAT QUALIFYING SUSPENSIONS DO NOT INCLUDE SUSPENSIONS PURSUANT TO SECTION 56-5-2990 OR 56-5-2945, AND DO NOT INCLUDE SUSPENSIONS PURSUANT TO SECTION 56-1-460, IF THE PERSON DRIVES A MOTOR VEHICLE WHEN THE PERSON'S LICENSE HAS BEEN SUSPENDED OR REVOKED PURSUANT TO SECTION 56-5-2990 OR 56-5-2945.

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

Arson, elements restructured

SECTION 1. Section 16-11-110 of the 1976 Code is amended to read:

"Section 16-11-110. (A) A person who wilfully and maliciously causes an explosion, sets fire to, burns, or causes to be burned or aids, counsels, or procures a burning that results in damage to a building, structure, or any property specified in subsections (B) and (C), whether the property of the person or another, which results, either directly or indirectly, in death or serious bodily injury to a person is guilty of the felony of arson in the first degree and, upon conviction, must be imprisoned not less than thirty years.

(B) A person who wilfully and maliciously causes an explosion, sets fire to, burns, or causes to be burned or aids, counsels, or procures a burning that results in damage to a dwelling house, church or place of

worship, public or private school facility, manufacturing plant or warehouse, building where business is conducted, institutional facility, or any structure designed for human occupancy including local and municipal buildings, whether the property of the person or another, is guilty of the felony of arson in the second degree and, upon conviction, must be imprisoned not less than three nor more than twenty-five years.

(C) A person commits a violation of the provisions of this subsection who wilfully and maliciously:

(1) causes an explosion, sets fire to, burns, or causes a burning which results in damage to a building or structure other than those specified in subsections (A) and (B), a railway car, a ship, boat, or other watercraft, an aircraft, an automobile or other motor vehicle, or personal property; or

(2) aids, counsels, or procures a burning that results in damage to a building or structure other than those specified in subsections (A) and (B), a railway car, a ship, boat, or other watercraft, an aircraft, an automobile or other motor vehicle, or personal property with intent to destroy or damage by explosion or fire, whether the property of the person or another.

A person who violates the provisions of this subsection is guilty of the felony of arson in the third degree and, upon conviction, must be imprisoned not more than fifteen years.

(D) For purposes of this section, 'damage' means an application of fire or explosive that results in burning, charring, blistering, scorching, smoking, singeing, discoloring, or changing the fiber or composition of a building, structure, or any property specified in this section."

Firearms, return of a firearm to innocent owner

SECTION 2. Section 16-23-500 of the 1976 Code is amended to read:

"Section 16-23-500. (A) It is unlawful for a person who has been convicted of a violent crime, as defined by Section 16-1-60, that is classified as a felony offense, to possess a firearm or ammunition within this State.

(B) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than five years, or both.

(C)(1) In addition to the penalty provided in this section, the firearm or ammunition involved in the violation of this section must be confiscated. The firearm or ammunition must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation

occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated firearm or ammunition may use it within the agency, transfer it to another law enforcement agency for the lawful use of that agency, trade it with a retail dealer licensed to sell firearms or ammunition in this State for a firearm, ammunition, or any other equipment approved by the agency, or destroy it. A firearm or ammunition must not be disposed of in any manner until the results of any legal proceeding in which it may be involved are finally determined. If the State Law Enforcement Division seized the firearm or ammunition, the division may keep the firearm or ammunition for use by its forensic laboratory. Records must be kept of all confiscated firearms or ammunition received by the law enforcement agencies under the provisions of this section.

(2) A law enforcement agency that receives a firearm or ammunition pursuant to this section shall administratively release the firearm or ammunition to an innocent owner. The firearm or ammunition must not be released to the innocent owner until the results of any legal proceedings in which the firearm or ammunition may be involved are finally determined. Before the firearm or ammunition may be released, the innocent owner shall provide the law enforcement agency with proof of ownership and shall certify that the innocent owner will not release the firearm or ammunition to the person who has been charged with a violation of this section which resulted in the confiscation of the firearm or ammunition. The law enforcement agency shall notify the innocent owner when the firearm or ammunition is available for release. If the innocent owner fails to recover the firearm or ammunition within thirty days after notification of the release, the law enforcement agency may maintain or dispose of the firearm or ammunition as otherwise provided in this section.

(D) The judge that hears the case involving the violent offense, as defined by Section 16-1-60, that is classified as a felony offense, shall make a specific finding on the record that the offense is a violent offense, as defined by Section 16-1-60, and is classified as a felony offense. A judge's failure to make a specific finding on the record does not bar or otherwise affect prosecution pursuant to this subsection and does not constitute a defense to prosecution pursuant to this subsection."

Breach of peace

SECTION 3. Section 22-3-560 of the 1976 Code, as last amended by Act 273 of 2010, is further amended to read:

"Section 22-3-560. Magistrates may punish breaches of the peace by a fine not exceeding five hundred dollars or imprisonment for a term not exceeding thirty days, or both."

Youthful offenders, burglary in the second degree three-year minimum sentence

SECTION 4. Section 24-19-10(d) of the 1976 Code, as last amended by Act 255 of 2012, is further amended to read:

"(d) 'Youthful offender' means an offender who is:

(i) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63-19-1210, for allegedly committing an offense that is not a violent crime, as defined in Section 16-1-60, and that is a misdemeanor, a Class D, Class E, or Class F felony, as defined in Section 16-1-20, or a felony which provides for a maximum term of imprisonment of fifteen years or less;

(ii) seventeen but less than twenty-five years of age at the time of conviction for an offense that is not a violent crime, as defined in Section 16-1-60, and that is a misdemeanor, a Class D, Class E, or Class F felony, or a felony which provides for a maximum term of imprisonment of fifteen years or less;

(iii) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63-19-1210, for allegedly committing burglary in the second degree (Section 16-11-312). If the offender committed burglary in the second degree pursuant to Section 16-11-312(B), the offender must receive and serve a minimum sentence of at least three years, no part of which may be suspended, and the person is not eligible for conditional release until the person has served the three-year minimum sentence;

(iv) seventeen but less than twenty-one years of age at the time of conviction for burglary in the second degree (Section 16-11-312). If the offender committed burglary in the second degree pursuant to Section 16-11-312(B), the offender must receive and serve a minimum sentence of at least three years, no part of which may be suspended, and the person is not eligible for conditional release until the person has served the three-year minimum sentence;

(v) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63-19-1210 for allegedly committing criminal sexual conduct with a minor in the third degree, pursuant to Section 16-3-655(C), and

the alleged offense involved consensual sexual conduct with a person who was at least fourteen years of age at the time of the act; or

(vi) seventeen but less than twenty-five years of age at the time of conviction for committing criminal sexual conduct with a minor in the third degree, pursuant to Section 16-3-655(C), and the conviction resulted from consensual sexual conduct, provided the offender was eighteen years of age or less at the time of the act and the other person involved was at least fourteen years of age at the time of the act."

Probation, Parole and Pardon Services, administrative monitoring procedures, notice

SECTION 5. Section 24-21-5(1) of the 1976 Code, as added by Act 273 of 2010, is amended to read:

"(1) 'Administrative monitoring' means a form of monitoring by the department beyond the end of the term of supervision in which the only remaining condition of supervision not completed is the payment of financial obligations. Under administrative monitoring, the only condition of the monitoring shall be the requirement that reasonable progress be made toward the payment of financial obligations. The payment of monitoring mandated fees shall continue. When an offender is placed on administrative monitoring, the offender shall register with the department's representative in the offender's county, notify the department of the offender's current address each quarter, and make payments on financial obligations owed, until the financial obligations are paid in full or a consent order of judgment is filed. Written notice of petitions for civil contempt as set forth in Section 24-21-100, scheduled hearings or proceedings, or any other event or modification associated with administrative monitoring must be given by the department by depositing the notice in the United States mail with postage prepaid addressed to the person at the address contained in the records of the department. The giving of notice by mail is complete ten days after the deposit of the notice. A certificate by the director of the department or the director's designee that the notice has been sent as required in this section is presumptive proof that the requirements as to notice of petitions for civil contempt as set forth in Section 24-21-100, scheduled hearings or proceedings, or any other event or modification associated with administrative monitoring have been met even if the notice has not been received by the offender. If an offender fails to appear for the civil contempt proceeding, the court may issue a bench warrant for the offender's arrest for failure to appear, or the court may proceed in the

offender's absence and issue a bench warrant along with an order imposing a term of confinement as set forth in Section 24-21-100."

Probation, Parole and Pardon Services, administrative monitoring procedures, notice

SECTION 6. Section 24-21-100(A) of the 1976 Code, as added by Act 273 of 2010, is amended to read:

"(A) Notwithstanding the provisions of Section 24-19-120, 24-21-440, 24-21-560(B), or 24-21-670, when an individual has not fulfilled the individual's obligations for payment of financial obligations by the end of the individual's term of supervision, then the individual shall be placed under quarterly administrative monitoring, as defined in Section 24-21-5, by the department until such time as those financial obligations are paid in full or a consent order of judgment is filed. If the individual under administrative monitoring fails to make reasonable progress toward the payment of such financial obligations, as determined by the department, the department may petition the court to hold an individual in civil contempt for failure to pay the financial obligations. The department shall provide written notice of the petition and any scheduled contempt hearing by depositing the notice in the United States mail with postage prepaid addressed to the person at the address contained in the records of the department. The giving of notice by mail is complete ten days after the deposit of the notice. A certificate by the director of the department or the director's designee that the notice has been sent as required in this section is presumptive proof that the requirements as to notice of petition and any scheduled contempt hearing have been met even if the notice has not been received by the offender. If the court finds the individual has the ability to pay but has not made reasonable progress toward payment, the court may hold the individual in civil contempt of court and may impose a term of confinement in the local detention center until payment of the financial obligations, but in no case to exceed ninety days of confinement. Following any term of confinement, the individual shall be returned to quarterly administrative monitoring by the department. If the individual under administrative monitoring does not have the ability to pay the financial obligations and has no reasonable likelihood of being able to pay in the future, the department may submit a consent order of judgment to the court, which shall relieve the individual of any further administrative monitoring."

Probation, Parole and Pardon Services, compliance credits

SECTION 7. Section 24-21-280(D) of the 1976 Code, as last amended by Act 273 of 2010, is further amended to read:

"(D) A probation agent, in consultation with the probation agent's supervisor, shall identify each individual under the department's supervision, with a term of supervision of more than one year, and shall calculate and award compliance credits as provided in this section. Credits may be earned from the first day of supervision on a thirty-day basis, but must not be applied until after each thirty-day period of supervision has been completed. Compliance credits may be denied for noncompliance on a thirty-day basis as determined by the department. The denial of nonearned compliance credits is a final decision of the department and is not subject to appeal. An individual may earn up to twenty days of compliance credits for each thirty-day period in which the department determines that the individual has substantially fulfilled all of the conditions of the individual's supervision."

Controlled substance offenses, removal of certain prior history consideration

SECTION 8. Section 44-53-370(b) of the 1976 Code, as last amended by Act 273 of 2010, is further amended to read:

"(b) A person who violates subsection (a) with respect to:

(1) a controlled substance classified in Schedule I (b) and (c) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug is guilty of a felony and, upon conviction, for a first offense must be imprisoned not more than fifteen years or fined not more than twenty-five thousand dollars, or both. For a second offense, the offender must be imprisoned not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both. For a third or subsequent offense, the offender must be imprisoned not less than ten years nor more than thirty years, or fined not more than fifty thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third

or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(2) any other controlled substance classified in Schedule I, II, or III, flunitrazepam or a controlled substance analogue, is guilty of a felony and, upon conviction, for a first offense must be imprisoned not more than five years or fined not more than five thousand dollars, or both. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than ten thousand dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not less than five years nor more than twenty years, or fined not more than twenty thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(3) a substance classified in Schedule IV except for flunitrazepam is guilty of a misdemeanor and, upon conviction, for a first offense must be imprisoned not more than three years or fined not more than three thousand dollars, or both. In the case of second or subsequent offenses, the person is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than six thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance

pursuant to subsections (c) and (d), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(4) a substance classified in Schedule V is guilty of a misdemeanor and, upon conviction, for a first offense must be imprisoned not more than one year or fined not more than one thousand dollars, or both. In the case of second or subsequent offenses, the sentence must be twice the first offense. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted."

Controlled substance offenses, removal of certain prior history consideration

SECTION 9. Section 44-53-375(B) of the 1976 Code, as last amended by Act 273 of 2010, is further amended to read:

"(B) A person who manufactures, distributes, dispenses, delivers, purchases, or otherwise aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, or purchase, or possesses with intent to distribute, dispense, or deliver methamphetamine or cocaine base, in violation of the provisions of Section 44-53-370, is guilty of a felony and, upon conviction:

(1) for a first offense, must be sentenced to a term of imprisonment of not more than fifteen years or fined not more than twenty-five thousand dollars, or both;

(2) for a second offense, the offender must be imprisoned for not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both;

(3) for a third or subsequent offense, the offender must be imprisoned for not less than ten years nor more than thirty years, or fined not more than fifty thousand dollars, or both.

Possession of one or more grams of methamphetamine or cocaine base is prima facie evidence of a violation of this subsection. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a first offense or second offense may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsection (A), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted."

Controlled substance offenses, convictions for trafficking offenses to be considered in prior history

SECTION 10. Section 44-53-470 of the 1976 Code, as last amended by Act 273 of 2010, is further amended to read:

"Section 44-53-470. (A) An offense is considered a second or subsequent offense if:

(1) for an offense involving marijuana pursuant to the provisions of this article, the offender has been convicted within the previous five years of a first violation of a marijuana possession provision of this article or of another state or federal statute relating to marijuana possession;

(2) for an offense involving marijuana pursuant to the provisions of this article, the offender has at any time been convicted of a first, second, or subsequent violation of a marijuana offense provision of this article or of another state or federal statute relating to marijuana offenses, except a first violation of a marijuana possession provision of this article or of another state or federal statute relating to marijuana offenses;

(3) for an offense involving a controlled substance other than marijuana pursuant to this article, the offender has been convicted within the previous ten years of a first violation of a controlled substance offense provision, other than a marijuana offense provision, of this

article or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs; and

(4) for an offense involving a controlled substance other than marijuana pursuant to this article, the offender has at any time been convicted of a second or subsequent violation of a controlled substance offense provision, other than a marijuana offense provision, of this article or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs.

(B) In addition to the above provisions, a conviction of trafficking in marijuana or trafficking in any other controlled substance in violation of this article or of another state or federal statute relating to trafficking in controlled substances must be considered a prior offense for purposes of any prosecution pursuant to this article.

(C) If a person is sentenced to confinement as the result of a conviction pursuant to this article, the time period specified in this section begins on the date of the conviction or on the date the person is released from confinement imposed for the conviction, whichever is later. For purposes of this section, confinement includes incarceration and supervised release, including, but not limited to, probation, parole, house arrest, community supervision, work release, and supervised furlough."

Driver's license suspension amnesty period, certain driving offenses excluded

SECTION 11. Section 56-1-396(F) of the 1976 Code, as added by Act 273 of 2010, is amended to read:

"(F) Qualifying suspensions include, and are limited to, suspensions pursuant to Sections 34-11-70, 56-1-120, 56-1-170, 56-1-185, 56-1-240, 56-1-270, 56-1-290, 56-1-460(A)(1), 56-2-2740, 56-9-351, 56-9-354, 56-9-357, 56-9-430, 56-9-490, 56-9-610, 56-9-620, 56-10-225, 56-10-240, 56-10-270, 56-10-520, 56-10-530, and 56-25-20. Qualifying suspensions do not include suspensions pursuant to Section 56-5-2990 or 56-5-2945, and do not include suspensions pursuant to Section 56-1-460, if the person drives a motor vehicle when the person's license has been suspended or revoked pursuant to Section 56-5-2990 or 56-5-2945."

Savings clause

SECTION 12. The repeal or amendment by the provisions of this act or 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 13. This act takes effect upon approval by the Governor.

Ratified the 19th day of April, 2016.

Approved the 21st day of April, 2016.

No. 155

(R160, H3576)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 41-1-120 SO AS TO PROVIDE THAT CERTAIN WRITTEN AGREEMENTS BETWEEN NONPROFIT YOUTH SPORTS ORGANIZATIONS AND COACHES PROVIDE CONCLUSIVE EVIDENCE THAT THE COACH IS AN INDEPENDENT CONTRACTOR RATHER THAN AN EMPLOYEE OF THE ORGANIZATION AND THAT THE ORGANIZATION IS EXEMPT FROM CERTAIN OBLIGATIONS CONCERNING WORKERS' COMPENSATION COVERAGE AND INCOME TAX WITHHOLDINGS, TO PROVIDE SPECIFIC REQUIREMENTS FOR THESE WRITTEN AGREEMENTS, TO PROVIDE THESE WRITTEN AGREEMENTS ARE NOT CONCLUSIVE PROOF OF THE

EXISTENCE OF AN INDEPENDENT CONTRACTOR RELATIONSHIP FOR PURPOSES OF REQUIRED COVERAGE OF UNEMPLOYMENT INSURANCE AND OF ANY CIVIL ACTIONS INSTITUTED BY THIRD PARTIES, AND TO DEFINE THE TERM "NONPROFIT YOUTH SPORTS ORGANIZATION".

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

Establishing independent contractor status, purposes, limits, definitions

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

"Section 41-1-120. (A) Notwithstanding another provision of law, a written agreement between a nonprofit youth sports organization and a coach which specifies that the coach is an independent contractor and not an employee of the nonprofit youth sports organization and also which otherwise satisfies the requirements of this section constitutes conclusive evidence that the relationship between the nonprofit youth sports organization and the coach is that of an independent contractor relationship rather than an employment relationship for the purposes of this section, and that the nonprofit youth sports organization consequently is not obligated to:

(1) secure compensation for the coach pursuant to the workers' compensation law; and

(2) withhold federal and state income taxes from money paid to the coach for services he provides to the organization pursuant to the contract.

(B) A written agreement provided in subsection (A) must contain a conspicuously located disclosure appearing in bold-faced, underlined, or large type. This agreement must be acknowledged by the parties as indicated by their signatures, initials, or other means to evince that the parties have read and understand the disclosure. This disclosure clearly must state that the coach is:

(1) an independent contractor and not an employee of the nonprofit youth sports organization for the purposes listed in subsection (A)(1) and (2);

(2) not entitled to workers' compensation benefits in connection with his or her contract with the nonprofit youth sports organization; and

(3) obligated to pay federal and state income tax on any money paid pursuant to the contract for coaching services, and that as a consequence the nonprofit youth sports organization will not withhold any amounts from the coach for purposes of satisfying the coach's income tax liability.

(C) A written agreement between a nonprofit youth sports organization and a coach formed pursuant to this subsection may not, in and of itself, be construed as conclusive evidence that an independent contractor relationship exists for purposes of required coverage under the state unemployment compensation law or any civil action instituted by a third party.

(D) As used in this section, 'nonprofit youth sports organization' means an organization that is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and is primarily engaged in conducting organized sports programs for persons under twenty-one years of age."

Time effective

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

Ratified the 19th day of April, 2016.

Approved the 21st day of April, 2016.

No. 156

(R161, H3706)

AN ACT TO AMEND CHAPTER 99, TITLE 44, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EMERGENCY TREATMENT FOR MEDICAL HAZARDS CAUSED BY INSECT STINGS, SO AS TO RENAME THE CHAPTER THE "EMERGENCY ANAPHYLAXIS TREATMENT ACT"; TO DEFINE CERTAIN TERMS, INCLUDING "AUTHORIZED ENTITY", "EPINEPHRINE AUTO-INJECTOR", AND "HEALTH CARE PRACTITIONER"; TO ALLOW THE PRESCRIPTION OF EPINEPHRINE AUTO-INJECTORS TO AUTHORIZED ENTITIES; TO ALLOW AUTHORIZED ENTITIES TO ACQUIRE AND STOCK EPINEPHRINE

AUTO-INJECTORS; TO ALLOW CERTAIN INDIVIDUALS TO PROVIDE AND ADMINISTER EPINEPHRINE AUTO-INJECTORS AND TO ESTABLISH TRAINING REQUIREMENTS; AND TO PROVIDE FOR IMMUNITY FROM LIABILITY FOR CERTAIN INDIVIDUALS AND ENTITIES, WITH EXCEPTIONS.

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

Emergency Anaphylaxis Treatment Act

SECTION 1. This act may be cited as the "Emergency Anaphylaxis Treatment Act".

Emergency anaphylaxis treatment

SECTION 2. Chapter 99, Title 44 of the 1976 Code is amended to read:

"CHAPTER 99

Emergency Anaphylaxis Treatment Act

Section 44-99-10. As used in this chapter:

(1) 'Administer' means the direct application of an epinephrine auto-injector to the body of an individual.

(2) 'Authorized entity' means any entity or organization, other than a school described in Section 59-63-95, in connection with or at which allergens capable of causing anaphylaxis may be present including, but not limited to, recreation camps, colleges and universities, daycare facilities, places of worship, youth sports leagues, amusement parks, restaurants, places of employment, and sports arenas.

(3) 'Department' means the South Carolina Department of Health and Environmental Control.

(4) 'Epinephrine auto-injector' means a single-use device used for the automatic injection of a premeasured dose of epinephrine into the human body.

(5) 'Health care practitioner' means a physician, an advanced practice registered nurse authorized to prescribe medication pursuant to Section 40-33-34, or a physician assistant authorized to prescribe medication pursuant to Sections 40-47-955 through 40-47-965.

(6) 'Physician' means a person authorized to practice medicine pursuant to Article 1, Chapter 47, Title 40.

(7) 'Provide' means the supply of one or more epinephrine auto-injectors to an individual.

Section 44-99-20. Notwithstanding any other provision of law, a health care practitioner may prescribe epinephrine auto-injectors in the name of an authorized entity for use in accordance with this chapter. Notwithstanding any other provision of law, pharmacists and health care practitioners may dispense epinephrine auto-injectors pursuant to a prescription issued in the name of an authorized entity. A prescription issued pursuant to this chapter is valid for two years. For the purposes of administering and storing epinephrine auto-injectors, authorized entities are not subject to Chapter 43, Title 40 or Chapter 99 of the South Carolina Code of State Regulations.

Section 44-99-30. Notwithstanding any other provision of law, an authorized entity may acquire and stock a supply of epinephrine auto-injectors pursuant to a prescription issued in accordance with this chapter. Epinephrine auto-injectors acquired pursuant to this chapter must be stored in a location readily accessible in an emergency and in accordance with the epinephrine auto-injector's instructions for use, requirements that may be established by the South Carolina Department of Health and Environmental Control, and recommendations included as part of an approved training. An authorized entity shall designate employees or agents who have completed the training required by Section 44-99-50, to be responsible for the storage, maintenance, control, and general oversight of epinephrine auto-injectors acquired by the authorized entity.

Section 44-99-40. Notwithstanding any other provision of law, an employee, agent, or other individual associated with an authorized entity, who has completed the training required by Section 44-99-50, may use epinephrine auto-injectors prescribed pursuant to Section 44-99-20 to:

(1) provide an epinephrine auto-injector to any individual who the employee, agent, or other individual believes in good faith is experiencing anaphylaxis, or the parent, guardian, or caregiver of that individual, for immediate administration, regardless of whether the individual has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy; and

(2) administer an epinephrine auto-injector to any individual who the employee, agent, or other individual believes in good faith is experiencing anaphylaxis, regardless of whether the individual has a

prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.

Section 44-99-50. (A) An employee, agent, or other individual described in Section 44-99-30 or 44-99-40, before undertaking an act authorized by this chapter, shall complete an anaphylaxis training program and must complete an anaphylaxis training program at least every two years following completion of the initial anaphylaxis training program. The training must be conducted by the South Carolina Department of Health and Environmental Control, a licensed medical provider, a nationally recognized organization experienced in training laypersons in emergency health treatment, the manufacturer of an epinephrine auto-injector, an organization with a training program that has been approved in at least three states, or an entity or individual approved by the department. The department also may approve specific entities or individuals or may approve classes of entities or individuals to conduct training.

(B) Training may be conducted online or in person and, at a minimum, must address:

(1) how to recognize signs and symptoms of severe allergic reactions, including anaphylaxis;

(2) standards and procedures for the storage and administration of an epinephrine auto-injector; and

(3) emergency follow-up procedures.

(C) The entity that conducts the training shall issue a certificate to each person who successfully completes the anaphylaxis training program. The certificate, at a minimum, must include:

(1) the name of the organization or individual conducting the training;

(2) the name of the individual being trained; and

(3) the date the training occurred.

Section 44-99-60. (A) An authorized entity that possesses and makes available epinephrine auto-injectors, and its employees, agents, and other individuals, a health care practitioner that prescribes or dispenses epinephrine auto-injectors to an authorized entity, a pharmacist or health care practitioner that dispenses epinephrine auto-injectors to an authorized entity, a third party that facilitates the availability of epinephrine auto-injectors to an authorized entity, the department or other state agency engaged in approving training or in providing guidance to implement this chapter, and an individual or entity that conducts the training described in Section 44-99-50, are not liable

for any injuries or related damages that result from any act or omission taken pursuant to this chapter; however, this immunity does not apply to acts or omissions constituting negligence, gross negligence, or wilful, wanton, or reckless disregard for the safety of others or for an act or omission that is performed while the individual is impaired by alcohol or drugs.

(B) The administration of an epinephrine auto-injector in accordance with this chapter is not the practice of medicine or any other profession that otherwise requires licensure.

(C) This chapter does not eliminate, limit, or reduce any other immunities or defenses that may be available pursuant to state law, including those available pursuant to Section 15-1-310 and Chapter 78, Title 15.

(D) An entity located in this State is not liable for any injuries or related damages that result from the provision or administration of an epinephrine auto-injector outside of this State if the entity:

(1) would not have been liable for the injuries or related damages had the provision or administration occurred within this State; or

(2) is not liable for the injuries or related damages under the law of the state in which such provision or administration occurred."

Time effective

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

Ratified the 19th day of April, 2016.

Approved the 21st day of April, 2016.

No. 157

(R162, H3788)

AN ACT TO AMEND SECTION 56-28-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CERTAIN TERMS AND THEIR DEFINITIONS REGARDING THE ENFORCEMENT OF MOTOR VEHICLE EXPRESS WARRANTIES, SO AS TO REVISE THE DEFINITIONS OF THE TERMS "MOTOR VEHICLE" AND A "NEW MOTOR VEHICLE".

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

Definitions

SECTION 1. Section 56-28-10(4) and (5) of the 1976 Code is amended to read:

"(4) 'Motor vehicle' means:

(a) a private passenger motor vehicle, as classified by Section 56-3-630, but excluding the living portion of recreational vehicles and off-road vehicles, which is sold and registered in this State; and

(b) a motorcycle as defined in Section 56-1-10(8), including a motorcycle three-wheel vehicle as defined in Section 56-1-10(18), which is sold and registered in this State.

(5) A 'new motor vehicle' means a motor vehicle which has been sold to a new motor vehicle dealer by a manufacturer and which has not been used for other than demonstration purposes and on which the original title has not been issued from the new motor vehicle dealer."

Time effective

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

Ratified the 19th day of April, 2016.

Approved the 21st day of April, 2016.

No. 158

(R163, H3911)

AN ACT TO AMEND SECTION 56-3-1230, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE, CONTENT, AND PRODUCTION COSTS OF MOTOR VEHICLE LICENSE PLATES, SO AS TO REVISE THE INTERVAL IN WHICH THE DEPARTMENT OF MOTOR VEHICLES MUST REISSUE A LICENSE PLATE FROM SIX YEARS TO TEN YEARS.

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

License plates

SECTION 1. Section 56-3-1230(A) of the 1976 Code, as last amended by Act 57 of 2005, is further amended to read:

"(A) License plates must be at least six inches wide and not less than twelve inches in length and must show in bold characters the year of registration, the serial number, the full name or the abbreviation of the name of the state, and other distinctive markings the department may consider advisable to indicate the class of the weight of the vehicle for which the license plate was issued. The plate must be of a strength and quality to provide a minimum service of five years. A new license plate including personalized and special plates, but excluding license plates provided in Sections 56-3-660 and 56-3-670, must be provided by the department at intervals the department considers appropriate, but at least every ten years. A new license plate for vehicles contained in Sections 56-3-660 and 56-3-670, must be provided by the department at intervals the department considers appropriate. Beginning with the vehicle registration and license fees required by this title which are collected after July 1, 2002, except for the fees collected pursuant to Sections 56-3-660 and 56-3-670, two dollars of each biennial fee and one dollar of each annual fee collected from the vehicle owner must be placed by the Comptroller General in a special restricted account to be used solely by the Department of Motor Vehicles for the costs associated with the production and issuance of new license plates. The department is not authorized to use this set aside money for any other purpose. License plates issued for vehicles in excess of twenty-six thousand pounds must be issued biennially, and no revalidation sticker may be issued for the plates. License plates issued as permanent may be revalidated and replaced at intervals determined by the department."

Time effective

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

Ratified the 19th day of April, 2016.

Approved the 21st day of April, 2016.

No. 159

(R164, H4141)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "LIMITED LINES TRAVEL INSURANCE ACT" BY ADDING ARTICLE 6 TO CHAPTER 43, TITLE 38 SO AS TO PROVIDE A CITATION, TO DEFINE NECESSARY TERMS, TO PROVIDE REQUIREMENTS ONLY UNDER WHICH TRAVEL RETAILERS MAY OFFER AND DISSEMINATE TRAVEL INSURANCE UNDER A LIMITED LINES TRAVEL INSURANCE PRODUCER BUSINESS ENTITY LICENSE FOR COMPENSATION, TO PROVIDE THAT TRAVEL INSURANCE MAY BE PROVIDED UNDER AN INDIVIDUAL POLICY OR UNDER A GROUP OR MASTER POLICY, TO PROVIDE THAT LIMITED LINES TRAVEL INSURANCE PRODUCERS ACTING AS AN INSURANCE DESIGNEE ARE RESPONSIBLE FOR THE ACTS OF THE TRAVEL RETAILER AND SHALL USE REASONABLE MEANS TO ENSURE COMPLIANCE BY THE TRAVEL RETAILER WITH THIS ARTICLE, AND TO PROVIDE PENALTIES FOR VIOLATIONS.

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

Limited Lines Travel Insurance Act

SECTION 1. Chapter 43, Title 38 of the 1976 Code is amended by adding:

"Article 6

Limited Lines Travel Insurance Act

Section 38-43-710. This article must be known and may be cited as the 'Limited Lines Travel Insurance Act'.

Section 38-43-720. For the purposes of this article:

(1) 'Limited lines travel insurance producer' means one of the following when designated by an insurer as the travel insurance supervising entity:

(a) a licensed managing general underwriter;

(b) a licensed managing general agent or third party administrator; or

(c) a licensed insurance producer.

(2) 'Offer and disseminate' means providing general information, including a description of the coverage and price, as well as processing the application, collecting premiums, and performing other nonlicensable activities permitted by the State.

(3) 'Travel insurance' means insurance coverage for personal risks incident to planned travel including, but not limited to:

(a) interruption or cancellation of trip or event;

(b) loss of baggage or personal effects;

(c) damages to accommodations or rental vehicles; and

(d) sickness, accident, disability, or death occurring during travel. However, travel insurance does not include major medical plans, which provide comprehensive medical protection for travelers with trips lasting six months or longer, such as those working overseas as an expatriate or military personnel being deployed.

(4) 'Travel retailer' means a business entity that makes, arranges, or offers travel services and may offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a limited lines travel insurance producer.

Section 38-43-730. (A) A travel retailer only may offer and disseminate travel insurance under a limited lines travel insurance producer business entity license if:

(1) the limited lines travel insurance producer or travel retailer provides purchasers of travel insurance the following information on a form prescribed by the director:

(a) a description of the material terms or the actual material terms of the insurance coverage;

(b) a description of the process for filing a claim;

(c) a description of the review or cancellation process for the travel insurance policy; and

(d) the identity and contact information of the insurer and limited lines travel insurance producer;

(2) the limited lines travel insurance producer, at the time of licensure, establishes and subsequently maintains and updates a register of each travel retailer that offers insurance on its behalf, including the name, address, and contact information of the travel retailer and an officer or person who directs or controls the operations of the travel

retailer, and the federal employment identification number of the travel retailer;

(3) the limited lines travel insurance producer submits the register to the department upon reasonable request;

(4) the limited lines travel insurance producer certifies that the travel retailers registered comply with 18 U.S.C. Section 1033;

(5) the limited lines travel insurance producer designates one of its employees, who is a licensed individual producer, as the 'Designated Responsible Producer' or 'DRP' who is responsible for compliance of the limited lines travel insurance producer with the travel insurance laws, rules, and regulations of the State;

(6) the DRP, president, secretary, treasurer, and another officer or person who directs or controls the insurance operations of the limited lines travel insurance producer each comply with the fingerprinting requirements applicable to insurance producers in the resident state of the limited lines travel insurance producer;

(7) the limited lines travel insurance producer has paid all applicable insurance producer licensing fees; and

(8) the limited lines travel insurance producer requires each employee of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, subject to review by the director, and which shall contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers, among other things.

(B) A travel retailer who offers or disseminates travel insurance shall make brochures or other written materials available to prospective purchasers, and these brochures or other written materials must:

(1) provide the identity and contact information of the insurer and the limited lines travel insurance producer;

(2) explain that the purchase of travel insurance is not required in order to purchase another product or service from the travel retailer; and

(3) explain that an unlicensed travel retailer is permitted to provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

(C) A travel retailer who is not licensed as an insurance producer may not:

(1) evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage;

(2) evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or

(3) hold himself or itself out as a licensed insurer, licensed producer, or insurance expert.

Section 38-43-740. A travel retailer, whose insurance-related activities are limited to offering and disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer, may receive compensation for these activities upon registration by the limited lines travel insurance producer as provided in Section 38-43-730(A)(2).

Section 38-43-750. Travel insurance may be provided under an individual policy or under a group or master policy.

Section 38-43-760. As the insurer designee, the limited lines travel insurance producer is responsible for the acts of the travel retailer and shall use reasonable means to ensure compliance by the travel retailer with this article.

Section 38-43-770. The director may, after notice and opportunity for a hearing, respond to a violation of a provision of this article by a limited lines travel insurance producer or by the travel retailer offering and disseminating travel insurance under the provisions of Section 38-2-10 by:

(1) revoking or suspending the license of the limited lines travel insurance producer; or

(2) imposing other penalties, including directing the suspension or termination of authority of the involved travel retailer to offer and disseminate travel insurance, as the director considers necessary or convenient to carry out the purposes of this article."

Time effective

SECTION 2. This act takes effect ninety days after approval by the Governor.

Ratified the 19th day of April, 2016.

Approved the 21st day of April, 2016.

No. 160

(R165, H4328)

AN ACT TO AMEND SECTION 12-8-1530, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE QUARTERLY INCOME TAX WITHHOLDINGS, SO AS TO CHANGE THE DUE DATE OF THE FOURTH QUARTER RETURN FROM THE LAST DAY OF FEBRUARY TO THE LAST DAY OF JANUARY; TO AMEND SECTION 12-8-1550, RELATING TO THE DUE DATE FOR FILING STATEMENTS REGARDING INCOME TAX WITHHOLDINGS WITH THE DEPARTMENT OF REVENUE, SO AS TO CHANGE THE DUE DATE FROM THE LAST DAY OF FEBRUARY TO THE LAST DAY OF JANUARY; TO AMEND SECTION 12-6-40, AS AMENDED, 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 2015 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; TO AMEND SECTION 12-6-4970, RELATING TO THE TIME TO FILE RETURNS, SO AS TO ADD REQUIREMENTS FOR WHEN A PARTNERSHIP MUST FILE; TO AMEND SECTION 12-8-590, RELATING TO TAX WITHHOLDING ON DISTRIBUTIONS TO NONRESIDENTIAL SHAREHOLDERS OF "S" CORPORATIONS AND NONRESIDENT PARTNERS, SO AS TO CHANGE THE DUE DATE FOR FILING WITHHOLDINGS FOR NONRESIDENT PARTNERS; TO AMEND SECTION 12-13-80, RELATING TO INCOME TAX RETURNS ON BUILDING AND LOAN ASSOCIATIONS, SO AS TO CHANGE THE DUE DATE FOR FILING RETURNS; TO AMEND SECTION 12-20-20, RELATING TO ANNUAL REPORTS FILED BY CORPORATIONS, SO AS TO CHANGE THE DUE DATE OF THE ANNUAL REPORTS; TO AMEND SECTION 12-28-110, RELATING TO MOTOR FUEL USER FEE DEFINITIONS, SO AS TO ADD A DEFINITION FOR "DIESEL GALLON EQUIVALENT" AND "GASOLINE GALLON EQUIVALENT"; BY ADDING SECTION 12-28-120 SO AS TO CLARIFY CERTAIN REFERENCES TO THE TERM "GALLON"; TO

AMEND SECTION 12-36-2120, AS AMENDED, RELATING TO EXEMPTIONS FROM THE SALES TAX, SO AS TO ADD CERTAIN GASES TO THE SALES TAX EXEMPTION; AND TO AMEND SECTION 12-28-1125, RELATING TO THE REQUIREMENTS OF AN OCCASIONAL IMPORTER'S LICENSE OR BONDED IMPORTER'S LICENSE TO BRING CERTAIN MOTOR FUEL INTO THIS STATE, SO AS TO REQUIRE A LICENSE REGARDLESS OF THE METHOD OF TRANSPORTATION USED TO DELIVER THE MOTOR FUEL.

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

Conforming due date of fourth quarter withholding returns

SECTION 1. Section 12-8-1530(A) of the 1976 Code is amended to read:

"(A) A withholding agent shall file a quarterly return in a form prescribed by the department indicating the total amount withheld pursuant to this chapter during the calendar quarter. The return must be filed even in quarters when no income tax has been withheld. The return must be filed on or before dates required for filing federal quarterly withholding returns specified in Internal Revenue Code Section 6071 and Internal Revenue Code Regulation Section 31.6071(a)(1), except the fourth quarter return. The fourth quarter return is due on or before the last day of January following the calendar year of the withholding."

Conforming due date of certain withholding return filings

SECTION 2. Section 12-8-1550(A) of the 1976 Code is amended to read:

"(A) On or before the last day of January following the calendar year of the withholding, the following items must be filed with the department:

(1) the original copy of the statement required by Section 12-8-1540;

(2) a recapitulation and reconciliation of taxes withheld and paid in the form the department prescribes."

Internal Revenue Code conformity

SECTION 3. Section 12-6-40(A)(1)(a) and (c) of the 1976 Code, as last amended by Act 5 of 2015, 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, 2015, 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, 2015, are extended, but otherwise not amended, by congressional enactment during 2016, 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."

Conforming filing dates for "S" corporations and partnerships

SECTION 4. A. Section 12-6-4970(B) of the 1976 Code is amended to read:

"(B)(1) Returns of 'S' corporations and partnerships must be filed on or before the fifteenth day of the third month following the taxable year.

(2) Returns for foreign corporations that do not maintain an office or place of business in the United States must be filed on or before the fifteenth day of the sixth month following the taxable year."

B. Section 12-8-590(C) of the 1976 Code is amended to read:

"(C) Partnerships are required to withhold income taxes at a rate of five percent on a nonresident partner's share of South Carolina taxable income of the partnership, whether distributed or undistributed, and pay the withheld amount to the department in the manner prescribed by the department. The partnership shall make a return and pay over the withheld funds on or before the fifteenth day of the third month following the close of its tax year. Taxes withheld in the name of the nonresident partner must be used as credit against taxes due at the time the nonresident files income taxes for the taxable year."

C. Section 12-13-80 of the 1976 Code is amended to read:

"Section 12-13-80. Returns with respect to the income tax herein imposed shall be in such form as the department may prescribe. Returns

shall be filed with the department on or before the fifteenth day of the fourth month following the close of the accounting period of the association."

D. Section 12-20-20(B) of the 1976 Code is amended to read:

"(B) Unless otherwise provided, corporations shall file an annual report on or before the fifteenth day of the fourth month following the close of the taxable year."

E. This SECTION takes effect upon approval by the Governor and first applies to tax years beginning after 2015.

Definitions

SECTION 5. Section 12-28-110 of the 1976 Code is amended by adding two appropriately numbered items to read:

"( ) 'Diesel gallon equivalent' or 'DGE' means the amount of liquefied natural gas containing the same energy content as one gallon of diesel. For purposes of calculating the motor fuel user fee on liquefied natural gas that is used or consumed in this State in producing or generating power for propelling a motor vehicle, each 6.06 pounds of liquefied natural gas equals one gallon of motor fuel.

( ) 'Gasoline gallon equivalent' or 'GGE' means the amount of compressed natural gas or liquefied petroleum gas containing the same energy content as one gallon of gasoline. For purposes of calculating the motor fuel user fee on compressed natural gas or liquefied petroleum gas that is used or consumed in South Carolina in producing or generating power for propelling a motor vehicle, each 126.67 cubic feet of compressed natural gas, or 5.66 pounds if the compressed natural gas is dispensed via a mass flow meter, equals one gallon of motor fuel and each gallon of liquefied petroleum gas equals .73 of a gallon of motor fuel."

Clarifying certain references to the term gallon

SECTION 6. Article 1, Chapter 28, Title 12 of the 1976 Code is amended by adding:

"Section 12-28-120. For purposes of this chapter, any reference to the term gallon with respect to liquefied natural gas means diesel gallon

equivalent (DGE) and any reference to the term gallon with respect to compressed natural gas or liquefied petroleum gas means gasoline gallon equivalent (GGE). For any gaseous product for which a conversion factor is not provided for in this chapter, based on the best information available, the department shall establish a temporary conversion factor to determine the gallon equivalent. The department shall subsequently submit to the General Assembly a recommended legislative change for this conversion factor."

Sales tax exemption for certain gases

SECTION 7. Section 12-36-2120(15) of the 1976 Code is amended by adding two appropriately lettered subitems to read:

"( ) natural gas sold to a person with a miscellaneous motor fuel user fee license pursuant to Section 12-28-1139, who will compress it to produce compressed natural gas, or cool it to produce liquefied natural gas, for use as a motor fuel and remit the motor fuel user fees as required by law; and

( ) liquefied petroleum gas sold to a person with a miscellaneous motor fuel user fee license pursuant to Section 12-28-1139, who will use the liquefied petroleum gas as a motor fuel and remit the motor fuel user fees as required by law;"

Licenses required for importing certain motor fuel

SECTION 8. Section 12-28-1125(A) of the 1976 Code is amended to read:

"(A) Each person who wishes to cause motor fuel subject to the user fee to be delivered into this State on his behalf, for his own account, or for resale to a purchaser in this State, from another state by any means into storage facilities other than a qualified terminal, shall apply and obtain an occasional importer's license or a bonded importer's license, at the discretion of the applicant."

Severability

SECTION 9. 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 10. This act takes effect upon approval by the Governor.

Ratified the 19th day of April, 2016.

Approved the 21st day of April, 2016.

No. 161

(R166, H4662)

AN ACT TO REENACT THE INTERSTATE INSURANCE PRODUCT REGULATION COMPACT AND RELATED PROVISIONS, ENACTED BY SECTIONS 1, 2, 3, AND 5, ACT 339 OF 2008, WHICH EXPIRED ON JUNE 1, 2014, AND TO MAKE THESE REENACTED PROVISIONS RETROACTIVE TO THIS EXPIRATION DATE, AND TO SPECIFICALLY NOT REENACT CERTAIN OBSOLETE PROVISIONS.

Whereas, the South Carolina General Assembly finds that it enacted the Interstate Insurance Product Regulation Compact in Act 339 of 2008, effective January 1, 2009, for the purposes of regulating certain designated insurance products and advertisement of those products uniformly among the states that are compact members and to authorize this State to join the compact; and

Whereas, the South Carolina General Assembly finds that the Interstate Insurance Product Regulation Compact proved very successful and was very beneficial to this State; and

Whereas, the South Carolina General Assembly finds that the provisions of Act 339 of 2008 expired on June 1, 2014, pursuant to the provisions

of Section 6 of the act, but now should be reenacted retroactive to this expiration date in light of the success and benefits of the compact. Now, therefore,

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

Certain expired provisions reenacted, retroactive application

SECTION 1. The Interstate Insurance Product Regulation Compact, as established by Section 2, Act 339 of 2008, and contained in Chapter 95, Title 38, and related provisions contained in Sections 1, 3, and 5, Act 339 of 2008, all are reenacted as provided in Act 339 of 2008, retroactive to June 1, 2014, when the act expired. The reporting requirements of Section 4, and the expiration provision of Section 6, Act 339 of 2008, are not reenacted.

Time effective

SECTION 2. This act takes place upon approval of the Governor.

Ratified the 19th day of April, 2016.

Approved the 21st day of April, 2016.

No. 162

(R167, H4816)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 53-3-205 SO AS TO DESIGNATE JUNE TWENTY-SEVENTH OF EACH YEAR AS SOUTH CAROLINA POST-TRAUMATIC STRESS INJURY (PTSI) AWARENESS DAY.

Whereas, the brave men and women who proudly serve the United States Armed Forces by risking their lives to protect our nation and its ideals deserve the investment of all possible resources to their long-term psychological, physical and emotional health; and

Whereas, the acronym PTSI refers to the term post-traumatic stress injury; and

Whereas, post-traumatic stress injury occurs after a person has experienced severe trauma and can result from the stress produced in combat, as well as in car accidents, plane crashes, bombings, child abuse or natural disaster; and

Whereas, post-traumatic stress injuries can be characterized by numerous symptoms including: flashbacks, avoidance, hyper-vigilance, depression, anxiety, insomnia, fatigue, and thoughts of suicide; and

Whereas, more than two million American service men and women have been deployed by the United States Armed Forces since September 11, 2001; and

Whereas, many members of the United States Armed Forces deploy more than once, increasing the risk of developing post-traumatic stress injuries; and

Whereas, the reference to the word "disorder" when describing a post-traumatic stress injury may imply a negative connotation; and

Whereas, this negative connotation can discourage United States Armed Forces service men and women, as well as other citizens who experience post-traumatic stress injuries from seeking and receiving aid; and

Whereas, the establishment of Post-Traumatic Stress Injury Awareness Day would raise public awareness of the injury; and

Whereas, the establishment of Post-Traumatic Stress Injury Awareness Day also would increase awareness of the need to develop effective treatments and aid the effort to eliminate any negative stigmas associated with post-traumatic stress injuries. Now, therefore,

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

PTSI Awareness Day designated

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

"Section 53-3-205. June twenty-seventh of each year is designated as South Carolina Post-Traumatic Stress Injury (PTSI) Awareness Day."

Time effective

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

Ratified the 19th day of April, 2016.

Approved the 21st day of April, 2016.

No. 163

(R168, S849)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 20 TO CHAPTER 71, TITLE 38 SO AS TO PROVIDE PROCEDURES GOVERNING THE MAXIMUM ALLOWABLE COST REIMBURSEMENTS FOR GENERIC PRESCRIPTION DRUGS BY PHARMACY BENEFIT MANAGERS, TO PROVIDE NECESSARY DEFINITIONS, TO EXEMPT THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES IN THE PERFORMANCE OF ITS DUTIES IN ADMINISTERING MEDICAID UNDER TITLES XIX AND XXI OF THE SOCIAL SECURITY ACT, TO PROVIDE REQUIREMENTS FOR PLACING DRUGS ON MAXIMUM ALLOWABLE COST LISTS BY PHARMACY BENEFIT MANAGERS, AND TO PROVIDE VARIOUS REQUIREMENTS OF PHARMACY BENEFIT MANAGERS; TO PROVIDE THE ARTICLE IS APPLICABLE TO CONTRACTS BETWEEN PHARMACIES AND PHARMACY BENEFIT MANAGERS THAT ARE ENTERED INTO, RENEWED, OR EXTENDED ON OR AFTER THE EFFECTIVE DATE OF THIS ACT; AND TO MAKE THE PROVISIONS OF THIS ACT EFFECTIVE JANUARY 1, 2016.

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

Pharmacy Benefit Managers

SECTION 1. Chapter 71, Title 38 of the 1976 Code is amended by adding:

"Article 20

Pharmacy Benefit Managers

Section 38-71-2110. (A) As used in this article:

(1) 'Claim' means a request from a pharmacy or pharmacist to be reimbursed for the cost of filling or refilling a prescription for a drug or for providing a medical supply or device.

(2) 'Insurer' means an entity that provides health insurance coverage in this State as defined in Section 38-71-670(7) and Section 38-71-840(16).

(3) 'Pharmacist' has the same meaning given that term in Section 40-43-30(39).

(4) 'Pharmacy' has the same meaning given that term in Section 40-43-30(41).

(5) 'Pharmacy benefit manager' means an entity that contracts with pharmacists or pharmacies on behalf of an insurer, third party administrator, or the South Carolina Public Employee Benefit Authority to:

(a) process claims for prescription drugs or medical supplies or provide retail network management for pharmacies or pharmacists;

(b) pay pharmacies or pharmacists for prescription drugs or medical supplies; or

(c) negotiate rebates with manufacturers for drugs paid for or procured as described in this section.

(6) 'List' means the list of drugs for which a pharmacy benefit manager has established a maximum allowable cost.

(7) 'Maximum allowable cost' means the maximum amount that a pharmacy benefit manager will reimburse a pharmacist or pharmacy for the cost of a generic drug.

(8) 'Network providers' means those pharmacists and pharmacies who provide covered health care services or supplies to an insured or a member pursuant to a contract with a network plan to act as a participating provider.

(B) This article does not apply to the South Carolina Department of Health and Human Services in the performance of its duties in administering Medicaid under Titles XIX and XXI of the Social Security Act.

Section 38-71-2120. To place a drug on a maximum allowable cost list, a pharmacy benefit manager must ensure that the drug is:

(1) listed as 'A' or 'B' rated in the most recent version of the FDA's Approved Drug Products with Therapeutic Equivalence Evaluations, also known as the Orange Book, or has an 'NR' or 'NA' rating, or a similar rating, by a nationally recognized reference;

(2) generally available for purchase by pharmacies in the State from national or regional wholesalers; and

(3) not obsolete.

Section 38-71-2130. A pharmacy benefit manager must:

(1) make available to each network provider at the beginning of the term of the network provider's contract, and upon renewal of the contract, the sources utilized to determine the maximum allowable cost pricing;

(2) provide a process for network pharmacy providers to readily access the maximum allowable cost specific to that provider;

(3) review and update maximum allowable cost price information at least once every seven business days to reflect any modification of maximum allowable cost pricing; and

(4) ensure that dispensing fees are not included in the calculation of maximum allowable cost.

Section 38-71-2140. (A) A pharmacy benefit manager must establish a process by which a contracted pharmacy can appeal the provider's reimbursement for a drug subject to maximum allowable cost pricing. A contracted pharmacy has ten calendar days after the applicable fill date to appeal a maximum allowable cost if the reimbursement for the drug is less than the net amount that the network provider paid to the supplier of the drug. A pharmacy benefit manager must respond to a challenge within ten calendar days of the contracted pharmacy making the claim for which appeal has been submitted.

(B) At the beginning of the term of the network provider's contract, and upon renewal, a pharmacy benefit manager must provide to network providers a telephone number at which a network provider can contact the pharmacy benefit manager to process an appeal.

(C) If an appeal is denied, the pharmacy benefit manager must provide the reason for the denial and the name and the national drug code number from national or regional wholesalers operating in South Carolina.

(D) If an appeal is sustained, the pharmacy benefit manager must make an adjustment in the drug price effective the date the challenge is

resolved and make the adjustment applicable to all similarly situated network pharmacy providers, as determined by the managed care organization or pharmacy benefit manager, as appropriate."

Applicability to certain contractual agreements

SECTION 2. This article applies to contracts between pharmacies and pharmacy benefit managers that are entered into, renewed, or extended on or after the effective date of this act.

Severability

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

Time effective

SECTION 4. The provisions of this act take effect on January 1, 2016.

Ratified the 26th day of April, 2016.

Approved the 2nd day of May, 2016.

No. 164

(R170, S1090)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 24-19-5 SO AS TO PROVIDE THAT CHAPTER 19 OF TITLE 24 MAY BE CITED AS THE "JUDGE WILLIAM R. BYARS YOUTHFUL OFFENDER ACT".

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

Judge William R. Byars Youthful Offender Act

SECTION 1. Chapter 19, Title 24 of the 1976 Code is amended by adding:

"Section 24-19-5. This chapter may be cited as the 'Judge William R. Byars Youthful Offender Act'."

Time effective

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

Ratified the 26th day of April, 2016.

Approved the 29th day of April, 2016.

No. 165

(R171, H3768)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 3 TO CHAPTER 5, TITLE 11 SO AS TO ESTABLISH THE "SOUTH CAROLINA ABLE SAVINGS PROGRAM", TO ALLOW INDIVIDUALS WITH A DISABILITY AND THEIR FAMILIES TO SAVE PRIVATE FUNDS TO SUPPORT THE INDIVIDUAL WITH A DISABILITY, TO PROVIDE GUIDELINES TO THE STATE TREASURER FOR THE MAINTENANCE OF THESE ACCOUNTS, AND TO ESTABLISH THE SAVINGS PROGRAM TRUST FUND AND SAVINGS EXPENSE TRUST FUND; TO AMEND SECTION 12-6-1140, AS AMENDED, RELATING TO INDIVIDUAL INCOME TAX DEDUCTIONS, SO AS TO PROVIDE A DEDUCTION FOR CONTRIBUTIONS MADE TO CERTAIN INVESTMENT TRUST ACCOUNTS; AND TO DESIGNATE THE EXISTING SECTIONS OF CHAPTER 5, TITLE 11 AS ARTICLE 1 AND ENTITLE THEM "GENERAL PROVISIONS".

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

South Carolina ABLE Savings Program

SECTION 1. Chapter 5, Title 11 of the 1976 Code is amended by adding:

"Article 3

ABLE Savings Program

Section 11-5-400. There is established the 'South Carolina ABLE Savings Program'. The purpose of the South Carolina ABLE Savings Program is to authorize the establishment of savings accounts empowering individuals with a disability and their families to save private funds which can be used to provide for disability-related expenses in a way that supplements, but does not supplant, benefits provided through private insurance, the Medicaid program under Title XIX of the Social Security Act, the supplemental security income program under Title XVI of the Social Security Act, the beneficiary's employment, and other sources; and to provide guidelines for the maintenance of these accounts.

Section 11-5-410. As used in this article:

(1) 'ABLE savings account' or 'account' means an individual savings account established in accordance with the provisions of this article and pursuant to Section 529A of the federal Internal Revenue Code of 1986, as amended.

(2) 'Account owner' means the person who enters into an ABLE savings agreement pursuant to the provisions of this article. The account owner also must be the designated beneficiary; however, a trustee, guardian, or conservator may be appointed as an account owner for a designated beneficiary who is a minor or lacks capacity to enter into an agreement. Also, the agent of the designated beneficiary acting under durable power of attorney may open and manage an account on behalf of and in the name of a designated beneficiary who lacks capacity.

(3) 'Designated beneficiary' means an eligible individual whose qualified disability expenses may be paid from the account. The designated beneficiary must be an eligible individual at the time the account is established. The account owner may change the designated beneficiary so long as the new beneficiary is an eligible individual who

is a qualified member of the family of the designated beneficiary at the time of the change.

(4) 'Eligible individual', as defined in Section 529A(e)(1) of the federal Internal Revenue Code of 1986, as amended, means:

(a) an individual who is entitled to benefits based on blindness or disability pursuant to 42 U.S.C. Section 401, et seq. or 42 U.S.C. Section 1381, as amended, and the blindness or disability occurred before the date on which the individual attained age twenty-six; or

(b) an individual with respect to which a disability certification, as defined in Section 529A(e)(2) of the federal Internal Revenue Code of 1986, as amended, to the satisfaction of the Secretary of the United States Treasury is filed with the Secretary for a taxable year and the blindness or disability occurred before the date on which the individual attained age twenty-six.

(5) 'Financial organization' means an organization authorized to do business in this State and is:

(a) licensed or chartered by the Director of Insurance;

(b) licensed or chartered by the State Commissioner of Banking;

(c) chartered by an agency of the federal government; or

(d) subject to the jurisdiction and regulation of the federal Securities and Exchange Commission.

(6) 'Management contract' means a contract executed by the State Treasurer and a program manager selected to act as a depository or manager of the program, or both.

(7) 'Member of the family' has the meaning defined in Section 529A of the federal Internal Revenue Code of 1986, as amended.

(8) 'Nonqualified withdrawal' means a withdrawal from an account which is not:

(a) a qualified withdrawal; or

(b) a rollover distribution.

(9) 'Program' means the South Carolina ABLE Savings Program established pursuant to this article.

(10) 'Program manager' means a financial organization or an agency or department of another state that has been designated to administer a qualified ABLE Savings Program selected by the State Treasurer to act as a depository or manager of the program, or both.

(11) 'Qualified disability expense' means any qualified disability expense included in Section 529A of the federal Internal Revenue Code of 1986, as amended.

(12) 'Qualified withdrawal' means a withdrawal from an account to pay the qualified disability expenses of the designated beneficiary of the account.

(13) 'Rollover distribution' means a rollover distribution as defined in Section 529A of the federal Internal Revenue Code of 1986, as amended.

(14) 'Savings agreement' means an agreement between the program manager or the State Treasurer and the account owner.

(15) 'Secretary' means the Secretary of the United States Treasury.

Section 11-5-420. (A) The State Treasurer shall implement and administer the program under the terms and conditions established by this article. The State Treasurer has the authority and responsibility to:

(1) develop and implement the program in a manner consistent with the provisions of this article;

(2) engage the services of consultants on a contract basis for rendering professional and technical assistance and advice;

(3) seek rulings and other guidance from the Secretary and the federal Internal Revenue Service relating to the program;

(4) make changes to the program required for the participants in the program to obtain the federal income tax benefits or treatment provided by Section 529A of the federal Internal Revenue Code of 1986, as amended;

(5) charge, impose, and collect administrative fees and service charges in connection with any agreement, contract, or transaction relating to the program;

(6) develop marketing plans and promotional materials;

(7) establish the methods by which the funds held in accounts must be dispersed;

(8) establish the method by which funds must be allocated to pay for administrative costs;

(9) do all things necessary and proper to carry out the purposes of this article;

(10) adopt rules and promulgate regulations necessary to effectuate the provisions of this article;

(11) prepare an annual report of the ABLE Savings Program to the Governor, the Senate, and the House of Representatives; and

(12) notify the Secretary when an account has been opened for a designated beneficiary and submit other reports concerning the program required by the Secretary.

(B) The State Treasurer may contract with other states in developing the program.

Section 11-5-430. (A) The State Treasurer may implement the program through use of program managers as account depositories or managers, or both. The State Treasurer may solicit proposals from

program managers to act as depositories or managers of the program, or both. Program managers submitting proposals shall describe the investment instruments to be held in accounts. The State Treasurer may select more than one program manager and investment instrument for the program. The State Treasurer may select as program depositories or managers the program managers, from among the bidding program managers, that demonstrate the most advantageous combination, both to potential program participants and this State, of the following factors:

(1) financial stability and integrity of the program manager;

(2) the safety of the investment instrument being offered;

(3) the ability of the program manager to satisfy recordkeeping and reporting requirements;

(4) the program manager's plan for promoting the program and the investment the organization is willing to make to promote the program;

(5) the fees, if any, proposed to be charged to the account owners;

(6) the minimum initial deposit and minimum contributions that the financial organization requires;

(7) the ability of the program manager to accept electronic withdrawals, including payroll deduction plans; and

(8) other benefits to the State or its residents included in the proposal, including fees payable to the State to cover expenses of the operation of the program.

(B) The State Treasurer may enter into contracts with program managers necessary to effectuate the provisions of this article. A management contract must include, at a minimum, terms requiring the program managers to:

(1) take action required to keep the program in compliance with requirements of this article and take actions not contrary to its contract to manage the program to qualify as a 'qualified ABLE Savings Program' as defined in Section 529A of the federal Internal Revenue Code of 1986, as amended;

(2) keep adequate records of each account, keep each account segregated, and provide the State Treasurer with the information necessary to prepare the statements required by Section 11-5-440;

(3) compile and total information contained in statements required to be prepared under Section 11-5-440 and provide compilations to the State Treasurer;

(4) if there is more than one program manager, provide the State Treasurer with information as is necessary to determine compliance with Section 11-5-440;

(5) provide the State Treasurer with access to the books and records of the program manager to the extent needed to determine compliance with the contract, this article, and Section 529A of the federal Internal Revenue Code of 1986, as amended;

(6) hold all accounts for the benefit of the account owner, owners, or the designated beneficiary;

(7) be audited at least annually by a firm of certified public accountants selected by the program manager, with the approval of the State Treasurer, and provide the results of the audit to the State Treasurer;

(8) provide the State Treasurer with copies of all regulatory filings and reports made by the program manager during the term of the management contract or while the program manager is holding any accounts, other than confidential filings or reports that are not part of the program. The program manager shall make available for review by the State Treasurer the results of the periodic examination of the manager by any state or federal banking, insurance, or securities commission, except to the extent that a report or reports may not be disclosed under law; and

(9) ensure that any description of the program, whether in writing or through the use of any media, is consistent with the marketing plan developed pursuant to the provisions of this article.

(C) The State Treasurer may:

(1) enter into contracts as he considers necessary and proper for the implementation of the program;

(2) require that an audit be conducted of the operations and financial position of the program depository and manager at any time if the State Treasurer has any reason to be concerned about the financial position, the recordkeeping practices, or the status of accounts of the program depository and manager; and

(3) terminate or not renew a management agreement. If the State Treasurer terminates or does not renew a management agreement, the State Treasurer shall take custody of accounts held by the program manager and shall seek to promptly transfer the accounts to another financial organization that is selected as a program manager or depository and into investment instruments as similar to the original instruments as possible.

(D) The State Treasurer, the Department of Social Services, the Department of Health and Human Services, and the Department of Disability and Special Needs are authorized to exchange data regarding eligible individuals to carry out the purposes of this article.

Section 11-5-440. (A) An ABLE savings account established pursuant to the provisions of this article must be opened by a designated beneficiary, a designated beneficiary's agent under a durable power of attorney, a trustee holding funds for the benefit of a designated beneficiary, or a court-appointed guardian or conservator of a designated beneficiary. Each designated beneficiary may have only one account. The State Treasurer may establish a nonrefundable application fee. An application for an account must be in the form prescribed by the State Treasurer and contain the following:

(1) name, address, and social security number of the account owner;

(2) name, address, and social security number of the designated beneficiary, if the account owner is the beneficiary's trustee or guardian;

(3) certification relating to no excess contributions; and

(4) additional information as the State Treasurer may require.

(B) A person may make contributions to an ABLE savings account after the account is opened, subject to the limitations imposed by Section 529A of the federal Internal Revenue Code of 1986, as amended, or any adopted rules and regulations promulgated by the State Treasurer pursuant to this article.

(C) Contributions to an ABLE savings account may be made only in cash. The State Treasurer or program manager shall reject or withdraw contributions promptly:

(1) in excess of the limits established pursuant to subsection (B); or

(2) the total contributions if the:

(a) value of the account is equal to or greater than the account maximum established by the State Treasurer. The account maximum must be equal to the account maximum for post-secondary education savings accounts; or

(b) designated beneficiary is not an eligible individual in the current calendar year.

(D)(1) An account owner may:

(a) change the designated beneficiary of an account to an individual who is a qualified member of the family of the prior designated beneficiary in accordance with procedures established by the State Treasurer; and

(b) transfer all or a portion of an account to another ABLE savings account, the designated beneficiary of which is a member of the family as defined in Section 529A of the federal Internal Revenue Code of 1986, as amended.

(2) An account owner may not use an interest in an account as security for a loan. A pledge of an interest in an account is of no effect.

(E)(1) If there is any distribution from an account to an individual or for the benefit of an individual during a calendar year, the distribution must be reported to the federal Internal Revenue Service and each account owner, the designated beneficiary, or the distributee to the extent required by state or federal law.

(2) A statement must be provided to each account owner annually and at other increments established by the State Treasurer in the program guidelines. The statement must contain the information the State Treasurer requires to be reported to the account owner.

(3) A statement and information relating to an account must be prepared and filed to the extent required by this article and other state or federal law.

(F)(1) The program shall provide separate accounting for each designated beneficiary. An annual fee may be imposed upon the account owner for the maintenance of an account.

(2) Funds held in an ABLE savings account:

(a) are exempt from attachment, execution, or garnishment for claims of creditors of the contributor and the designated beneficiary;

(b) to the fullest extent permissible under state and federal law, will be disregarded for the purposes of determining a designated beneficiary's eligibility to receive, or the amount of, any public assistance available to the designated beneficiary, including Medicaid; and

(c) following the death of a designated beneficiary, may be subject to recovery by the South Carolina Department of Health and Human Services up to an amount equal to the total of Medicaid benefits, if any, paid on behalf of the designated beneficiary by the state Medicaid program, but only to the extent recovery is required by state or federal law. Recovery by the State is subject to regulations imposed by the Secretary.

(3) The amount distributed from an ABLE savings account for the purposes of paying qualified disability expenses:

(a) are exempt from attachment, execution, or garnishment for claims of creditors of the contributor and the designated beneficiary; and

(b) to the fullest extent permissible under state and federal law, will be disregarded for the purposes of determining a designated beneficiary's eligibility to receive, or the amount of, any public assistance available to the designated beneficiary, including Medicaid.

(G) To the extent earnings in an ABLE savings account and distributions from an ABLE savings account, or a qualified account

under Section 529A located in another state, are not subject to federal income tax, they will not be subject to state income tax.

Section 11-5-450. (A) Nothing in this article may create or be construed to create any obligation of the State Treasurer, the State, or any agency or instrumentality of the State to guarantee for the benefit of an account owner or designated beneficiary with respect to the:

(1) return of principal;

(2) rate of interest or other return on an account; or

(3) payment of interest or other return on an account.

(B) The State Treasurer may adopt rules and promulgate regulations to provide that each contract, application, or other similar document that may be used in connection with opening an account clearly indicates that the account is not insured by the State and that the principal deposited and the investment return are not guaranteed by the State.

Section 11-5-460. (A) The South Carolina ABLE Savings Program Trust Fund is established in the Office of the State Treasurer. The trust fund must be utilized if the State Treasurer elects to accept deposits from contributors rather than have deposits sent directly to the program manager. The trust fund must consist of any monies deposited by account owners and other contributors pursuant to the provisions of this article which are not deposited directly with the program manager. All interest derived from the deposit and investment of monies in the trust fund must be credited to the fund. At the end of each fiscal year, all unexpended and unencumbered monies in the trust fund must remain in the fund and not be credited or transferred to the state general fund or to another fund.

(B)(1) The South Carolina ABLE Savings Expense Fund is established in the Office of the State Treasurer. The expense fund must consist of monies received from the ABLE Savings Program manager or managers, governmental or private grants, and state general fund appropriations, if any, for the program.

(2) All expenses incurred by the State Treasurer in developing and administering the ABLE Savings Program must be payable from the South Carolina ABLE Savings Expense Fund."

Individual income tax deductions

SECTION 2. Section 12-6-1140 of the 1976 Code, as last amended by Act 134 of 2014, is further amended by adding an appropriately numbered item at the end to read:

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
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