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2  
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9 **A BILL**

10  
11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,  
12 1976, BY ADDING CHAPTER 28 TO TITLE 16 AND ENTITLE  
13 IT "ETHICS, CRIMINAL PENALTIES"; SO AS TO  
14 INCORPORATE BY REFERENCE THE DEFINITIONS  
15 CONTAINED IN SECTIONS 8-13-100 AND 8-13-1300, TO  
16 REDESIGNATE FORMER CODE SECTIONS 8-13-705,  
17 8-13-720, 8-13-725, 8-13-750, 8-13-755, AND 8-13-760, AND  
18 ALL RELATING TO ETHICS VIOLATIONS AND CRIMINAL  
19 PENALTIES FOR A VIOLATION AND ALL TO CREATE  
20 SIMILAR OFFENSES CONTAINED IN CHAPTER 28 OF TITLE  
21 16, TO REVISE THE OFFENSES, TO AMEND SECTION  
22 8-13-780, AS AMENDED, RELATING TO REMEDIES FOR  
23 BREACHES OF ETHICAL STANDARDS BY PUBLIC  
24 OFFICIALS, MEMBERS, OR EMPLOYEES, SO AS TO REVISE  
25 AND EXPAND THE REMEDIES FOR A BREACH OF  
26 CERTAIN ETHICAL STANDARDS; TO AMEND SECTION  
27 8-13-790, AS AMENDED, RELATING TO RECOVERY OF  
28 AMOUNTS RECEIVED BY OFFICIALS OR EMPLOYEES IN  
29 BREACH OF ETHIC STANDARDS, SO AS TO DELETE THE  
30 REFERENCE TO REGULATIONS; TO AMEND SECTION  
31 8-13-1510, AS AMENDED, RELATING TO CIVIL AND  
32 CRIMINAL PENALTIES FOR THE LATE FILING OF OR  
33 FAILURE TO FILE A REQUIRED ETHICS REPORT OR  
34 STATEMENT, SO AS TO DELETE THE CRIMINAL  
35 PENALTIES AFTER THE MAXIMUM CIVIL PENALTY HAS  
36 BEEN LEVIED; BY ADDING SECTION 8-13-1515 SO AS TO  
37 CREATE THE NEW OFFENSE OF WILFUL FAILURE TO FILE  
38 A REQUIRED STATEMENT OR REPORT IN AN EFFORT TO  
39 CONCEAL A VIOLATION OF THE ETHICS CHAPTER AND  
40 TO PROVIDE A PENALTY; BY ADDING SECTION 8-13-1525  
41 SO AS TO REVISE AND EXPAND THE REMEDIES FOR A  
42 VIOLATION OF CERTAIN ETHICAL STANDARDS; AND TO

1 REPEAL SECTIONS 8-13-705, 8-13-720, 8-13-725, 8-13-750,  
2 8-13-755, AND 8-13-760 ALL RELATING TO ETHICS  
3 VIOLATIONS AND CRIMINAL PENALTIES.  
4

5 Be it enacted by the General Assembly of the State of South  
6 Carolina:  
7

8 SECTION 1. Title 16 of the 1976 Code is amended by adding:  
9

10 "Chapter 28  
11

12 Ethics  
13 Criminal Penalties  
14

15 Section 16-28-100. As used in this chapter, all terms shall have  
16 the same definition as contained in Sections 8-13-100 or 8-13-1300  
17 as applicable.  
18

19 Section 16-28-110. (A) A person may not, directly or indirectly,  
20 give, offer, or promise anything of value to a public official, public  
21 member, or public employee with the intent to:

22 (1) influence the discharge of a public official's, public  
23 member's, or public employee's official responsibilities

24 (2) influence a public official, public member, or public  
25 employee to commit, aid in committing, collude in, or allow fraud  
26 on a governmental entity; or

27 (3) induce a public official, public member, or public  
28 employee to perform or fail to perform an act in violation of the  
29 public official's, public member's, or public employee's official  
30 responsibilities:

31 (B) A public official, public member, or public employee may  
32 not, directly or indirectly, knowingly ask, demand, exact, solicit,  
33 seek, accept, assign, receive, or agree to receive anything of value  
34 for himself or for another person in return for being:

35 (1) influenced in the discharge of his official responsibilities;

36 (2) influenced to commit, aid in committing, collude in, or  
37 allow fraud, or make an opportunity for the commission of fraud on  
38 a governmental entity; or

39 (3) induced to perform or fail to perform an act in violation of  
40 his official responsibilities.

41 (C) A person may not, directly or indirectly, give, offer, or  
42 promise to give anything of value to another person with intent to

1 influence testimony under oath or affirmation in a trial or other  
2 proceeding before:

- 3 (1) a court;
- 4 (2) a committee of either house or both houses of the General  
5 Assembly; or
- 6 (3) an agency, commission, or officer authorized to hear  
7 evidence or take testimony or with intent to influence a witness to  
8 fail to appear.

9 (D) A person may not, directly or indirectly, ask, demand, exact,  
10 solicit, seek, accept, assign, receive, or agree to receive anything of  
11 value in return for influencing testimony under oath or affirmation  
12 in a trial or other proceeding before:

- 13 (1) a court;
- 14 (2) a committee of either house or both houses of the General  
15 Assembly; or
- 16 (3) an agency, commission, or officer authorized to hear  
17 evidence or take testimony or with intent to influence a witness to  
18 fail to appear.

19 (E) Subsections (C) and (D) do not prohibit the payment or  
20 receipt of witness fees provided by law or the payment by the party  
21 on whose behalf a witness is called and receipt by a witness of the  
22 reasonable costs of travel and subsistence at trial, hearing, or  
23 proceeding, or, in the case of an expert witness, of the reasonable  
24 fee for time spent in the preparation of the opinion and in appearing  
25 or testifying.

26 (F) A person who violates the provisions of this section is guilty  
27 of a felony and, upon conviction, must be punished by imprisonment  
28 for not more than ten years and a fine of not more than ten thousand  
29 dollars and is permanently disqualified from being a public official  
30 or a public member. A public official, public member, or public  
31 employee who violates the provisions of this section forfeits his  
32 public office, membership, or employment.

33 (G) This section does not apply to political contributions unless  
34 the contributions are conditioned upon the performance of specific  
35 actions of the person accepting the contributions nor does it prohibit  
36 a parent, grandparent, or other close relative from making a gift to a  
37 child, grandchild, or other close relative for love and affection  
38 except as otherwise provided.

39  
40 Section 16-28-115. (A) No person may knowingly use campaign  
41 funds to defray personal expenses which are unrelated to the  
42 campaign or the office if the candidate is an officeholder nor may  
43 these funds be converted to personal use. The prohibition of this

1 subsection does not extend to the incidental personal use of  
2 campaign materials or equipment nor to an expenditure used to  
3 defray any ordinary expenses incurred in connection with an  
4 individual's duties as a holder of elective office.

5 (B) The payment of reasonable and necessary travel expenses or  
6 for food or beverages consumed by the candidate or members of his  
7 immediate family while at, and in connection with, a political event  
8 are permitted.

9 (C) A person who wilfully or recklessly violates the provisions  
10 of this section:

11 (1) if the amount is two thousand dollars or less in the  
12 aggregate during any reporting period for the certified campaign  
13 reports as set forth in Section 8-13-1308, or in final disbursement as  
14 set forth in Section 8-13-1370, is guilty of misdemeanor triable in  
15 magistrates court or municipal court, notwithstanding the provisions  
16 of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65. Upon  
17 conviction, the person must be fined not more than one thousand  
18 dollars or imprisoned not more than thirty days and must refund the  
19 amount of personal use back to his campaign account;

20 (2) if the amount is more than two thousand dollars but less  
21 than ten thousand dollars in the aggregate during any reporting  
22 period for the certified campaign reports as set forth in Section  
23 8-13-1308, or in final disbursement as set forth in Section  
24 8-13-1370, the person is guilty of a felony and, upon conviction,  
25 must be fined in the discretion of the court or imprisoned not more  
26 than five years and must refund the amount of personal use back to  
27 his campaign account;

28 (3) if the amount is ten thousand dollars or more in the  
29 aggregate during any reporting period for the certified campaign  
30 reports as set forth in Section 8-13-1308, or in final disbursement as  
31 set forth in Section 8-13-1370, the person is guilty of a felony and,  
32 upon conviction, must be fined in the discretion of the court or  
33 imprisoned not more than ten years, and must refund the amount of  
34 personal use back to his campaign account.  
35

36 Section 16-28-120. (A) No person may wilfully offer or pay to a  
37 public official, public member, or public employee and no public  
38 official, public member, or public employee may wilfully solicit or  
39 receive money in addition to that received by the public official,  
40 public member, or public employee in his official capacity for  
41 advice or assistance given in the course of his employment as a  
42 public official, public member, or public employee.

1 (B) A person who wilfully or recklessly violates the provisions  
2 of this section:

3 (1) if the amount is two thousand dollars or less, is guilty of a  
4 misdemeanor triable in magistrates court or municipal court,  
5 notwithstanding the provisions of Sections 22-3-540, 22-3-545,  
6 22-3-550, and 14-25-65. Upon conviction, the person must be fined  
7 not more than one thousand dollars or imprisoned not more than  
8 thirty days and must refund the amount of money to the state's  
9 general fund;

10 (2) if the amount is more than two thousand dollars but less  
11 than ten thousand dollars, is guilty of a felony and, upon conviction,  
12 must be fined in the discretion of the court or imprisoned not more  
13 than five years and must refund the amount of money to the state's  
14 general fund;

15 (3) if the amount is ten thousand dollars or more, is guilty of  
16 a felony and, upon conviction, must be fined in the discretion of the  
17 court or imprisoned not more than ten years, and must refund the  
18 amount of money to the state's general fund.

19

20 Section 16-28-125. (A) A public official, public member, or  
21 public employee may not wilfully use or disclose confidential  
22 information gained in the course of or by reason of his official  
23 responsibilities in a way that would affect an economic interest held  
24 by him, a family member, an individual with whom he is associated,  
25 or a business with which he is associated.

26 (B)(1) A public official, public member, or public employee may  
27 not wilfully examine, or aid and abet in the wilful examination of, a  
28 tax return of a taxpayer, a worker's compensation record, a record  
29 in connection with health or medical treatment, social services  
30 records, or other records of an individual in the possession of or  
31 within the access of a public department or agency if the purpose of  
32 the examination is improper or unlawful.

33 (2) A person convicted of violating this subsection must be  
34 fined not more than five thousand dollars or imprisoned not more  
35 than five years, or both, and shall reimburse the costs of prosecution.  
36 Upon conviction, the person also must be discharged immediately  
37 from his public capacity as an official, member, or employee.

38

39 Section 16-28-130. (A) No public official, public member, or  
40 public employee may cause the employment, appointment,  
41 promotion, transfer, or advancement of a family member to a state  
42 or local office or position in which the public official, public  
43 member, or public employee supervises or manages.

1 (B) A public official, public member, or public employee may  
2 not participate in an action relating to the discipline of the public  
3 official's, public member's, or public employee's family member.  
4

5 Section 16-28-135. A former public official, former public  
6 member, or former public employee may not for a period of one year  
7 after terminating his public service or employment:

8 (1) serve as a lobbyist or represent clients before the agency or  
9 department on which he formerly served in a matter which he  
10 directly and substantially participated during his public service or  
11 employment; or

12 (2) accept employment if the employment:

13 (a) is from a person who is regulated by the agency or  
14 department on which the former public official, former public  
15 member, or former public employee served or was employed; and

16 (b) involves a matter in which the former public official,  
17 former public member, or former public employee directly and  
18 substantially participated during his public service or public  
19 employment.  
20

21 Section 16-28-140. It is a breach of ethical standards for a public  
22 official, public member, or public employee who is participating  
23 directly in procurement, as defined in Section 11-35-310(22), to  
24 resign and accept employment for a period of one year from the date  
25 of termination of service or employment with a person contracting  
26 with the governmental body if the contract falls or would fall under  
27 the public official's, public member's, or public employee's official  
28 responsibilities.  
29

30 Section 16-28-145. (A) Unless otherwise provided for in this  
31 chapter, a person who wilfully violates a provision of this chapter is  
32 guilty of a misdemeanor and, upon conviction, must be punished by  
33 imprisonment of not more than three years or a fine of not more than  
34 ten thousand dollars, or both.

35 (B) As used in this chapter, the term 'wilfully' means that the act  
36 is intentional or knowing, as opposed to inadvertent. Proof of evil  
37 motive or intent to violate the law or knowledge that the law is being  
38 violated is not required."  
39

40 SECTION 2. Section 8-13-780 of the 1976 Code, as last amended  
41 by Act 248 of 1991, is further amended to read:  
42

1 “Section 8-13-780. (A) The provisions of this section are in  
2 addition to all other civil and administrative remedies against public  
3 officials, public members, or public employees which are provided  
4 by law.

5 ~~(B) In addition to existing remedies for breach of the ethical~~  
6 ~~standards of this chapter or regulations promulgated hereunder, the~~  
7 ~~State Ethics Commission may impose an oral or written warning or~~  
8 ~~reprimand. For violation of the ethical standards of this article, the~~  
9 appropriate supervisory agency may:

10 (1) administer a public reprimand;

11 (2) require the respondent to pay a civil penalty not to exceed  
12 two thousand dollars for each nontechnical violation that is  
13 unrelated to the late filing of a required statement or report or failure  
14 to file a required statement or report;

15 (3) require the forfeiture of gifts, receipts, or profits, or the  
16 value of each obtained in violation of Chapter 13, Title 8 or Chapter  
17 17, Title 2;

18 (4) require a combination of items (1) through (3) as  
19 necessary and appropriate.

20 (C) The value of anything received by a public official, public  
21 member, or public employee in breach of the ethical standards of  
22 this chapter ~~or regulations promulgated hereunder~~ is recoverable by  
23 the State or other governmental entity in an action by the Attorney  
24 General against a person benefitting from the violations.

25 (D) Before a public employee’s employment or a public  
26 official’s or public member’s association with the governmental  
27 entity is terminated for a violation of the provisions of this chapter,  
28 notice and an opportunity for a hearing must be provided to the  
29 public official, public member, or public employee.”

30

31 SECTION 3. Section 8-13-790(A) of the 1976 Code, as last  
32 amended by Act 248 of 1991, is further amended to read:

33

34 “(A) The value of anything transferred or received in breach of  
35 the ethical standards of Articles 1 through 11 of this chapter ~~or~~  
36 ~~regulations promulgated under it~~ by a public employee, public  
37 official, or a nonpublic employee or official may be recovered from  
38 the public employee, public official, or nonpublic employee or  
39 official.”

40

41 SECTION 4. Section 8-13-1510 of the 1976 Code, as last amended  
42 by Act 40 of 2011, is further amended to read:

43

1 “Section 8-13-1510. ~~(A)~~ Except as otherwise specifically  
2 provided in this chapter, a person required to file a report or  
3 statement under this chapter who files a late statement or report or  
4 fails to file a required statement or report must be assessed a civil  
5 penalty as follows:

6 (1) a fine of one hundred dollars if the statement or report is  
7 not filed within five days after the established deadline provided by  
8 law in this chapter; and

9 (2) after notice has been given by certified or registered mail  
10 that a required statement or report has not been filed, a fine of ten  
11 dollars per calendar day for the first ten days after notice has been  
12 given, and one hundred dollars for each additional calendar day in  
13 which the required statement or report is not filed, not exceeding  
14 five thousand dollars.

15 ~~(B) After the maximum civil penalty has been levied and the  
16 required statement or report has not been filed, the person is:~~

17 ~~(1) for a first offense, guilty of a misdemeanor triable in  
18 magistrates court and, upon conviction, must be fined not more than  
19 five hundred dollars or imprisoned not more than thirty days;~~

20 ~~(2) for a second offense, guilty of a misdemeanor triable in  
21 magistrates court and, upon conviction, must be fined not less than  
22 two thousand five hundred dollars nor more than five thousand  
23 dollars or imprisoned not less than a mandatory minimum of thirty  
24 days;~~

25 ~~(3) for a third or subsequent offense, guilty of a misdemeanor  
26 triable in magistrates court and, upon conviction, must be fined not  
27 more than five thousand dollars or imprisoned for not more than one  
28 year, or both.”~~

29

30 SECTION 5. Article 15, Chapter 13, Title 8 of the 1976 Code is  
31 amended by adding:

32

33 “Section 8-13-1515. A person who wilfully fails to file a  
34 required statement or report which has the effect of concealing a  
35 violation of this chapter is guilty of a misdemeanor and, upon  
36 conviction, must be fined five thousand dollars or be imprisoned for  
37 not more than one year, or both, for each statement or report not  
38 filed.”

39

40 SECTION 6. Section 8-13-1520 of the 1976 Code, as last amended  
41 by Act 76 of 2003, is further amended to read:

42



1 “Section 8-13-1520. (A) Except as otherwise specifically  
2 provided in this chapter and for failure to file a required statement  
3 or report, a person who violates any provision of this chapter is  
4 guilty of a misdemeanor and, upon conviction, must be fined not  
5 more than five thousand dollars or imprisoned for not more than one  
6 year, or both.

7 (B) A person who wilfully violates any provision of this Article  
8 13 is guilty of a misdemeanor and, upon conviction, must be fined  
9 not more than five hundred percent of the amount of contributions  
10 or anything of value that should have been reported pursuant to the  
11 provisions of this Article 13 but not less than five thousand dollars  
12 or imprisoned for not more than one year, or both.

13 (C) A violation of the provisions of this chapter does not  
14 necessarily subject a public official to the provisions of Section  
15 8-13-560.

16 (D) For purposes of this section, ‘wilfully’ means that the act is  
17 intentional or knowing, as opposed to inadvertent. Proof of evil  
18 motive or intent to violate the law or knowledge that the law is being  
19 violated is not required.”

20  
21 SECTION 7. Article 15, Chapter 13, Title 8 of the 1976 Code is  
22 amended by adding:

23  
24 “Section 8-13-1525. For a violation of the ethical standards of  
25 this article, the appropriate supervisory agency may:

- 26 (1) administer a public reprimand;  
27 (2) require the respondent to pay a civil penalty not to exceed  
28 two thousand dollars for each nontechnical violation that is  
29 unrelated to the late filing of a required statement or report or failure  
30 to file a required statement or report;  
31 (3) require the forfeiture of gifts, receipts, or profits, or the value  
32 of each, obtained in violation of Chapter 13, Title 8, or Chapter 17,  
33 Title 2;  
34 (4) require a combination of items (1) through (3) as necessary  
35 and appropriate.”

36  
37 SECTION 8. Sections 8-13-705, 8-13-720, 8-13-725, 8-13-750,  
38 8-13-755, and 8-13-760 of the 1976 Code are repealed.

39  
40 SECTION 9. The repeal or amendment by this act of any law,  
41 whether temporary or permanent or civil or criminal, does not affect  
42 pending actions, rights, duties, or liabilities founded thereon, or  
43 alter, discharge, release or extinguish any penalty, forfeiture, or

1 liability incurred under the repealed or amended law, unless the  
2 repealed or amended provision shall so expressly provide. After the  
3 effective date of this act, all laws repealed or amended by this act  
4 must be taken and treated as remaining in full force and effect for  
5 the purpose of sustaining any pending or vested right, civil action,  
6 special proceeding, criminal prosecution, or appeal existing as of the  
7 effective date of this act, and for the enforcement of rights, duties,  
8 penalties, forfeitures, and liabilities as they stood under the repealed  
9 or amended laws.

10

11 SECTION 10. This act takes effect upon approval by the  
12 Governor.

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