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2022 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.

Ashley Harwell-Beach, Code Commissioner, P.O. Box 11489,
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(2) for a second offense within three years of a first offense, by a fine of not less than three hundred dollars nor more than five hundred dollars or imprisonment for not more than thirty days;

(3) for a third or subsequent offense within three years of a second or subsequent offense, by a fine of not more than one thousand dollars or imprisonment for not more than thirty days;

(4) for a fourth and subsequent offense within five years of the date of conviction for the first offense must be punished as provided for a third offense."

Time effective

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

Ratified the 7th day of April, 2022.

Approved the 11th day of April, 2022.

No. 138

(R150, S203)

AN ACT TO AMEND SECTION 59-19-60, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REMOVAL OF SCHOOL DISTRICT TRUSTEES AND FILLING OF TRUSTEE VACANCIES, SO AS TO PROVIDE THE GOVERNOR MAY REMOVE TRUSTEES IN CERTAIN CIRCUMSTANCES, TO PROVIDE THE GOVERNOR MAY FILL TRUSTEE VACANCIES, TO PROVIDE NOTICE AND HEARING REQUIREMENTS, AND TO DELETE EXISTING PROVISIONS CONCERNING TRUSTEE REMOVAL AND FILLING OF VACANCIES BY SCHOOL BOARDS.

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

Removal by Governor, vacancies

SECTION 1. Section 59-19-60 of the 1976 Code is amended to read:

"Section 59-19-60. Notwithstanding any provision of law to the contrary, school district trustees who wilfully commit or engage in an act of malfeasance, misfeasance, chronic unexcused absenteeism, conflicts of interest, misconduct in office, or persistent neglect of duty in office, or are deemed medically incompetent or medically incapacitated, are subject to removal by the Governor upon any of the foregoing causes being made to appear to the satisfaction of the Governor. Before removing any such officer, the Governor shall inform him in writing of the specific charges brought against him and give him an opportunity on reasonable notice to be heard. Vacancies occurring in the membership of any board of trustees for any cause shall be filled for the unexpired term in the same manner as provided for full-term appointments."

Time effective

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

Ratified the 21st day of April, 2022.

Approved the 25th day of April, 2022.

No. 139

(R151, S1010)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 49-3-60 SO AS TO PROVIDE THAT AN ENTITY THAT HAS CONTRACTED FOR THE RIGHT TO STORE WATER IN A RESERVOIR OWNED BY THE UNITED STATES ARMY CORPS OF ENGINEERS HAS EXCLUSIVE RIGHTS TO ANY RETURN FLOWS GENERATED TO THAT RESERVOIR.

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

Right to return flows

SECTION 1. Chapter 3, Title 49 of the 1976 Code is amended by adding:

"Section 49-3-60. (A) Notwithstanding another provision of law, an entity that has contracted for the right to store water in a reservoir owned by the United State Army Corps of Engineers has exclusive rights to any return flows generated directly or indirectly to that reservoir by the entity. The rights conferred by this subsection must be subject to any regulatory requirements imposed by the South Carolina Department of Health and Environmental Control and to the availability to the entity of unused storage capacity within the reservoir to store such return flows.

(B) For purposes of this section, 'return flow' means water that is discharged directly or indirectly to a reservoir from a water reclamation facility."

Time effective

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

Ratified the 21st day of April, 2022.

Approved the 25th day of April, 2022.

No. 140

(R153, S1204)

AN ACT TO AMEND SECTION 7-7-430, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN OCONEE COUNTY, SO AS TO UPDATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE.

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

Oconee County voting precincts map updated

SECTION 1. Section 7-7-430(B) of the 1976 Code, as last amended by Act 39 of 2019, is further amended to read:

"(B) The precinct lines defining the above precincts in Oconee County are as shown on the official map prepared by and on file with the Revenue and Fiscal Affairs Office designated as document P-73-22 and as shown on certified copies of the official map provided to the Board of Voter Registration and Elections of Oconee County."

Time effective

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

Ratified the 21st day of April, 2022.

Approved the 25th day of April, 2022.

No. 141

(R155, H3105)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 33 TO TITLE 1 SO AS TO PROVIDE FOR THE PROTECTION OF THE EXERCISE OF RELIGION DURING A STATE OF EMERGENCY, TO DEFINE NECESSARY TERMS, TO PROVIDE THAT RELIGIOUS SERVICES ARE DEEMED AN ESSENTIAL SERVICE DURING A STATE OF EMERGENCY THAT MUST BE ALLOWED TO CONTINUE OPERATING, TO ALLOW A RELIGIOUS ORGANIZATION TO ASSERT A VIOLATION OF THESE PROVISIONS AS A CLAIM OR DEFENSE, AND TO PROVIDE THAT THIS CHAPTER APPLIES TO ALL STATE AND LOCAL LAWS AND ORDINANCES REGARDLESS OF WHEN ADOPTED OR IMPLEMENTED.

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

Protection of the exercise of religion during a state of emergency

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

"CHAPTER 33

Protection of the Exercise of Religion
During a State of Emergency

Section 1-33-10. For purposes of this chapter:

(1) 'Discriminatory action' means any action undertaken by the State to:

(a) alter in any way the tax treatment of a religious organization, or cause any tax, fine, civil or criminal penalty, payment, damages award, or injunction to be assessed against a religious organization;

(b) deny, delay, revoke, or otherwise make unavailable an exemption from taxation for a religious organization; or

(c) withhold, reduce, exclude, terminate, materially alter the terms or conditions of, or otherwise make unavailable or deny any grant, contract, scholarship, license, accreditation, certification, entitlement, or other benefit under any government program.

(2) 'Exercise of religion' means the exercise of religion as protected under the First Amendment to the United States Constitution, Article I, Section 2 of the State Constitution, and Title 1, Chapter 32, of the South Carolina Code of Laws.

(3) 'Religious organization' includes, but is not limited to, houses of worship, religious ministries, organizations, social agencies, groups, corporations, educational institutions and other entities whose principal purpose is the study, practice, or advancement of religion and their officers, owners, clergy, religious leaders, and ministers.

(4) 'Religious services' means a meeting, gathering, or assembly of two or more persons organized by a religious organization for the purpose of worship, teaching, training, providing educational services, conducting religious rituals, or other activities that are deemed necessary by the religious organization for the exercise of religion.

(5) 'State' means the State of South Carolina and any political subdivision of the State and includes a branch, department, agency, board, commission, instrumentality, entity, or officer, employee, official of the State or a political subdivision of the State, or any other person acting under color of law or suing under or attempting to enforce a state law, rule, or regulation.

(6) 'State of emergency' means any declaration or proclamation issued under the authority of state law that an emergency has occurred including, but not limited to:

(a) a proclamation of emergency issued by the Governor pursuant to Section 1-3-420;

(b) a declaration of emergency issued by the Governor pursuant to Section 25-1-440;

(c) a declaration of emergency issued by a county governing body pursuant to Section 4-9-130; and

(d) a declaration of emergency issued by a municipal governing body pursuant to Section 5-7-250.

Section 1-33-20. (A) During a state of emergency, religious services are deemed an essential service and are considered necessary and vital to the health and welfare of the public.

(B) The State may not limit the ability of a religious organization to continue operating and to engage in religious services during a state of emergency to a greater extent than it limits operations or services of other organizations or businesses that provide essential services.

(C) The State may require a religious organization to comply with neutral health, safety, or occupancy requirements during a state of emergency that:

(1) are applicable to all organizations or businesses providing essential services; and

(2) do not impose a substantial burden on religious services, unless the State demonstrates that the burden is necessary to further a compelling state interest and is the least restrictive means of furthering that interest.

(D) The State may not take any discriminatory action against a religious organization on the basis that the organization is religious, operates or seeks to operate during a state of emergency, and engages in the exercise of religion.

Section 1-33-30. A religious organization may assert a violation of this chapter as a claim or defense in a judicial proceeding. If the religious organization prevails in such a proceeding, the court must award attorney's fees and costs and may award other appropriate relief including, but not limited to, injunctive relief, declaratory relief, and compensatory damages for pecuniary and nonpecuniary losses.

Section 1-33-40. (A) This chapter applies to all state and local laws and ordinances and the implementation of those laws and ordinances, whether statutory or otherwise, and whether adopted before or after the effective date of this act.

(B) Nothing in this chapter may be construed to authorize the State to burden any religious belief."

Severability clause

SECTION 2. 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 thereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

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

Ratified the 21st day of April, 2022.

Approved the 25th day of April, 2022.

No. 142

(R156, H3126)

AN ACT TO DECLARE THAT THE PRACTICE OF DISCRIMINATION BASED ON VACCINATION STATUS IS IN CONFLICT WITH THE IDEALS OF SOUTH CAROLINA; TO PROVIDE THAT THE GENERAL ASSEMBLY BELIEVES THAT A FEDERAL VACCINE MANDATE IS UNCONSTITUTIONAL; TO PROVIDE THAT THE STATE OR ANY POLITICAL SUBDIVISION MAY NOT ENACT A COVID-19 VACCINATION MANDATE; TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 8-15-80 SO AS TO PROVIDE THAT NEITHER THE STATE NOR ANY OF ITS POLITICAL SUBDIVISIONS MAY TERMINATE OR SUSPEND A FIRST RESPONDER BASED ON HIS VACCINATION STATUS; TO PROVIDE FOR CERTAIN UNEMPLOYMENT BENEFITS; TO PROVIDE THAT NOTHING IN THIS ACT SHALL PREVENT AN EMPLOYER

FROM ENCOURAGING OR ADMINISTERING VACCINES; TO PROVIDE RESTRICTIONS FOR A PRIVATE EMPLOYER'S VACCINE MANDATE; TO PROVIDE THAT CERTAIN VACCINE EXEMPTIONS MUST BE HONORED; TO PROVIDE THAT NO PERSON MAY BE DISCRIMINATED AGAINST BASED ON VACCINATION STATUS; AND TO REENACT ACT 99 OF 2021 RELATING TO SOUTH CAROLINA COVID-19 LIABILITY SAFE HARBOR.

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

COVID-19 vaccination discrimination

SECTION 1. The General Assembly declares the practice of discrimination against an individual because the individual has chosen not to receive a COVID-19 vaccination or booster is a matter of state concern and is in conflict with the ideals of South Carolina and the nation, as this discrimination interferes with opportunities of the individual to receive employment and to develop according to the individual's own ability.

Vaccine mandate

SECTION 2. The General Assembly believes that a federal vaccine mandate is unconstitutional and shall not be enforced by this State unless, after legal challenge, courts of this State or of the United States of America hold the federal vaccine mandate to be enforceable.

COVID-19 vaccination mandate restriction

SECTION 3. (A) Except as provided in subsection (B), the State or any political subdivision thereof, including a school district, may not enact a COVID-19 vaccine mandate for any:

(1) employee, independent contractor, or nonemployee vendor as a condition of employment or conducting business with the State or a political subdivision;

(2) student as a condition of attendance; or

(3) participant, volunteer, or other person associated with an auxiliary event, activity, or program as a condition for participating in, volunteering for, or associating with the auxiliary event, activity, or program.

(B) If the State or any political subdivision thereof, including a school district, is subject to a federal requirement that would lead to the forfeiture of federal funds due to a failure to require employees, independent contractors, or nonemployee vendors to receive a COVID-19 vaccination:

(1) the employer may require an unvaccinated employee, independent contractor, or nonemployee vendor to undergo weekly COVID-19 testing if the federal requirement allows for testing as an alternative to vaccination; or

(2) the employee is eligible for unemployment benefits subject to the benefit amounts, duration, and requirements as provided in Article 1, Chapter 35, Title 41 if the federal mandate gives the employer no alternative to terminating the employee without forfeiting federal funds.

(C) The Department of Health and Environmental Control and the Medical University of South Carolina shall partner with state and local government employers to provide COVID-19 testing as provided in subsection (B)(1).

COVID-19 vaccination for first responders

SECTION 4. Chapter 15, Title 8 of the 1976 Code is amended by adding:

"Section 8-15-80. (A) Neither the State, nor any of its political subdivisions, may terminate, suspend, or otherwise reduce the compensation of a person employed as a first responder if the first responder does not undergo a COVID-19 vaccination.

(B) For purposes of this section, 'first responder' means a law enforcement officer, firefighter, emergency medical technician, or paramedic who is paid from public funds."

Unemployment benefits

SECTION 5. (A) If a private employer terminates, suspends, or otherwise reduces the compensation of an employee because the employee does not receive a COVID-19 vaccination or booster, that employee is eligible for unemployment benefits subject to the benefit amounts, duration, and requirements as provided in Article 1, Chapter 35, Title 41.

(B) For purposes of this SECTION, "private employer" means all employers other than the State and its political subdivisions, including school districts.

Incentives for vaccination

SECTION 6. Nothing contained in this act shall prevent an employer from encouraging, promoting, or administering vaccinations, and nothing in this act shall prevent an employer from offering incentives to employees who elect to be vaccinated.

Private employer's vaccine mandate

SECTION 7. (A) A private employer's vaccine mandate may not:

(1) extend to independent contractors, nonemployee vendors, or other third parties that provide goods or services to the employer; and

(2) be used to coerce independent contractors, nonemployee vendors, or other third parties that provide goods or services to the employer into implementing a vaccine mandate to maintain the business relationship.

(B) For purposes of this SECTION, "private employer" means all employers other than the State and its political subdivisions, including school districts.

(C)(1) The provisions of this SECTION do not apply to an employer if the employer submits an affidavit with the Department of Employment and Workforce attesting to the fact that the employer has a contract with the federal government, a subcontract with a federal contractor, or is subject to a federal regulation that contains a valid, enforceable provision that is contrary to the requirements of this SECTION.

(2) The provisions of this SECTION do not apply to an employer seeking to enter into a federal contract, or a subcontract with a prospective federal contractor, that includes a valid, enforceable provision that is contrary to the requirements of this SECTION if the employer submits an affidavit with the Department of Employment and Workforce attesting to the fact that if the employer is awarded the contract or subcontract, then the employer must enforce a provision that is contrary to the requirements of this SECTION.

(3) An affidavit filed with the Department of Employment and Workforce pursuant to this subsection remains in effect until revoked by the employer.

COVID-19 vaccination exemptions

SECTION 8. (A) Notwithstanding any other provision of law, a religious exemption or medical exemption must be honored regarding any COVID-19 vaccine or booster requirement. A medical exemption

may include the presence of antibodies, a prior positive COVID-19 test, or pregnancy. To claim a religious exemption, a person must provide his employer with a short, plain statement attesting to the fact that a tenet of his deeply held religious convictions would be violated by receiving the COVID-19 vaccine and booster.

(B)(1) The provisions of this SECTION do not apply to an employer if the employer submits an affidavit with the Department of Employment and Workforce attesting to the fact that the employer has a contract with the federal government, a subcontract with a federal contractor, or is subject to a federal regulation that contains a valid, enforceable provision that is contrary to the requirements of this SECTION.

(2) The provisions of this SECTION do not apply to an employer seeking to enter into a federal contract, or a subcontract with a prospective federal contractor, that includes a valid, enforceable provision or would be subject to a federal regulation that is contrary to the requirements of this SECTION if the employer submits an affidavit with the Department of Employment and Workforce attesting to the fact that if the employer is awarded the contract or subcontract, then the employer must enforce a provision that is contrary to the requirements of this SECTION.

(3) An affidavit filed with the Department of Employment and Workforce pursuant to this subsection remains in effect until revoked by the employer.

Vaccination status

SECTION 9. (A) All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation without discrimination or segregation on the basis of the person's vaccination status.

(B) No person shall withhold, deny, or attempt to withhold or deny, or deprive, or attempt to deprive any person of any right or privilege secured by the provisions of subsection (A); or intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any person with the purpose of interfering with any right or privilege secured by the provisions of subsection (A); or punish or attempt to punish any person for exercising or attempting to exercise any right or privilege secured by the provisions of subsection (A).

(C) Each of the following establishments that serves the public is a place of public accommodation within the meaning of this SECTION if discrimination or segregation by it is supported by state action:

(1) any inn, hotel, motel, or other establishment that provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence;

(2) any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises including, but not limited to, any such facility located on the premises of any retail establishment, or any gasoline station;

(3) any hospital, clinic, or other medical facility that provides overnight accommodations;

(4) any retail or wholesale establishment;

(5) any motion picture house, theater, concert hall, billiard parlor, saloon, barroom, golf course, sports arena, stadium, or other place of amusement, exhibition, recreation, or entertainment; and

(6) any establishment that is physically located within the premises of any establishment otherwise covered by this subsection, or within the premises of which is physically located any such covered establishment, and which holds itself out as serving patrons of such covered establishment.

(D) The provisions of this SECTION do not apply to a private club or other establishment not in fact open to the general public. An institution, a club, an organization, or a place of accommodation, as defined in subsection (C), that offers memberships for less than thirty days is not private within the meaning of this SECTION.

(E) Complaints concerning violations of the provisions of this SECTION must be processed and heard pursuant to Article 3, Chapter 9, Title 45. Penalties and remedies for violations of this SECTION are governed by the provisions contained in Article 5, Chapter 9, Title 45.

(F) For the purposes of this SECTION:

(1) "Supported by state action" means the licensing or permitting of any establishment or any agent of an establishment listed above, subject to the exclusion provided in Section 45-9-20, which has or must have a license or permit from the State, its agencies, or local governmental entities to lawfully operate.

(2) "Vaccination status" means whether a person has been vaccinated against COVID-19 or has received a COVID-19 vaccination booster.

Reenactment of Act 99 of 2021

SECTION 10. The provisions contained in Act 99 of 2021, the South Carolina COVID-19 Liability Immunity Act, are hereby reenacted, retroactive to the date that Act 99 of 2021 expired, by this act. Act 99 of 2021's provisions apply to all civil and administrative causes of action that arise between March 13, 2020, and December 31, 2023, and are based upon facts that occurred during this time period.

Severability

SECTION 11. 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 12. This act takes effect upon approval by the Governor. All provisions of this act are repealed on December 31, 2023, unless reauthorized by the General Assembly.

Ratified the 21st day of April, 2022.

Approved the 25th day of April, 2022.

No. 143

(R157, H3509)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 8 TO CHAPTER 7, TITLE 63 SO AS TO ESTABLISH AN EXTENDED FOSTER CARE PROGRAM AND RELATED PROCEDURES TO ENABLE CERTAIN CHILDREN IN THE CUSTODY OF THE DEPARTMENT OF SOCIAL SERVICES ON THEIR EIGHTEENTH BIRTHDAY TO CONTINUE TO RECEIVE SERVICES AND SUPPORTS FROM THE DEPARTMENT UNTIL THE AGE OF TWENTY-ONE; TO DEFINE TERMS; TO PROVIDE FOR VOLUNTARY AND COURT-ORDERED EXTENDED FOSTER CARE; TO REQUIRE CASE REVIEW AND PERMANENCY PLANNING; AND FOR OTHER PURPOSES; AND TO AMEND SECTION 63-7-1700, RELATING TO PERMANENCY PLANNING HEARINGS, SO AS TO MAKE CONFORMING CHANGES.

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

Extended foster care

SECTION 1. Chapter 7, Title 63 of the 1976 Code is amended by adding:

"Article 8

Extended Foster Care for Persons Age Eighteen to Twenty-one

Section 63-7-2700. The purpose of this article is to establish procedures for a child who is or was in the legal custody of the Department of Social Services on the child's eighteenth birthday and who has not attained age twenty-one to receive services and supports that promote emotional well-being, economic productivity, self-sufficiency, connection to family and community, and a successful transition to adulthood upon leaving the state's foster care system.

Section 63-7-2710. For purposes of this article:

(1) 'Administrative case review' means a review open to the child and if the child consents, the child's parents, conducted by a panel of

appropriate persons. Although at least one member of the panel must be a person who is not responsible for the case management of or the delivery of services to the child or the child's parents, employees of the Department of Social Services are appropriate persons and may participate as panelist.

(2) 'Child' means a person who is or was in the legal custody of the department on the person's eighteenth birthday, who has not attained age twenty-one, and who meets at least one of the following requirements:

(a) is completing secondary education or a program leading to an equivalent credential;

(b) is enrolled in an institution which provides post-secondary or vocational education;

(c) is participating in a program or activity designed to promote or remove barriers to employment;

(d) is employed for at least eighty hours a month; or

(e) is incapable of doing any of the above-described activities due to a physical, intellectual, emotional, or psychiatric condition that limits participation, and the presence of the condition is supported by regularly updated information in the transition plan.

(3) 'Childcare institution' means a private childcare institution, or a public childcare institution which accommodates no more than twenty-five children, that is licensed by the department. 'Childcare institution' does not include wilderness camps or training schools, nor does it include any facility that exists primarily for the detention or correction of children.

(4) 'Court' means the family court.

(5) 'Department' means the Department of Social Services.

(6) 'Foster family home' means the private home of an individual or family that is licensed by the department and in which a child in foster care has been placed in the care of an individual who resides with the child; has been licensed by the department to be a foster parent that the department deems capable of adhering to the reasonable and prudent parent standard as defined in Section 63-7-20(24); provides twenty-four hour substitute care for children placed away from their parents or other caretakers; and provides care for children subject to capacity limitations set forth in Section 63-7-2400. This term also includes kinship, relative, and child-specific homes.

(7) 'Legal custody' means the right to the physical custody, care, and control of the child; the right to determine where the child shall live; the right and duty to provide protection, food, clothing, shelter, ordinary medical care, education, supervision, and discipline for a child and in an

emergency to authorize surgery or other extraordinary care. The court may in its order place other rights and duties with the legal custodian.

(8) 'Placement and care responsibility' means the authority conveyed through the court, through written authorization prior to the child's eighteenth birthday, or through a voluntary placement agreement to provide supervision of the child and the child's placement.

(9) 'Supervised independent living setting' means any housing arrangement that is licensed or approved by the department and which makes support services for a successful transition to adulthood available to the child. Case management for the child must be provided by the department or a contracted provider. The child must reside in the setting voluntarily and the setting does not include wilderness camps or training schools, nor does it include any facility that exists primarily for the detention or correction of children.

(10) 'Transition plan' means a written case plan that is personalized, as detailed as the child may elect, and that includes specific options on housing, health insurance, education, local opportunities for mentors and for continuing support services, work force supports, and employment services. A transition plan also must include information about the importance of designating another individual to make health care treatment decisions on behalf of the child if the child becomes unable to participate in such decisions and the child does not have, or does not want, a relative who would otherwise be authorized to make such decisions, and provides the child with the option to execute a health care power of attorney or health care proxy.

(11) 'Voluntary placement agreement' means a written agreement, binding on the child and the department, which describes at a minimum, the legal status of the child, as well as the rights and obligations of the child and the department while the child is under the placement and care responsibility of the department.

Section 63-7-2720. There is created within the Department of Social Services an extended foster care program for eligible children, as the term 'child' is defined in Section 63-7-2710. An eligible child is under the placement and care responsibility of the department while participating in the program. The department must provide placement in a licensed foster family home, childcare institution, or in an approved or licensed supervised independent living setting. The department shall adopt rules and promulgate regulations as necessary to implement the extended foster care program.

Section 63-7-2730. (A) Before a child's eighteenth birthday, the child may provide written authorization to remain under the placement

and care responsibility of the department after the child attains age eighteen and the court may conclude that it is in the child's best interests to remain under the placement and care responsibility of the department after the child's eighteenth birthday. In such cases, the court's jurisdiction shall continue until the court issues an order terminating its jurisdiction. In no case may the court's jurisdiction pursuant to this article continue beyond the child's twenty-first birthday.

(B) Subject to eligibility criteria established by the department, after attaining age eighteen, a child may enter into a voluntary placement agreement with the department to remain under or return to the placement and care responsibility of the department. The department must develop a transition plan for a child who remains in or returns to the placement and care responsibility of the department.

(C) A voluntary placement agreement terminates within one hundred eighty days after it is executed, unless the court determines that it is in the child's best interests to remain under the placement and care responsibility of the department.

Section 63-7-2740. (A) Within thirty days of entering a voluntary placement agreement, the department shall initiate proceedings for the review of the agreement by filing with the court a summons, petition, and supplemental report as outlined in subsection (B). The summons, petition, and supplemental report must be served on the child and must include notice of the procedures to request counsel if the child desires representation at the proceedings. No responsive pleading is required. If the child does not have private representation, an attorney can be requested by the child and provided by the Commission on Indigent Defense under the Rule 608 contract program or Rule 608 of the South Carolina Appellate Court Rules.

(B) The supplemental report must include the following:

(1) information necessary to support a determination that the child is eligible to remain under the placement and care responsibility of the department, that the child wants to remain under the placement and care responsibility of the department, and that remaining under the placement and care responsibility of the department is in the child's best interests;

(2) the voluntary placement agreement; and

(3) a transition plan which states specific, measurable goals and objectives.

(C) The court shall conduct a hearing on the petition within sixty days of the filing of the petition. The department must provide written notice of the hearing to the child at least ten days before the hearing and the child is entitled to be present for the hearing.

(D) The court shall include its findings and conclusions in a written order that addresses whether:

(1) the child wants to remain under the placement and care responsibility of the department;

(2) remaining under the placement and care responsibility of the department is in the best interests of the child;

(3) the services provided to the child improve placement;

(4) the services provided to the child further the child's educational or vocational goals, as applicable; and

(5) the department has made reasonable efforts to support the child's transition to living independently.

(E) Under no circumstances may a voluntary placement agreement exceed a child's twenty-first birthday.

Section 63-7-2750. (A) A child who is in the legal custody of the department on the child's eighteenth birthday and who, due to a physical, intellectual, emotional, or psychiatric impairment, cannot execute a voluntary placement agreement in accordance with Section 63-7-2730 (B), may remain in foster care beyond the child's eighteenth birthday and until the department has coordinated appropriate services for a successful transition to adulthood.

(B) Before the child's eighteenth birthday, at a hearing held pursuant to Section 63-7-700, 63-7-1660, 63-7-1680, or 63-7-1700, the court must determine that it is in the child's best interests to remain under the placement and care responsibility of the department beyond the child's eighteenth birthday due to a physical, intellectual, emotional, or psychiatric impairment and until the department has coordinated appropriate services for a successful transition to adulthood. The court shall continue to review the child's status annually pursuant to Section 63-7-1700.

(C) The child's guardian ad litem shall continue to serve as outlined in Section 63-11-510. If the child's guardian ad litem cannot continue to serve, the court shall appoint a guardian ad litem to represent the child as outlined in Section 63-11-510.

(D) The jurisdiction of the court continues until the court determines the department has coordinated appropriate transitional services, but in no case may the court's jurisdiction pursuant to this article exceed the child's twenty-first birthday.

Section 63-7-2760. (A) The department shall establish a developmentally appropriate administrative process to review the case of a child who remains under the placement and care responsibility or in

the legal custody of the department beyond the child's eighteenth birthday pursuant to Section 63-7-2730(B) or 63-7-2750.

(B) The department or a contracted provider must conduct an administrative case review no less frequently than once every six months to promote the development of a transition plan designed to help the child acquire the skills necessary to live independently or to promote the delivery of supportive services for the child who, due to physical, intellectual, emotional, or psychiatric impairment, cannot live independently.

(C) Administrative case reviews must include the child and if the child consents, the child's parents, and any other supportive adult identified by the child.

(D) The panel conducting the administrative case review shall present its findings and conclusions to all parties who are entitled to participate in the administrative case review in a written report on a form approved by the department.

Section. 63-7-2770. (A) If a child remains in the legal custody of the department in accordance with Section 63-7-2750, permanency planning hearings must be held annually and in accordance with Section 63-7-1700. The court shall review the status of the child, the child's transition plan, and the progress being made to coordinate supportive services for the child's successful transition to adulthood.

(B) If a child is under the placement and care responsibility of the department in accordance with Section 63-7-2730(B), upon motion filed by the department, the court shall conduct a permanency planning hearing. A permanency planning hearing must be held on an annual basis for as long as the child remains under the placement and care responsibility of the department. The department shall attach a supplemental report to the motion for permanency planning that includes the transition plan and the report of the administrative case review conducted pursuant to Section 63-7-2760. The motion, supplemental report, and notice of the hearing must be served upon the child at least ten days before the permanency planning hearing and the child is entitled to be present for the hearing. The notice of the hearing must inform the child of the procedures to request counsel if the child desires representation. No responsive pleading is required.

(C) The order issued as a result of a hearing pursuant to subsection (B) must make specific findings regarding progress being made toward the child's successful transition from the placement and care responsibility of the department and achieving independence, including whether:

(1) the child wants to remain under the placement and care responsibility of the department pursuant to a voluntary placement agreement;

(2) there is a transition plan that contains specific, measurable goals;

(3) the services being provided are designed to support the child's successful transition to living independently;

(4) the services being provided further the child's placement, vocational, or educational goals;

(5) additional services are necessary to support the child's successful transition to living independently; and

(6) the department has made reasonable efforts to support the child's transition to living independently.

(D) A permanency planning hearing held pursuant to this section meets the requirements of the case review required pursuant to Section 63-7-2760.

Section 63-7-2780. Upon motion of the child or the department at any time, the court may review the child's case to address progress being made toward meeting the child's goals as set forth in the transition plan. The department must provide notice at least ten days before a hearing held pursuant to this section, and the notice must advise the child of the procedures to request counsel if the child desires representation. The child is entitled to be present for the hearing. No responsive pleading is required.

Section 63-7-2790. (A) If the department denies, disqualifies, terminates, or suspends a child from participation in the extended foster care program created pursuant to this article, the department shall notify the child in writing of the right to appeal the adverse decision through the department's fair hearings procedures, unless there is a case pending before the family court that can dispose of the issue. Such notice must be served by certified mail. The notice must explain the fair hearings procedures and must inform the child that notice of intent to appeal must be submitted within thirty days of receipt of the adverse decision. If the department denies, disqualifies, terminates, or suspends a child from participation in the extended foster care program, that child is automatically entitled to representation by a South Carolina licensed attorney. If the child does not have private representation, an attorney can be requested by the child and provided by the Commission on Indigent Defense under the Rule 608 contract program or Rule 608 of the South Carolina Appellate Court Rules.

(B) Judicial review of a final agency decision is in the family court. A child seeking judicial review shall file a petition in the family court within thirty days after the final decision of the department. The child shall serve a copy of the petition upon the department. The family court shall conduct a judicial review in accordance with the standards of review provided for in Section 1-23-380. The court may enter judgment upon the pleadings and a certified transcript of the record which must include the evidence upon which the findings and decisions appealed are based. The judgment must include a determination of whether the decision of the department to disqualify, terminate, or suspend the child from participation in the extended foster care program should be affirmed or reversed. The child is not entitled to a trial de novo in the family court."

Permanency planning

SECTION 2. A. Section 63-7-1700(H)(8)-(10) of the 1976 Code is amended to read:

"(8) whether the child has provided written authorization to remain in foster care after the child's eighteenth birthday and whether the court finds that it would be in the child's best interests to remain in foster care after the child's eighteenth birthday for a period not to exceed the child's twenty-first birthday pursuant to Article 8;

(9) whether the child's current placement is safe and appropriate;

(10) whether the department has made reasonable efforts to assist the parents in remedying the causes of the child's placement or retention in foster care, unless the court has previously authorized the department to terminate or forego reasonable efforts pursuant to Section 63-7-1640; and

(11) the steps the department is taking to promote and expedite the adoptive placement and to finalize the adoption of the child, including documentation of child specific recruitment efforts."

B. Section 63-7-1700(I)(5) of the 1976 Code is amended to read:

"(5) If the child is retained in foster care pursuant to a plan other than one described in items (1) through (4), future permanency planning hearings must be held at least annually. If the child has provided written authorization to remain in foster care after the child's eighteenth birthday, the court shall specify whether it is in the child's best interests

to remain in foster care for a period not to exceed the child's twenty-first birthday pursuant to Article 8."

Time effective

SECTION 3. This act takes effect upon approval by the Governor and is contingent upon funding in the general appropriations bill.

Ratified the 21st day of April, 2022.

Approved the 25th day of April, 2022.

No. 144

(R158, H3524)

AN ACT TO AMEND SECTION 58-7-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE RIGHTS, POWERS, AND PRIVILEGES OF TELEGRAPH AND TELEPHONE COMPANIES CONFERRED ON PIPELINE COMPANIES, SO AS TO PROVIDE THAT THE PROVISIONS OF SECTION 58-9-2030 AND OF CHAPTER 2, TITLE 28 DO NOT APPLY TO PRIVATE, FOR-PROFIT PIPELINE COMPANIES, INCLUDING PUBLICLY TRADED FOR-PROFIT COMPANIES, THAT ARE NOT DEFINED WITHIN TITLE 58 AS A PUBLIC UTILITY, AND TO PROVIDE THAT THE PROVISIONS OF THIS ACT SHALL SUNSET ON JUNE 30, 2024, UNLESS OTHERWISE AMENDED, REENACTED, OR EXTENDED BY THE GENERAL ASSEMBLY.

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

Condemnation powers, certain pipeline companies exempted

SECTION 1. Section 58-7-10 of the 1976 Code is amended to read:

"Section 58-7-10. (A) Subject to the same duties and liabilities, all the rights, powers, and privileges conferred upon telegraph and telephone companies under Article 17, Chapter 9 of this title are hereby granted to pipeline companies incorporated under the laws of this State

or to such companies incorporated under the laws of any other state when such companies have complied with the laws of this State regulating the doing of business herein by foreign corporations.

(B) The provisions of Section 58-9-2030 and of Chapter 2, Title 28 do not apply to private, for-profit pipeline companies, including publicly traded for-profit companies, that are not defined within this title as a public utility."

Time effective and sunset provisions

SECTION 2. This act takes effect upon approval by the Governor and Section 58-7-10(B), as added by this act, is repealed June 30, 2024, unless the General Assembly amends the language of Section 58-7-10(B) or it is reenacted or otherwise extended by the General Assembly before June 30, 2024.

Ratified the 21st day of April, 2022.

Approved the 25th day of April, 2022.

No. 145

(R159, H3773)

AN ACT TO AMEND SECTION 44-23-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS APPLICABLE TO BOTH MENTALLY ILL PERSONS AND PERSONS WITH INTELLECTUAL DISABILITY, SO AS TO ADD A DEFINITION FOR "RESTORATION TREATMENT"; AND TO AMEND SECTION 44-23-430, RELATING TO HEARINGS ON A PERSON'S FITNESS TO STAND TRIAL, SO AS TO EXTEND THE LENGTH OF TIME CERTAIN PERSONS UNFIT TO STAND TRIAL MAY BE HOSPITALIZED FOR RESTORATION TO ONE HUNDRED EIGHTY DAYS, TO ALLOW THE DEPARTMENT OF MENTAL HEALTH TO PROVIDE RESTORATION TREATMENT IN DETENTION CENTERS WITH CERTAIN APPROVAL AND ON AN OUTPATIENT BASIS IN CERTAIN CIRCUMSTANCES, AND FOR OTHER PURPOSES.

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

Definitions

SECTION 1. Section 44-23-10(23) - (26) of the 1976 Code is amended to read:

"(23) 'Restoration treatment' means treatment provided to a person who has been determined unfit to stand trial but likely to become fit in the foreseeable future, and which has as part of its goals assisting the person to gain the capacity to understand the proceedings against him and to assist in his own defense.

(24) 'State hospital' means a hospital, or part of a hospital, equipped to provide inpatient care and treatment and maintained by the department.

(25) 'State mental health facility' or 'facility' means any hospital, clinic, or other institution maintained by the department.

(26) 'State of citizenship' means the last state in which a person resided for one or more consecutive years, exclusive of time spent in public or private hospitals and penal institutions or on parole or unauthorized absence from such hospitals and institutions and of time spent in service in any of the Armed Forces of the United States; the residence of a person must be determined by the actual physical presence, not by the expressed intent of the person.

(27) 'Treatment' means the broad range of emergency, outpatient, intermediate, and inpatient services and care that may be extended to a patient, including diagnostic evaluation and medical, psychiatric, psychological, and social service care and vocational rehabilitation and counseling."

Hearing on fitness to stand trial

SECTION 2. Section 44-23-430 of the 1976 Code is amended to read:

"Section 44-23-430. (A) Upon receiving the report of the designated examiners, the court shall set a date for and notify the person and his counsel of a hearing on the issue of his fitness to stand trial. If, in the judgment of the designated examiners or the superintendent of the facility if the person has been detained, the person is in need of hospitalization, the court with criminal jurisdiction over the person may authorize his detention in a suitable facility until the hearing. The person shall be entitled to be present at the hearings and to be represented by

counsel. If upon completion of the hearing and consideration of the evidence the court finds that:

(1) the person is fit to stand trial, it shall order the criminal proceedings resumed; or

(2) the person is unfit to stand trial for the reasons set forth in Section 44-23-410 and is unlikely to become fit to stand trial in the foreseeable future, the solicitor responsible for the criminal prosecution shall initiate judicial admission proceedings pursuant to Sections 44-17-510 through 44-17-610 or Section 44-20-450 within fourteen days, excluding Saturdays, Sundays, and holidays, during which time the court may order the person hospitalized, may order the person to continue in detention if detained, or, if on bond, may permit the person to remain on bond; or

(3) the person is unfit to stand trial but likely to become fit in the foreseeable future, the court shall order him to undergo restoration treatment by the Department of Mental Health for up to one hundred eighty days from the commencement of restoration treatment. If the person is in detention, the Department of Mental Health has the discretion to provide the restoration treatment in a hospital or detention facility. Restoration treatment shall only occur in a detention facility with the consent and approval of the sheriff or local government, whichever has lawful custody of the detention facility. If the person is on bond, the Department of Mental Health has the discretion to provide the restoration treatment in a hospital or on an outpatient basis. If the person is found to be unfit at the conclusion of the period of restoration treatment, the solicitor responsible for the criminal prosecution shall initiate judicial admission proceedings pursuant to Sections 44-17-510 through 44-17-610 or Section 44-20-450 within fourteen days, excluding Saturdays, Sundays, and holidays.

(B) Subject to the provisions of Section 44-23-460, persons against whom criminal charges are pending and who are hospitalized in accordance with this article shall have all the rights and privileges of other involuntarily hospitalized persons.

(C) Persons against whom criminal charges are pending but who are not involuntarily committed following judicial admission proceedings shall be released unless: (1) the person is charged with a violent crime or (2) the person is charged with a nonviolent crime and the solicitor files a motion to require bond for release. If the pending charge is a violent crime, a hearing must be held by the court in which the charges are pending, prior to release, on the issue of whether the person shall be released on bond with terms and conditions appropriate for the safety of the community and the well-being of the person. If the pending charge is a nonviolent crime, and the solicitor files a motion to require bond for

release, a hearing may be held by the court in which the charges are pending to determine whether the person poses such a risk of danger to the community that he must not be released without bond. In addition to any terms or conditions of bond allowed under Section 17-15-10, the court must include terms or conditions of bond that are therapeutic in nature. Therapeutic terms and conditions may include, but not be limited to, a requirement that the person cooperate in any treatment indicated for their psychiatric or intellectual impairments, including the keeping of scheduled appointments, the taking of all prescribed medications, the abstaining from alcohol or illegal drug use, and a requirement that the person comply with random or scheduled drug screens to insure sobriety and medication compliance. For purposes of this subsection, 'violent crime' means any offense included in Section 16-1-60."

Time effective

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

Ratified the 21st day of April, 2022.

Approved the 25th day of April, 2022.

No. 146

(R160, H3859)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 77 TO TITLE 39 SO AS TO PROVIDE DEFINITIONS, TO PROVIDE THAT A PERSON WHO OWNS OR OPERATES A WEBSITE DEALING IN ELECTRONIC DISSEMINATION OF THIRD-PARTY COMMERCIAL RECORDINGS OR AUDIOVISUAL WORKS SHALL MAKE CERTAIN DISCLOSURES, TO PROVIDE FOR A PRIVATE CAUSE OF ACTION, TO PROVIDE THAT THIS CHAPTER IS SUPPLEMENTAL TO STATE AND FEDERAL CRIMINAL AND CIVIL LAW, AND TO PROVIDE THAT VIOLATIONS CONSTITUTE AN UNFAIR TRADE PRACTICE.

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

Electronic dissemination of commercial recordings or audiovisual works

SECTION 1. Title 39 of the 1976 Code is amended by adding:

"CHAPTER 77

Electronic Dissemination
of Commercial Recordings or Audiovisual Works

Section 39-77-20. As used in this chapter:

(1) 'Audiovisual works' means works that consist of a series of related images which are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the works are embodied.

(2) 'Commercial recording or audiovisual work' means a recording or audiovisual work whose owner, assignee, authorized agent, or licensee has disseminated or intends to disseminate such recording or audiovisual work for sale, for rental, or for performance or exhibition to the public, including under license, but does not include an excerpt consisting of less than substantially all of a recording or audiovisual work. A recording or audiovisual work may be commercial regardless of whether a person who electronically disseminates it seeks commercial advantage or private financial gain from the dissemination.

(3) 'Electronic dissemination' means initiating a transmission of, making available, or otherwise offering a commercial recording or audiovisual work for distribution, display, or performance through the Internet or other digital network, regardless of whether another person has previously electronically disseminated the same commercial recording or audiovisual work.

(4) 'Website' means a set of related web pages served from a single web domain. The term does not include a home page or channel page for the user account of a person who is not the owner or operator of the website upon which such user home page or channel page appears.

Section 39-77-30. (A) A person who owns or operates a website or online service dealing in substantial part in the electronic dissemination of third-party commercial recordings or audiovisual works, directly or indirectly, and who electronically disseminates the works to consumers in this State shall disclose clearly and conspicuously his correct name,

physical address, telephone number, and email address on his website or online service in a location readily accessible to a consumer using or visiting the website or online service.

(B) The following locations are considered to be readily accessible for purposes of subsection (A):

(1) a landing or home web page or screen;

(2) an about or about us web page or screen;

(3) a contact or contact us web page or screen;

(4) an information web page or screen; or

(5) another place on the website or online service commonly used to display identifying information to consumers.

Section 39-77-40. (A) An owner, assignee, authorized agent, or exclusive licensee of a commercial recording or audiovisual work electronically disseminated by a website or online service in violation of this chapter may bring a private cause of action to obtain a declaratory judgment that an act or practice violates this chapter and obtain an injunction against any person who knowingly has violated, is violating, or is otherwise likely to violate this chapter. As a condition precedent to filing a civil action under this chapter, the aggrieved party shall make reasonable efforts to place an individual alleged to be in violation of this chapter on notice that the individual may be in violation of this chapter and that failure to cure within fourteen days may result in a civil action filed in a court of competent jurisdiction.

(B) Upon motion of the party instituting the action, the court may make appropriate orders to compel compliance with this chapter.

(C) The prevailing party in a cause under this chapter is entitled to recover necessary expenses and reasonable attorney's fees.

Section 39-77-50. This chapter is supplemental to those provisions of state and federal criminal and civil law which impose prohibitions or provide penalties, sanctions, or remedies against the same conduct prohibited by this chapter. This chapter does not:

(1) bar any cause of action or preclude the imposition of sanctions or penalties that would otherwise be available under state or federal law; or

(2) impose liability on providers of an interactive computer service, communications service, commercial mobile service, or information service including, but not limited to, an Internet access service provider, advertising network or exchange, domain name registration provider, or a hosting service provider, if they provide the transmission, storage, or caching of electronic communications or messages of others or provide another related telecommunications service, commercial mobile radio

service, or information service, for use of such services by another person in violation of this chapter.

Section 39-77-60. (A) A violation of this chapter constitutes an unfair trade practice pursuant to Section 39-5-20.

(B) A public or private right or remedy prescribed by Chapter 5 may be used to enforce this chapter."

Time effective

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

Ratified the 21st day of April, 2022.

Approved the 25th day of April, 2022.

No. 147

(R161, H4177)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-3-190 SO AS TO REQUIRE THE DEPARTMENT OF NATURAL RESOURCES TO HIRE A WATERFOWL PROGRAM MANAGER WITHIN THE WILDLIFE AND FRESHWATER FISHERIES DIVISION AND TO PROVIDE DUTIES AND QUALIFICATIONS; BY ADDING SECTION 50-3-195 SO AS TO ESTABLISH THE WATERFOWL ADVISORY COMMITTEE; TO AMEND SECTION 50-9-510, AS AMENDED, RELATING TO MIGRATORY WATERFOWL PERMITS, SO AS TO INCREASE THE FEES; TO AMEND SECTION 50-9-920, AS AMENDED, RELATING TO REVENUES FROM THE SALE OF PRIVILEGES, LICENSES, PERMITS, AND TAGS, SO AS TO PROVIDE FOR CERTAIN EXPENDITURES FROM THE REVENUES OF RESIDENT AND NONRESIDENT MIGRATORY WATERFOWL PERMITS; AND TO PROVIDE THAT SECTIONS 3 AND 4 OF THIS ACT ARE REPEALED ON JANUARY 1, 2027.

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

Statewide waterfowl program manager

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

"Section 50-3-190. (A) The Chief of Wildlife shall establish a Statewide Waterfowl Program Manager within the Wildlife and Freshwater Fisheries Division. The Waterfowl Program Manager shall:

(1) manage all aspects of the waterfowl and wetland management program where management is directed toward the requirements of native and migratory waterfowl and their allies;

(2) manage the conservation and management of waterfowl habitat that is titled or licensed to the department and ensure the successful utilization of this acreage for the benefit of waterfowl, waterfowl hunters, and other waterfowl enthusiasts;

(3) supervise all waterfowl management activities conducted by staff and contractors for such areas;

(4) coordinate with regional personnel on waterfowl management activities on regional wildlife management areas; and

(5) undertake all other duties as necessary to successfully conserve and manage waterfowl habitat.

(B) The Waterfowl Program Manager must have:

(1) a four-year bachelor's degree from an accredited postsecondary institution;

(2) at least seven years of experience in waterfowl and wetlands management;

(3) a high level of knowledge of waterfowl and wetland management techniques in the Southeast or Atlantic Flyway;

(4) specialized knowledge and experience in coastal ecology, impoundment management, and the ecological principles of water control;

(5) experience in waterfowl resource and habitat data collection and assessment;

(6) a fundamental understanding of federal and state waterfowl hunting rules and regulations; and

(7) the ability to work with the general population and provide clear, concise, and technically accurate presentations and written reports to division leaders, agency executive level staff, the Department of Natural Resources Board, and members of the General Assembly when required.

(C) The department may contract with a qualified individual or entity to assist the Waterfowl Program Manager in providing the services and fulfilling the responsibilities required by the provisions of this section."

Waterfowl advisory committee

SECTION 2. A.Article 1, Chapter 3, Title 50 of the 1976 Code is amended by adding:

"Section 50-3-195. (A) The Waterfowl Advisory Committee is established to assist in the management of waterfowl habitats, assist in the development, protection, and propagation of waterfowl in this State, assist in prioritizing the expenditures of monies to accomplish this purpose, and review the activities of the Waterfowl Program Manager of the department. The committee consists of the following members who serve for a four-year term with a limit of two consecutive terms:

(1) one member of the Board of the Department of Natural Resources appointed by the Chairman of the Board of the Department of Natural Resources, serving ex officio and without voting privileges;

(2) one at-large member appointed by the Governor;

(3) one member appointed by the Chairman of the Senate Finance Committee;

(4) one member appointed by the Chairman of the House Ways and Means Committee;

(5) one member appointed by the Chairman of the Senate Fish, Game and Forestry Committee; and

(6) one member appointed by the Chairman of the House Agriculture, Natural Resources and Environmental Affairs Committee.

(B) The members of the committee shall receive no salary but must be allowed the usual mileage, subsistence, and per diem as authorized by law for commissions, committees, and boards paid from the revenues generated by the sale of stamps, licenses, prints, and related articles.

(C) Vacancies must be filled for the remainder of the unexpired term in the manner of the original appointment.

(D) The committee shall make a report of its findings, activities, and long-term plans to the General Assembly by December thirty-first of each year."

B. In order to stagger the terms of the members of the Waterfowl Advisory Committee, the initial terms of the members appointed by the Chairmen of the Senate Fish, Game and Forestry Committee and the House Agriculture, Natural Resources and Environmental Affairs

Committee are for two years. The initial terms of these members must not be counted for purposes of the two-term limit in Section 50-3-195(A).

Migratory waterfowl permit fees

SECTION 3. Section 50-9-510(E) of the 1976 Code is amended to read:

"(E) For the privilege of hunting migratory waterfowl, in addition to the required hunting license and permits and any required federal stamp or permit:

(1) a resident must purchase a migratory waterfowl permit for fifteen dollars and fifty cents, fifty cents of which the issuing sales vendor may retain;

(2) a nonresident must purchase a migratory waterfowl permit for fifteen dollars and fifty cents, fifty cents of which the issuing sales vendor may retain."

Revenue from the sale of privileges, licenses, permits, and tags

SECTION 4. Section 50-9-920(B) of the 1976 Code, as last amended by Act 152 of 2020, is further amended to read:

"(B) Revenue generated from the sale of other hunting and freshwater fishing licenses, permits, and tags shall be remitted to the State Treasurer and unless otherwise required by law credited to the Fish and Wildlife Protection Fund. Revenue from each:

(1) wildlife management area permit shall be used for the management and the procurement of wildlife management area lands;

(2) nonresident annual statewide hunting license shall be used as follows:

(a) one dollar for the propagation, management, and protection of ducks and geese in this State; and

(b) the balance to the Fish and Wildlife Protection Fund;

(3) nonresident temporary statewide hunting license shall be used as follows:

(a) fifty cents for the propagation, management, and protection of ducks and geese in this State; and

(b) the balance to the Fish and Wildlife Protection Fund;

(4) nonresident annual freshwater fishing license shall be distributed as follows:

(a) twenty-five percent to the County Game and Fish Fund account for the respective county in which the license was sold, except that these licenses sold through a central point such as online, call centers, and department mass mailings shall be equally allocated to the counties;

(b) twenty-five percent for the operation and management of department freshwater fish hatcheries; and

(c) the balance to the Fish and Wildlife Protection Fund;

(5) application fee, permit, tag, and nonresident hunting fee for the privilege of hunting alligators shall be used to administer the alligator management program;

(6) Deer Quota Program permit shall be exclusively used to administer the Deer Quota Program and for deer management and research;

(7) individual antlerless and nonresident antlered deer tags shall be used as follows:

(a) eighty percent to administer the tag program, deer management, and research; and

(b) the remaining twenty percent for law enforcement;

(8) application fee, permit, and tag for the privilege of hunting bear shall be used to administer the tag program, protect bear habitats, and support bear research and management;

(9) field trial permit and shooting preserve operation permit shall be used to support the management of small game programs;

(10) lottery hunt application fee shall be used to administer the lottery hunt program and support management of lands on which the lottery hunts take place;

(11) falconry permit shall be used to support the falconry permitting program;

(12) resident antler restriction individual antlered deer tag shall be used to administer the Coyote Management Program;

(13) resident and nonresident wild turkey tags shall only be used for the following purposes:

(a) the funding of wild turkey scientific research on public lands and private lands with the consent of landowners;

(b) the improvement of the wild turkey habitat and hunting opportunities for wild turkeys on public lands;

(c) wild turkey predator control;

(d) the enforcement of the wild turkey hunting laws and regulations; and

(e) the printing and mailing of the wild turkey tags;

(14)(a) resident and nonresident migratory waterfowl permit shall be used for the management of waterfowl habitats and for the development, protection, management, and propagation of wild waterfowl in this State and along the Atlantic Flyway as follows:

(i) a minimum of two hundred and fifty thousand dollars of revenue received annually from the waterfowl permit fee must be used to restore and manage waterfowl habitat on state wildlife management areas and such funds must be leveraged with other sources when available;

(ii) ten percent of the revenue from the waterfowl permit fee contributed annually for the first three years following the enactment of this section to the AFWA Fall Flight Program for the propagation, management, and protection of ducks and geese in the areas that benefit South Carolina;

(iii) twenty percent of the revenue from the waterfowl permit fee contributed annually in the fourth and succeeding years following the enactment of this section to the AFWA Fall Flight Program for the propagation, management, and protection of ducks and geese in the areas that benefit South Carolina; and

(iv) all remaining annual funds shall be used for the development, protection, management, and propagation of wild waterfowl in this State. All balances must be retained and carried forward annually.

(b) no revenue generated from the sale of a waterfowl permit may be expended for administrative salaries."

Sunset provision

SECTION 5. The amendments contained in SECTIONS 3 and 4 of this act are repealed on December 31, 2027, and the text of these SECTIONS therefore shall revert back to the language as contained in the South Carolina Code of Laws as of January 1, 2020.

Time effective

SECTION 6. This act takes effect July 1, 2022.

Ratified the 21st day of April, 2022.

Approved the 25th day of April, 2022.

No. 148

(R162, H4319)

AN ACT TO AMEND SECTION 56-1-90, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EVIDENCE REQUIRED OF APPLICANTS TO OBTAIN A DRIVER'S LICENSE, SO AS TO REVISE THIS EVIDENCE TO INCLUDE GENDER, PRINCIPAL RESIDENTIAL ADDRESS, LEGAL NAME CHANGE, AND AUTHORIZED LENGTH OF STAY IN THIS COUNTRY, TO PROVIDE THIS EVIDENCE APPLIES TO APPLICANTS SEEKING TO OBTAIN OR RENEW DRIVERS' LICENSES, BEGINNERS' PERMITS, OR IDENTIFICATION CARDS, TO REVISE THE TYPES OF EVIDENCE NECESSARY TO VERIFY THE SOCIAL SECURITY NUMBERS OF APPLICANTS, TO PROVIDE THE TYPES OF EVIDENCE APPLICANTS WHOSE NAMES HAVE CHANGED SINCE BIRTH MUST PRESENT TO SHOW NAME TRACEABILITY, TO PROVIDE APPLICANTS MAY HAVE DRIVERS' LICENSES OR IDENTIFICATION CARDS ISSUED IN THEIR PREFERRED NAMES UNDER CERTAIN CIRCUMSTANCES, AND TO PROVIDE THAT REAL IDS SHALL NOT BE ISSUED IN THE CASE OF SOCIAL SECURITY NUMBERS NOT VALIDATING; AND TO AMEND SECTIONS 56-1-140, AS AMENDED, 56-1-50, AS AMENDED, 56-1-2100, AS AMENDED, AND 56-1-3370, RELATING TO THE ISSUANCE OF DRIVERS' LICENSES, BEGINNERS' PERMITS, COMMERCIAL DRIVER LICENSES, AND SPECIAL IDENTIFICATION CARDS, SO AS TO PROVIDE THEY MUST CONTAIN UNOBSTRUCTED PHOTOGRAPHS OF THE APPLICANTS, AND TO PROVIDE THE PHOTOGRAPHS ARE NOT REQUIRED TO BE IN COLOR.

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

Evidence required to obtain a driver's license or identification card

SECTION 1. Section 56-1-90 of the 1976 Code is amended to read:

"(A) The Department of Motor Vehicles may require every applicant to submit acceptable evidence when applying for or renewing a driver's license, beginner's permit, or identification card that proves the applicants:

(1) date of birth;
(2) place of birth;
(3) gender;
(4) Social Security number;
(5) principal residential address;
(6) full legal name;
(7) when applicable, legal name change; and
(8) when applicable, authorized length of stay in the United States.

An applicant may prove sufficiently the existence and validity of his Social Security number, for purposes of Section 14-7-130, by any document or electronic means considered reliable by the Department of Motor Vehicles, so long as that document or electronic mean does not conflict with other provisions of state or federal law. The numbers also may be obtained from the Department of Revenue pursuant to Section 12-54-240(B)(7), which permits the Department of Revenue to submit taxpayer Social Security numbers to the Department of Motor Vehicles and to the State Election Commission.

This section does not prevent issuance of a driver's license or identification card to a foreign exchange student participating in a valid foreign exchange program.

(B) The department may require applicants to submit acceptable documents in other circumstances if those documents are not already on file with the department.

(C) In the case of a name change that occurred after the applicant's birth, an applicant must present documentation to the department to show name traceability, in addition to the items in subsection (A) if not already on file with the department:

(1) a court order issued pursuant to Chapter 49, Title 15 or an equivalent court order issued by a foreign jurisdiction;

(2) a marriage license issued pursuant to Chapter 1, Title 20 signed by the official that performed the wedding ceremony and signed by both parties to the marriage, or an equivalent marriage license issued by a foreign jurisdiction. An applicant only is entitled to use a marriage license one time per marriage to change his middle name, last name, or both with the department. A marriage license cannot be used to change an applicant's first name;

(3) a change of name allowance following a divorce pursuant to Section 20-3-180 or an equivalent change of name document following a divorce issued by a foreign jurisdiction; or

(4) an unexpired, United States Passport or Passport Card that includes the applicant's full legal name.

If any one of the above documents does not show a link to the applicant's evidence of full legal name, the department may require the applicant to submit more than one document to show traceability from the applicant's original name to his current name.

(D) If an applicant is applying for a permit, driver's license, or identification card that will be issued with a name other than what is presented to the department pursuant to subsection (A), the department may issue any driver's license or identification card in the applicant's preferred name if the applicant presents to the department at least three different documents, acceptable to the department, showing the applicant's full name with the preferred name being the one used for at least fifteen years. These three documents must be in addition to the documents prescribed in subsection (A), and must, at the department's discretion, show a reasonable link to the documents prescribed in subsection (A).

(E) If an applicant is applying for a permit, driver's license, or identification card under the provisions of subsections (C) or (D), the applicant's social security number must be validated with the Social Security Administration using the applicant's preferred and full name presented to the department before the department may issue a driver's license, permit, or identification card to the applicant.

(F) In the case of the social security number not validating, the department shall not issue any type of REAL ID permit, license, or identification card."

Driver's license photograph

SECTION 2. Section 56-1-140(A) of the 1976 Code is amended to read:

"(A) Upon payment of a fee of twenty-five dollars for a license that is valid for eight years, the department shall issue to every qualified applicant a driver's license as applied for by law. The license must bear on it a distinguishing number assigned to the licensee, the full name, date of birth, residence address, a brief description and unobstructed photograph of the licensee's face, any marking otherwise required or in compliance with law, and a facsimile of the signature of the licensee. No license is valid until it has been so signed by the licensee. The license authorizes the licensee to operate only those classifications of vehicles as indicated on the license."

Beginner's permit photograph

SECTION 3. Section 56-1-50(D) of the 1976 Code is amended to read:

"(D) A beginner's permit may be renewed or a new permit issued for additional periods of twelve months. However, the department may refuse to renew or issue a new permit where the examining officer has reason to believe the applicant has not made a bona fide effort to pass the required driver's road test or does not appear to the examining officer to have the aptitude to pass the road test. The fee for every beginner's or renewal permit is two dollars and fifty cents, and the permit must bear the full name, date of birth, and residence address and a brief description and unobstructed photograph of the permittee and a facsimile of the signature of the permittee or a space upon which the permittee shall write his usual signature with pen and ink immediately upon receipt of the permit. A permit is not valid until it has been signed by the permittee."

Commercial driver's license photograph

SECTION 4. Section 56-1-2100(A)(2) of the 1976 Code is amended to read:

"(2) the person's unobstructed photograph;"

Special identification photograph

SECTION 5. Section 56-1-3370 of the 1976 Code is amended to read:

"Section 56-1-3370. The special identification card issued pursuant to this article shall be similar in size, shape, and design to a motor vehicle driver's license, including an unobstructed photograph of the person to whom it is issued. Provided, however, that the card shall be readily distinguishable from a driver's license by a difference in color, and there shall be printed on the face of such card a statement that the card does not enable the person to whom it is issued to operate a motor vehicle."

Time effective

SECTION 6. This act takes effect on the first Wednesday occurring two weeks after the Governor's approval.

Ratified the 21st day of April, 2022.

Approved the 25th day of April, 2022.

No. 149

(R164, S11)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 8-11-150 SO AS TO DEFINE TERMS AND TO PROVIDE THE CIRCUMSTANCES WHEN AN ELIGIBLE STATE EMPLOYEE MAY BE ENTITLED TO PAID PARENTAL LEAVE UPON THE BIRTH OF A CHILD OR INITIAL LEGAL PLACEMENT OF A FOSTER CHILD; AND TO AMEND SECTION 8-11-155, RELATING TO THE USE OF SICK LEAVE TO CARE FOR AN ADOPTED CHILD, SO AS TO DEFINE TERMS AND TO PROVIDE THE CIRCUMSTANCES WHEN AN ELIGIBLE STATE EMPLOYEE MAY BE ENTITLED TO PAID PARENTAL LEAVE UPON THE INITIAL LEGAL PLACEMENT OF A CHILD BY ADOPTION.

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

Paid parental leave, birth and foster care

SECTION 1. Article 1, Chapter 11, Title 8 of the 1976 Code is amended by adding:

"Section 8-11-150. (A) For the purposes of this section:

(1) 'Child' means a newborn biological child or foster of a child in state custody and under the age of eighteen. No child can have more than two parents eligible for paid parental leave.

(2) 'Eligible state employee' means an employee occupying any percentage of a full-time equivalent position.

(3) 'Paid parental leave' means six weeks of paid leave at one hundred percent of the eligible state employee's base pay or two weeks of paid leave at one hundred percent of the eligible state employee's base pay. Leave for part-time eligible state employees must be on a prorated basis corresponding to the percentage of hours they are normally scheduled to work.

(4) 'Qualifying event' means the birth of a newborn biological child to an eligible state employee or after a co-parent's birth of a newborn child or fostering a child in state custody.

(B) Eligible state employees who are employed by this State, its departments, agencies, or institutions and who give birth are entitled to receive six weeks of paid parental leave. Other eligible state employees who do not give birth are entitled to receive two weeks of paid parental leave.

(C) Paid parental leave usage includes the following:

(1) The entitlement to leave pursuant to subsection (B) expires at the end of the twelve-month period beginning on the date of such birth or initial legal placement. An eligible state employee shall receive no more than one occurrence of six or two weeks of paid parental leave for any twelve-month period, even if more than one qualifying event occurs. However, nothing in this item prohibits a foster parent from requesting and receiving approval for parental leave in nonconsecutive one-week time periods.

(2) If the leave is not used by the eligible state employee before the end of the twelve-month period after the qualifying event, such leave does not accumulate for subsequent use. Paid parental leave may not be donated. Any leave remaining at the end of the twelve-month period or at separation of employment is forfeited.

(3) Days of paid parental leave taken under this section must be taken consecutively, except that foster parents may request and receive approval for parental leave in nonconsecutive one-week time periods.

(4) If both parents are eligible state employees, paid parental leave may be taken concurrently, consecutively, or a different time as the other eligible state employee.

(5) Legal holidays listed in Section 53-5-10 must not be counted against paid parental leave.

(6) Paid parental leave must run concurrently with leave taken pursuant to the Family Medical and Leave Act and any other unpaid leave to which the eligible state employee may be entitled as a result of the qualifying event. However, leave granted under this section is with pay and is not annual leave or sick leave and therefore does not deduct from the eligible state employee's accrued leave balance. An eligible

state employee does not have to exhaust all other forms of leave before being eligible to take leave granted under this section. Eligible state employees shall accrue annual and sick leave at the normal rate while on this leave, if applicable.

(D) The Division of Human Resources of the Department of Administration shall promulgate regulations, guidance, and procedures to implement this section."

Paid parental leave, adoption

SECTION 2. Section 8-11-155 of the 1976 Code is amended to read:

"Section 8-11-155. (A) For the purposes of this section:

(1) 'Child' means a child initially legally placed for adoption and under the age of eighteen. No child can have more than two parents eligible for paid parental leave.

(2) 'Eligible state employee' means an employee occupying any percentage of a full-time equivalent position.

(3) 'Paid parental leave' means six weeks of paid leave at one hundred percent of the eligible state employee's base pay or two weeks of paid leave at one hundred percent of the eligible state employee's base pay. Leave for part-time eligible state employees must be on a prorated basis corresponding to the percentage of hours they are normally scheduled to work.

(4) 'Qualifying event' means the initial legal placement of a child by adoption.

(B) Eligible state employees who are employed by this State, its departments, agencies, or institutions and are primarily responsible for furnishing the care and nurture of the child, are entitled to six weeks of paid parental leave upon the occurrence of a qualifying event. Eligible state employees who are employed by this State, its departments, agencies, or institutions who are not primarily responsible for furnishing the care and nurture of the child, are entitled to two weeks of paid parental leave upon the occurrence of a qualifying event.

(C) Paid parental leave usage includes the following:

(1) The entitlement to leave pursuant to subsection (B) expires at the end of the twelve-month period beginning on the date of initial legal placement. An eligible state employee shall receive no more than one occurrence of six or two weeks of paid parental leave for any twelve-month period, even if more than one qualifying event occurs.

(2) If the leave is not used by the eligible state employee before the end of the twelve-month period after the qualifying event, such leave

does not accumulate for subsequent use. Paid parental leave may not be donated. Any leave remaining at the end of the twelve-month period or at separation of employment is forfeited.

(3) Days of paid parental leave taken under this section must be taken consecutively.

(4) If both parents are eligible state employees, paid parental leave may be taken concurrently, consecutively, or a different time as the other eligible state employee.

(5) Legal holidays listed in Section 53-5-10 must not be counted against paid parental leave.

(6) Paid parental leave must run concurrently with leave taken pursuant to the Family Medical and Leave Act and any other unpaid leave to which the eligible state employee may be entitled as a result of the qualifying event. However, leave granted under this section is with pay and is not annual leave or sick leave and therefore does not deduct from the eligible state employee's accrued leave balance. An eligible state employee does not have to exhaust all other forms of leave before being eligible to take leave granted under this section. Eligible state employees shall accrue annual and sick leave at the normal rate while on this leave, if applicable.

(D) The Division of Human Resources of the Department of Administration shall promulgate regulations, guidance, and procedures to implement this section."

Time effective

SECTION 3. This act takes effect October 1, 2022.

Ratified the 12th day of May, 2022.

Approved the 13th day of May, 2022.

No. 150

(R165, S108)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 7-13-25 SO AS TO ESTABLISH EARLY VOTING IN THE STATE; TO AMEND SECTION 7-11-10, RELATING TO METHODS OF

NOMINATING CANDIDATES, SO AS TO PROHIBIT CANDIDATES FROM FILING MORE THAN ONE STATEMENT OF INTENTION OF CANDIDACY FOR A SINGLE OFFICE FOR THE SAME ELECTION, AND TO PROHIBIT CANDIDATES FROM BEING NOMINATED BY MORE THAN ONE POLITICAL PARTY FOR A SINGLE OFFICE IN AN ELECTION; TO AMEND SECTION 7-13-320, RELATING TO BALLOT STANDARDS AND SPECIFICATIONS, SO AS TO PROHIBIT CANDIDATES' NAMES FROM APPEARING ON THE BALLOT MORE THAN ONCE; TO AMEND SECTION 7-15-220, RELATING TO THE WITNESS REQUIREMENT FOR THE OATH OF AN ABSENTEE BALLOT APPLICANT, SO AS TO ADD THAT THE WITNESS MUST BE AT LEAST EIGHTEEN YEARS OF AGE AND ALSO REQUIRE THE PRINTED NAME OF THE WITNESS IN ADDITION TO THE REQUIRED SIGNATURE AND ADDRESS ON THE OATH; TO AMEND SECTION 7-15-320, RELATING TO PERSONS QUALIFIED TO VOTE BY ABSENTEE BALLOT, SO AS TO AMEND THE LIST OF REASONS FOR WHICH ABSENTEE VOTING IS ALLOWED FOR PERSONS WHO ARE GOING TO BE ABSENT FROM THE COUNTY FOR THE DURATION OF THE EARLY VOTING PERIOD AND ELECTION DAY; TO AMEND SECTION 7-15-330, AS AMENDED, RELATING TO THE TIME OF APPLICATION FOR ABSENTEE BALLOTS AND APPLICATION IN PERSON, SO AS TO DEFINE THE PARAMETERS BY WHICH A PERSON MAY REQUEST AN APPLICATION TO VOTE BY ABSENTEE BALLOT FOR HIMSELF OR OTHERS, TO PROVIDE FOR VERIFICATION OF THE INFORMATION REGARDING THE ELECTOR, TO PROVIDE THAT NO MORE THAN FIVE APPLICATIONS MAY BE REQUESTED IN ADDITION TO THE REQUESTOR HIMSELF, AND TO PROVIDE THE TIMEFRAME THAT THE APPLICATIONS MUST BE RETURNED BY; TO AMEND SECTION 7-15-380, RELATING TO THE OATH OF AN ABSENTEE BALLOT APPLICANT, SO AS TO MAKE CONFORMING CHANGES; TO AMEND SECTION 7-15-385, RELATING TO THE MARKING AND RETURN OF ABSENTEE BALLOTS, SO AS TO REQUIRE AN AUTHORIZED RETURNEE TO PRODUCE A CURRENT AND VALID FORM OF GOVERNMENT-ISSUED PHOTO IDENTIFICATION AND TO PROVIDE IT IS UNLAWFUL FOR A PERSON TO RETURN

MORE THAN FIVE ENVELOPES IN AN ELECTION IN ADDITION TO HIS OWN AND PROVIDE A PENALTY; TO AMEND SECTION 7-15-420, AS AMENDED, RELATING TO THE RECEIPT, TABULATION, AND REPORTING OF ABSENTEE BALLOTS, SO AS TO ALLOW THE EXAMINATION OF RETURN-ADDRESSED ENVELOPES TO BEGIN AT 7:00 A.M. ON THE SECOND DAY PRECEDING ELECTION DAY, TO ALLOW THE TABULATION OF ABSENTEE BALLOTS TO BEGIN AT 7:00 A.M. ON ELECTION DAY, AND TO CREATE A PENALTY FOR PUBLIC REPORTING OF THE RESULTS OF ABSENTEE BALLOTS BEFORE THE POLLS ARE CLOSED; TO AMEND SECTION 7-15-430, RELATING TO ABSENTEE VOTERS NOTED ON ELECTION LISTS AND VOTING BY PERSONS ISSUED ABSENTEE BALLOTS, SO AS TO PROVIDE PROCEDURES FOR THE CASTING OF PROVISIONAL BALLOTS BY PERSONS WHO HAVE NOT RETURNED THEIR ABSENTEE BALLOTS; TO AMEND SECTION 7-5-170, RELATING TO VOTER REGISTRATION WRITTEN APPLICATIONS, FORMS, AND OATHS, SO AS TO REQUIRE ACKNOWLEDGEMENT THAT THE PERSON REGISTERING TO VOTE IS NEITHER REGISTERED NOR INTENDS TO VOTE IN ANOTHER STATE OR COUNTY AND PROVIDE FOR A DATE STAMP ON APPLICATIONS; TO AMEND SECTIONS 7-13-320 AND 7-13-610, BOTH RELATING TO BALLOT STANDARDS AND SPECIFICATIONS, BOTH SO AS TO REQUIRE BALLOTS TO INCORPORATE FEATURES WHICH CAN BE USED TO AUTHENTICATE THE BALLOT AS OFFICIAL, EXCEPT FOR BALLOTS DELIVERED ELECTRONICALLY UNDER THE FEDERAL UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT; TO AMEND SECTION 7-13-1330, RELATING TO VOTE RECORDERS AND OPTICAL SCAN VOTING SYSTEMS, SO AS TO REQUIRE CERTAIN STEPS BEFORE A STATEWIDE VOTING SYSTEM IS PROCURED, TO PROVIDE REQUIREMENTS FOR AN OPTICAL SCAN VOTING SYSTEM, AND TO REQUIRE THE PRESERVATION OF ELECTRONIC RECORDS FOR A STATEWIDE ELECTION FOR NOT LESS THAN TWENTY-FOUR MONTHS FOLLOWING THE ELECTION; TO AMEND SECTION 7-13-1340, RELATING TO REQUIREMENTS FOR VOTE RECORDERS OR OPTICAL SCAN VOTING DEVICES, SO AS TO PROVIDE THESE DEVICES MAY NOT BE USED UNLESS

A DELINEATED LIST OF INTERNET AND OTHER CONNECTIONS ARE DISABLED; TO AMEND SECTION 7-13-1620, RELATING TO THE VOTING SYSTEM APPROVAL PROCESS, SO AS TO PROVIDE THAT IF THE FEDERAL VOTING SYSTEM STANDARDS AND GUIDELINES HAVE BEEN AMENDED WITHIN A CERTAIN TIME PERIOD BEFORE AN ELECTION, THE STATE ELECTION COMMISSION MAY APPROVE AND CERTIFY A VOTING SYSTEM IF CERTAIN CRITERIA ARE MET; TO AMEND SECTION 7-13-1640, RELATING TO VOTING MACHINE REQUIREMENTS, SO AS TO MAKE CONFORMING CHANGES; TO REPEAL SECTION 7-13-440 RELATING TO VOTING MACHINE BALLOTS AND ARRANGEMENT OF NOMINATIONS; TO AMEND SECTION 7-3-40, RELATING TO REPORTS TO BE FURNISHED BY THE BUREAU OF VITAL STATISTICS TO THE EXECUTIVE DIRECTOR OF THE STATE ELECTION COMMISSION, SO AS TO INCLUDE IN THE INFORMATION THAT MUST BE PROVIDED ALL INDIVIDUALS EIGHTEEN YEARS OF AGE OR OLDER WHO HAVE DIED OUT-OF-STATE; TO AMEND SECTION 7-5-186, RELATING TO THE STATEWIDE VOTER REGISTRATION DATABASE, SO AS TO REQUIRE THE EXECUTIVE DIRECTOR TO CONDUCT AN ANNUAL GENERAL REGISTRATION LIST MAINTENANCE PROGRAM AND TO PROVIDE PROCEDURES FOR HANDLING DISCREPANCIES IN THE VOTER REGISTRATION DATABASE; TO AMEND SECTIONS 7-5-330 AND 7-5-340, BOTH RELATING TO REMOVAL OF ELECTORS, SO AS TO PROVIDE A TIMEFRAME TO REMOVE AN ELECTOR UNDER CERTAIN CIRCUMSTANCES WARRANTING SUCH; BY ADDING SECTION 7-25-30 SO AS TO REQUIRE THE STATE LAW ENFORCEMENT DIVISION TO ESTABLISH A PUBLIC REPORTING MECHANISM FOR POSSIBLE ELECTION LAW VIOLATIONS; BY ADDING SECTION 7-5-350 SO AS TO REQUIRE THE STATE ELECTION COMMISSION TO REPORT ANNUALLY TO THE GENERAL ASSEMBLY ON ACTIONS TAKEN TO MAINTAIN THE ACCURACY OF THE STATEWIDE VOTER REGISTRATION DATABASE; BY ADDING SECTION 7-1-110 SO AS TO PROVIDE THAT THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES HAVE THE RIGHT TO INTERVENE AND HAVE STANDING ON BEHALF OF THEIR

RESPECTIVE BODIES IN ACTIONS TO CHALLENGE THE VALIDITY OF AN ELECTION LAW, AN ELECTION POLICY, OR THE MANNER IN WHICH AN ELECTION IS CONDUCTED; TO AMEND SECTION 7-3-20, RELATING TO THE DUTIES OF THE EXECUTIVE DIRECTOR OF THE STATE ELECTION COMMISSION, SO AS TO REQUIRE THE EXECUTIVE DIRECTOR TO ESTABLISH METHODS OF AUDITING ELECTION RESULTS; TO AMEND SECTIONS 7-25-20, 7-25-110, 7-25-120, 7-25-160, AND 7-25-170, ALL RELATING TO OFFENSES AGAINST ELECTION LAWS, ALL SO AS TO PROVIDE INCREASED PENALTIES; TO AMEND SECTION 7-3-10, RELATING TO THE COMPOSITION, POWERS, AND DUTIES OF THE STATE ELECTION COMMISSION, SO AS TO IDENTIFY CONDITIONS UNDER WHICH A PERSON IS DEEMED INELIGIBLE TO SERVE ON THE COMMISSION, TO ESTABLISH MECHANISMS FOR REMOVING INELIGIBLE COMMISSION MEMBERS, TO REQUIRE THE COMMISSION TO PROMULGATE REGULATIONS TO ESTABLISH STANDARDIZED ELECTION AND VOTER REGISTRATION PROCESSES, AND TO REQUIRE THE COMMISSION TO PROVIDE FOR THE SUPERVISION OF THE EXECUTIVE DIRECTOR TO ENSURE COMPLIANCE WITH APPLICABLE STATE AND FEDERAL ELECTION LAWS; TO AMEND SECTION 7-3-20, RELATING TO THE EXECUTIVE DIRECTOR OF THE STATE ELECTION COMMISSION, SO AS TO PROVIDE FOR THE EXECUTIVE DIRECTOR'S APPOINTMENT WITH ADVICE AND CONSENT OF THE SENATE, TO ESTABLISH THE TERM, QUALIFICATIONS, AND ELIGIBILITY REQUIREMENTS, METHODS OF REMOVAL AND GROUNDS FOR DISQUALIFICATION, AND TO PROVIDE FOR FILLING OF A VACANCY, AMONG OTHER THINGS; TO AMEND SECTION 7-3-25, RELATING TO COUNTY BOARDS OF VOTER REGISTRATION AND ELECTIONS COMPLIANCE WITH ELECTION LAWS AND POLICY, SO AS TO REQUIRE STANDARDIZED PROCESSES WITH REGARD TO THE CONDUCT OF ELECTIONS; BY ADDING SECTION 7-5-50 SO AS TO PROHIBIT THE STATE ELECTION COMMISSION AND COUNTY BOARDS FROM ACCEPTING GIFTS OR FUNDING FROM PRIVATE INDIVIDUALS OR OTHERS; BY ADDING SECTION 7-5-190 SO AS TO DIRECT THE STATE ELECTION COMMISSION TO ENSURE VOTER REGISTRATION

INFORMATION, THE VOTING SYSTEM, AND ELECTRONIC POLL BOOKS ARE PROTECTED BY SECURITY MEASURES THAT MEET CERTAIN BEST PRACTICES STANDARDS; TO AMEND SECTION 7-3-70, RELATING TO REPORTS FURNISHED BY THE DEPARTMENT OF MOTOR VEHICLES, SO AS TO REQUIRE THE DEPARTMENT OF MOTOR VEHICLES TO FURNISH THE EXECUTIVE DIRECTOR OF THE STATE ELECTION COMMISSION A MONTHLY REPORT OF ALL NON-UNITED STATES CITIZENS ISSUED A DRIVER'S LICENSE OR IDENTIFICATION CARD; TO AMEND SECTION 7-13-35, AS AMENDED, RELATING TO NOTICE OF ELECTIONS, SO AS TO MAKE CONFORMING CHANGES; BY ADDING SECTION 7-3-45 SO AS TO REQUIRE EACH COUNTY PROBATE COURT TO FURNISH THE EXECUTIVE DIRECTOR OF THE STATE ELECTION COMMISSION A MONTHLY REPORT OF ALL PERSONS EIGHTEEN YEARS OF AGE OR OLDER DECLARED MENTALLY INCAPACITATED; TO REQUIRE THE STATE ELECTION COMMISSION MUST ESTABLISH A TEMPORARY VOTER EDUCATION PROGRAM; TO AMEND SECTION 7-15-310, RELATING TO DEFINITIONS FOR PURPOSES OF ABSENTEE VOTING, SO AS TO REVISE THE DEFINITION OF "AUTHORIZED REPRESENTATIVE"; BY ADDING SECTION 7-15-400 SO AS TO PROVIDE THAT NO BALLOT APPLICATION OR ABSENTEE BALLOT MAY BE PROVIDED BY AN ELECTION OFFICIAL IF THE APPROPRIATE PROCEDURES ARE NOT FOLLOWED; BY ADDING SECTION 7-25-65 SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON TO PROVIDE OR ACCEPT ANYTHING OF VALUE IN EXCHANGE FOR REQUESTING, COLLECTING, OR DELIVERING AN ABSENTEE BALLOT AND TO PROVIDE A PENALTY; TO AMEND SECTION 7-25-180, RELATING TO UNLAWFUL DISTRIBUTION OF CAMPAIGN LITERATURE, SO AS TO EXPAND THE PROHIBITION ON DISTRIBUTION OF CAMPAIGN LITERATURE OUTSIDE OF POLLING PLACES FROM TWO HUNDRED TO FIVE HUNDRED FEET; AND TO REPEAL SECTION 7-15-470 RELATING TO IN-PERSON ABSENTEE VOTING.

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

Early voting

SECTION 1. Article 1, Chapter 13, Title 7 of the 1976 Code is amended by adding:

"Section 7-13-25. (A) Notwithstanding the provisions of this chapter or Chapter 5 of this title, the authority charged by law with conducting an election shall establish a procedure by which a qualified elector may cast his ballot, without excuse, during an early voting period for all elections. The qualified elector may cast a ballot during an early voting period pursuant to this section.

(B) Early voting centers must be established and maintained to ensure that voters may cast only one ballot.

(C) A qualified elector may cast his ballot at an early voting center in the county in which he resides.

(D) Each county board of voter registration and elections must establish at least one early voting center and may establish up to seven early voting centers. Each early voting center must be supervised by employees of the county board of voter registration and elections or the State Election Commission.

(E) The early voting period shall be from Monday through Saturday for the two-week period immediately preceding an election.

(F) The county board of voter registration and elections shall provide the hours of operation for the early voting center or centers in accordance with the following:

(1) for statewide general elections, the early voting centers must be open from 8:30 a.m. until 6:00 p.m. on each day of the early voting period;

(2) for any election that is not a statewide general election or runoff election, the early voting centers must be open Monday through Friday from 8:30 a.m. until 5:00 p.m. during the early voting period;

(3) for any runoff election, the early voting centers must be open on the Wednesday through Friday immediately preceding the election and must be open from 8:30 a.m. until 5:00 p.m.; and

(4) for any election, the early voting centers must not be open on Sundays or on legal holidays.

(G)(1) Each county board of voter registration and elections must determine locations for its early voting centers. In selecting locations for early voting centers, the county board of voter registration and elections must consider geography, population, and ADA compliant accessibility.

The county board of voter registration and elections must distribute the locations throughout the county to maximize accessibility for all voters in the county to the greatest extent possible.

(2) Each county board of voter registration and elections must identify locations it intends to utilize as early voting centers for a statewide primary and a statewide general election by March 10 before that primary election.

(3) The Executive Director of the State Election Commission must approve the addition or relocation of early voting centers after March 10, and may, at his discretion, direct the move of early voting centers to ensure proper distribution throughout each county.

(H) The county board of voter registration and elections must publish the location and hours of each early voting center at least fourteen days before the early voting period begins. Publication of the schedule must be made, at a minimum, to a website or webpage managed by, or on behalf of, each respective county board of voter registration and elections.

(I) Each early voting center must have available every ballot style in use in the particular county for that election.

(J) Upon the daily closure of each early voting center, all ballots must be transported to the county board of voter registration and elections and stored in a secure location.

(K) A sign must be posted prominently in each early voting center and shall have printed on it: 'VOTING MORE THAN ONCE IS A FELONY AND, UPON CONVICTION, A PERSON MUST BE FINED NOT LESS THAN ONE THOUSAND DOLLARS NOR MORE THAN FIVE THOUSAND DOLLARS AND IMPRISONED NOT MORE THAN FIVE YEARS'.

(L) The provisions of this section do not apply to presidential preference primaries held pursuant to Section 7-11-20."

Fusion voting

SECTION 2. A. Section 7-11-10 of the 1976 Code is amended to read:

"Section 7-11-10. (A) Nominations for candidates for the offices to be voted on in a general or special election may be by political party primary, by political party convention, or by petition; however, a person who was defeated as a candidate for nomination to an office in a party primary or party convention must not have his name placed on the ballot for the ensuing general or special election, except that this section does

not prevent a defeated candidate from later becoming his party's nominee for that office in that election if the candidate first selected as the party's nominee dies, resigns, is disqualified, or otherwise ceases to become the party's nominee for that office before the election is held.

(B) A candidate must not file more than one statement of intention of candidacy for a single office for the same election.

(C) A candidate must not be nominated by more than one political party for a single office for the same election."

B. Section 7-13-320(D) of the 1976 Code is amended to read:

"(D) The names of candidates offering for another office must be placed in the proper place on the appropriate ballot, stating whether it is a state, congressional, legislative, county, or other office. A candidate's name must not appear on the ballot more than once for any single office for the same election."

Witness requirements for absentee ballots

SECTION 3. Section 7-15-220(A) of the 1976 Code is amended to read:

"(A) The oath, a copy of which is required by Section 7-15-200(2) to be sent each absentee ballot applicant and which is required by Section 7-15-230 to be returned with the absentee ballot applicant's ballot, shall be signed by the absentee ballot applicant and witnessed by a person who is at least eighteen years of age. The oath shall be in the following form:

'I hereby swear (or affirm) that I am duly qualified to vote at this election according to the Constitution of the State of South Carolina, that I have not voted during this election, that the ballot or ballots with which this oath is enclosed is my ballot and that I have received no assistance in voting my ballot that I would not have been entitled to receive had I voted in person at my voting precinct.'

_____
Signature of Voter
Dated on this _____ day of _____ 20 __

_____ _____
Signature of Witness Printed Name of Witness

_____
Address of Witness"

Persons qualified to vote absentee

SECTION 4. Section 7-15-320 of the 1976 Code is amended to read:

"Section 7-15-320. (A) Qualified electors in the following categories who are unable to vote during early voting hours for the duration of the early voting period, and during the hours the polls are open on election day, must be permitted to vote by absentee ballot in an election:

(1) persons with employment obligations who present written certification of the obligations to the county board of voter registration and elections;

(2) persons who will be attending sick or physically disabled persons;

(3) persons confined to a jail or pretrial facility pending disposition of arrest or trial; or

(4) persons who are going to be absent from their county of residence.

(B) Qualified electors in the following categories must be permitted to vote by absentee ballot in an election, regardless of whether the elector is able to vote during early voting hours for the duration of the early voting period, and during the hours the polls are open on election day:

(1) physically disabled persons;

(2) persons sixty-five years of age or older;

(3) members of the Armed Forces and Merchant Marines of the United States, their spouses, and dependents residing with them; or

(4) persons admitted to hospitals as emergency patients on the day of an election or within a four-day period before the election, as provided in Section 7-15-330."

Requesting absentee ballot applications

SECTION 5. Section 7-15-330 of the 1976 Code, as last amended by Act 133 of 2020, is further amended to read:

"Section 7-15-330. (A) To vote by absentee ballot:

(1) a qualified elector or a member of his immediate family, as defined in Section 7-15-310(8), must request an application to vote by absentee ballot in person, by telephone, or by mail from the county board of voter registration and elections, or at an extension office of the county board of voter registration and elections as established by the county governing body, for the county of the voter's residence; or

(2) A person requesting an application for a qualified elector as the qualified elector's authorized representative must request an application to vote by absentee ballot in person or by mail only and must himself be a registered voter and must sign an oath to the effect that he fits the statutory definition of an authorized representative. The signed oath must be kept on file with the county board of voter registration and elections until the end of the calendar year or until all contests concerning a particular election have been finally determined, whichever is later. A candidate, a member of a candidate's paid campaign staff, or a campaign volunteer, is not allowed to request applications for absentee voting for any person designated in this section unless the person is a member of the immediate family.

(B)(1) A request for an application to vote by absentee ballot may be made anytime during the calendar year in which the election in which the qualified elector desires to be permitted to vote by absentee ballot is being held.

(2) A person who makes a request for an application to vote by absentee ballot, either for himself or on behalf of another elector as permitted by this section, must provide the following:

(a) for the elector for whom the request is being made, the elector's:

(i) name;

(ii) date of birth; and

(iii) last four digits of his social security number; and

(b) if someone is making a request on behalf of an elector, the requestor's:

(i) name;

(ii) address;

(iii) date of birth; and

(iv) relation to the elector, as required by subsection (A).

(3) The county board of voter registration and elections must verify the information required in this section for the elector for whom the absentee ballot is being requested, and must record the information provided for the individual who makes a request on behalf of an elector before providing an absentee ballot application.

(4) A person must not request absentee applications for more than five qualified electors per election, in addition to himself.

(C) Completed applications must be returned in person, by either the elector, a member of the elector's immediate family, or the elector's authorized representative, or by mail, by the elector, to the county board of voter registration and elections no later than 5:00 p.m. on the eleventh day before the day of the election to vote by absentee ballot.

(D) Notwithstanding the provisions of subsection (C), if an elector is admitted to a hospital as an emergency patient on the day of an election or within a four-day period before the election, then a member of the elector's immediate family may obtain an application from the board on the day of an election, complete it, receive the ballot, deliver it personally to the patient who shall vote, and personally carry the ballot back to the county board of voter registration and elections.

(E) The county board of voter registration and elections shall serially number each absentee ballot application form and keep a record book in which must be recorded the number of the form, the name, home address, and absentee mailing address of the person for whom the absentee ballot application form is requested; the name, address, voter registration number, and relationship of the person requesting the form, if other than the applicant; the date upon which the form is requested; the date upon which the form is issued; and the date and method upon which the absentee ballot is returned. This information becomes a public record at 9:00 a.m. on the day immediately preceding the election, except that forms issued for emergency hospital patients must be made public by 9:00 a.m. on the day following an election.

(F) A person who violates the provisions of this section is subject to the penalties provided in Section 7-25-170."

Witness requirements for absentee ballots

SECTION 6. Section 7-15-380(A) of the 1976 Code is amended to read:

"(A) The oath, which is required by Section 7-15-370 to be imprinted on the return-addressed envelope, furnished each absentee ballot applicant, must be signed by the absentee ballot applicant and witnessed by a person who is at least eighteen years of age. The address, printed name, and signature of the witness shall appear on the oath. In the event the voter cannot write because of a physical handicap or illiteracy, the voter must make his mark and have the mark witnessed by someone designated by the voter. The oath must be in the following form:

'I hereby swear (or affirm) that I am duly qualified to vote at this election according to the Constitution of the State of South Carolina 1895, that I have not voted during this election, that the ballot or ballots contained in this envelope is my ballot and that I have received no assistance in voting my ballot that I would not have been entitled to receive had I voted in person at my voting precinct.'

Signature of Voter
Dated on this _____ day of _____ 20 ___

_____ _____
Signature of Witness Printed Name of Witness

_____
Address of Witness"

Returning voted absentee ballots

SECTION 7. Section 7-15-385 of the 1976 Code is amended to read:

"Section 7-15-385. (A) Upon receipt of the ballot or ballots, the absentee ballot applicant must mark each ballot on which he wishes to vote and place each ballot in the single envelope marked 'Ballot Herein' which in turn must be placed in the return-addressed envelope. The applicant must return the return-addressed envelope only by:

(1) mail to the main office of the county board of voter registration and elections;

(2) personal delivery to an election official during office hours at the main office of the county board of voter registration and elections or to an election official during office hours at an early voting center; or

(3) authorizing a member of the applicant's immediate family, as defined in Section 7-15-310(8), or an authorized representative, to return the return-addressed envelope for him to an election official during office hours at the main office of the county board of voter registration and elections or to an election official during office hours at an early voting center.

(B) An applicant who authorizes a member of his immediate family or an authorized representative to return the return-addressed envelope for him pursuant to this section must complete an authorization form prescribed by the State Election Commission that must be turned in by the immediate family member or authorized representative at the time the return-addressed envelope is returned. The applicant must sign the form, or in the event the applicant cannot write because of a physical handicap or illiteracy, then the applicant must make his mark and have the mark witnessed by someone designated by the applicant.

(C) The authorization form prescribed by the State Election Commission must include a designated space in which an election official must record the specific form of government-issued photo identification presented by the immediate family member or authorized representative who is authorized by the applicant to deliver the return-addressed envelope. The authorization form must be preserved as

part of the record of the election, and the county board of voter registration and elections must note the time and date of receipt of the authorization form, the name of the immediate family member or authorized representative, his relationship to the applicant, and the immediate family member's or authorized representative's form of government-issued photo identification in the record book required by Section 7-15-330.

(D)(1) When an applicant, or an applicant's authorized immediate family member or authorized representative, presents himself to deliver a return-addressed envelope pursuant to this section, he must produce a valid and current:

(a) driver's license issued by a state within the United States;

(b) another form of identification containing a photograph issued by the Department of Motor Vehicles or its equivalent by a state within the United States;

(c) passport;

(d) military identification containing a photograph issued by the federal government; or

(e) South Carolina voter registration card containing a photograph of the voter.

(2) An election official must verify that the name and photograph on the identification is the applicant, or the applicant's authorized immediate family member or authorized representative, as applicable.

(E) An election official must not accept a return-addressed envelope until the provisions of this section have been met.

(F) The county board of voter registration and elections must securely store return-addressed envelopes in locked boxes within the main office of the county board of voter registration and elections as prescribed by the State Election Commission.

(G) It is unlawful for a person to return more than five return-addressed envelopes in an election, in addition to his own. A person who violates this subsection, upon conviction, must be punished as provided in Section 7-25-190."

Receipt and tabulation of absentee ballots

SECTION 8. Section 7-15-420 of the 1976 Code, as last amended by Act 133 of 2020, is further amended to read:

"Section 7-15-420. (A) The county board of voter registration and elections, municipal election commission, or executive committee of

each municipal party in the case of municipal primary elections is responsible for the tabulation and reporting of absentee ballots.

(B) Beginning no earlier than 7:00 a.m. on the second day immediately preceding election day, the managers appointed pursuant to Section 7-13-72 may begin the process of examining the return-addressed envelopes that have been received by the county board of voter registration and elections making certain that each oath has been properly signed and witnessed and includes the printed name, signature, and address of the witness. All return-addressed envelopes received by the county board of voter registration and elections before the time for closing the polls must be examined in this manner. A ballot may not be counted unless the oath is properly signed and witnessed nor may any ballot be counted which is received by the county board of voter registration and elections after time for closing of the polls. The printed instructions required by Section 7-15-370(2) to be sent each absentee ballot applicant must notify him that his vote will not be counted in either of these events. If a ballot is not challenged, the sealed return-addressed envelope must be opened by the managers, and the enclosed envelope marked 'Ballot Herein' removed, placed in a locked box or boxes, and kept secure.

(C) After all return-addressed envelopes have been emptied, but no earlier than 7:00 a.m. on election day, the managers shall remove the ballots contained in the envelopes marked 'Ballot Herein', placing each one in the ballot box provided for the applicable contest.

(D) Beginning no earlier than 7:00 a.m. on election day, the absentee ballots may be tabulated, including any absentee ballots received on election day before the polls are closed. If any ballot is challenged, the return-addressed envelope must not be opened, but must be put aside and the procedure set forth in Section 7-13-830 must be utilized; but the absentee voter must be given reasonable notice of the challenged ballot.

(E) Results of the absentee ballot tabulation must not be publicly reported until after the polls are closed. An election official, election worker, candidate, or watcher who intentionally violates the prohibition contained in this subsection is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than five years.

(F) The processes of examining the return-addressed envelopes, opening the sealed return-addressed envelopes to remove the 'Ballot Herein' envelopes, and removing the ballots from the 'Ballot Herein' envelopes for tabulation must be conducted in the presence of any candidate who elects to be present, and of any watchers who have been appointed pursuant to Section 7-13-860. Provided, any candidates or

watchers present must be located a reasonable distance in order to maintain both the right to observe and the secrecy of the ballots."

Absentee voters noted on poll lists

SECTION 9. Section 7-15-430 of the 1976 Code is amended to read:

"Section 7-15-430. (A) Prior to the distribution of voter registration lists to the various precincts, the county board of voter registration and elections shall note, opposite the name of each registered voter, who is provided an absentee ballot and who has returned an absentee ballot.

(B) No voter whose name is so marked on the registration list as having returned an absentee ballot shall be permitted to vote in person in his resident precinct or at an early voting center in his county. A voter who is provided an absentee ballot, but who has not returned an absentee ballot, may cast a provisional ballot at his resident precinct or at an early voting center in his county. The provisional ballot must only be counted if the absentee ballot is not received by the time for the closing of the polls on election day.

(C) Should any voter be issued an absentee ballot, or should any voter return an absentee ballot, after the board has released the registration books to be used in the election to the county board of voter registration and elections, municipal election commission, county committee, executive committee of any municipal party, or poll managers, the board of voter registration and elections shall immediately notify in writing the county board of voter registration and elections, municipal election commission, county committee, executive committee of any municipal party, or poll manager, as the case may be, of the name, address, and certificate number of each voter who has since been issued an absentee ballot, or who has since returned an absentee ballot, and the registration books must be appropriately marked that the voter has been issued an absentee ballot, or has returned an absentee ballot."

Voter registration applications

SECTION 10. Section 7-5-170 of the 1976 Code is amended to read:

"Section 7-5-170. (1) Written application required. A person may not be registered to vote except upon written application or electronic application pursuant to Section 7-5-185, which shall become a part of the permanent records of the board to which it is presented and which

must be open to public inspection. However, the social security number contained in the application must not be open to public inspection.

(2) Form of application. — The application must be on a form prescribed and provided by the executive director and shall contain the following information: name, sex, race, social security number, date of birth, residence address, mailing address, telephone number of the applicant, and location of prior voter registration. The applicant must affirm that he is not under a court order declaring him mentally incompetent, confined in any public prison, has never been convicted of a felony or offense against the election laws, or if previously convicted that he has served his entire sentence, including probation and parole time, or has received a pardon for the conviction. Additionally, the applicant must take the following oath: 'I, do solemnly swear (or affirm) that I am a citizen of the United States and that on the date of the next ensuing election, I will have attained the age of eighteen years and am a resident of South Carolina, this county, and of my precinct. I further swear (or affirm) that the present residence address listed herein is my sole legal place of residence, that I claim no other place as my legal residence, and that, to my knowledge, I am neither registered nor intend to register to vote in another state or county.' Any applicant convicted of fraudulently applying for registration is guilty of perjury and is subject to the penalty for that offense.

(3) Date stamp voter registration applications. — The county board of voter registration and elections shall date stamp all voter registration applications delivered in person, electronically, or by mail as of the date received.

(4) Administration of oaths. — Any member of the county board of voter registration and elections, deputy registrar, or any registration clerk must be qualified to administer oaths in connection with the application.

(5) Decisions on applications. — Any member of the county board of voter registration and elections, deputy registrar, or registration clerk may pass on the qualifications of the prospective voter. In case of a question of an applicant being refused registration, at least one member of the board shall pass on the qualifications of the voter. A concise statement of the reasons for the refusal must be written on the application."

General election ballots

SECTION 11. Section 7-13-320(A) of the 1976 Code is amended to read:

"(A) Other than ballots delivered electronically to qualified electors who are entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. Section 20301, et seq., the ballots shall incorporate features which can be used to authenticate the ballot as an official ballot but which do not make the ballot identifiable to a particular elector. The ballot shall be printed on paper of such thickness that the printing cannot be distinguished from the back and shall be of such size and color as directed by the State Election Commission. If more than one ballot is to be used in any election, each such ballot shall be printed upon different colored paper;"

Ballots for primary elections

SECTION 12. Section 7-13-610(C) of the 1976 Code is amended to read:

"(C) Other than ballots delivered electronically to qualified electors who are entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. Section 20301, et seq., the ballots shall incorporate features which can be used to authenticate the ballot as an official ballot but which do not make the ballot identifiable to a particular elector. The ballot must be printed on paper of a thickness so that the printing cannot be distinguished from the back and must be of a size and color as directed by the State Election Commission. If more than one ballot is to be used in a primary, each ballot must be printed on different colored paper. The ballot must contain a voting square opposite the name of each candidate, and the voter shall vote by putting a mark in the voting square opposite the name of the candidate of his choice. The State Election Commission may establish, under Chapter 23 of Title 1, such rules and regulations as are necessary for the proper administration of this section."

Approval of optical scan voting systems

SECTION 13. Section 7-13-1330 of the 1976 Code is amended to read:

"Section 7-13-1330. (A) Before a decision is made to procure a statewide voting system, the State Election Commission must provide a public comment period of not less than thirty days. The input must be considered in the procurement of a statewide voting system.

(B) Before any kind of optical scan voting system is used at any election, it must be approved by the State Election Commission, which shall examine the optical scan voting system and make and file in the commission's office a report, attested by the signature of the commission's executive director, stating whether, in the commission's opinion, the kind of optical scan voting system examined may be accurately and efficiently used by electors at elections, as provided by law. An optical scan voting system may not be approved for use in the State unless certified by a testing laboratory accredited by the Federal Election Assistance Commission as meeting or exceeding the minimum requirements of the latest federal voting system standards and guidelines. If the federal voting system standards and guidelines have been amended less than thirty-six months prior to an election, then the State Election Commission may approve and certify a voting system that meets the prior standards after determining:

(1) the effect that such approval would have on the integrity and security of elections; and

(2) the procedure and cost involved to bring the voting system into compliance with the amended standards.

(C) No kind of vote recorder not approved pursuant to this section shall be used at any election and if, upon the reexamination of any type vote recorder previously approved, it appears that the vote recorder so reexamined can no longer be accurately and efficiently used by electors at elections as provided by law, the approval of the vote recorder must immediately be revoked by the State Election Commission, and no such type vote recorder shall thereafter be purchased for use or used in this State.

(D) If a vote recorder, including an optical scan voting system, which was approved for use before July 1, 1999, is improved or otherwise changed in a way since its approval that does not impair its accuracy, efficiency, or capacity, the vote recorder may be used in elections. However, if the software, hardware, or firmware of the system is improved or otherwise changed, the system must comply with the requirements of subsection (B).

(E) Any person or company who requests an examination of any type of vote recorder or optical scan voting system shall pay a nonrefundable examination fee of one thousand dollars for a new voting system and a nonrefundable examination fee of five hundred dollars for an upgrade to any existing system to the State Election Commission. The State Election Commission may at any time, in its discretion, reexamine any vote recorder or optical scan voting system when evidence is presented

to the commission that the accuracy or the ability of the system to be used satisfactorily in the conduct of elections is in question.

(F) Any person or company who seeks approval for any vote recorder or optical scan voting system in this State must file with the State Election Commission a list of all states or jurisdictions in which the system has been approved for use. This list must state how long the system has been used in the state; contain the name, address, and telephone number of that state or jurisdiction's chief election official; and must disclose any reports compiled by state or local government concerning the performance of the system. The vendor is responsible for filing this information on an ongoing basis.

(G) Any person or company who seeks approval for any vote recorder or optical scan voting system must file with the State Election Commission copies of all contracts and maintenance agreements used in connection with the sale of the voting system. All changes to standard contracts and maintenance agreements must be filed with the State Election Commission.

(H) Any person or company who seeks approval for any vote recorder or optical scan voting system must conduct, under the supervision of the State Election Commission and any county board of voter registration and elections, a field test for any new voting system, as part of the certification process. The field test shall involve South Carolina voters and election officials and must be conducted as part of a scheduled primary, general, or special election. This test must be held in two or more precincts, and all costs relating to the voting system must be borne by the vendor. The test must be designed to gauge voter reaction to the system, problems that voters have with the system, and the number of voting units required for the efficient operation of an election. The test must also demonstrate the accuracy of votes cast and reported on the system.

(I) Before an optical scan voting system may be used in elections in the State, all source codes for the system must be placed in escrow by the manufacturer, at the manufacturer's expense, with the authority approved by the Federal Election Assistance Commission. These source codes must be available to the State Election Commission in case the company goes out of business, pursuant to court order, or if the State Election Commission determines that an examination of these source codes is necessary. The manufacturer shall place all updates of these source codes in escrow, and notify the State Election Commission that this requirement has been met.

(J) After a vote recorder or optical scan voting system is approved, an improvement or change in the system must be submitted to the State

Election Commission for approval pursuant to this section; however, this requirement does not apply to the technical capability of a general purpose computer or printer to accurately reproduce vote totals.

(K) If the State Election Commission determines that a vote recorder or optical scan voting system that was approved no longer meets the requirements set forth in subsections (B) and (D) or Section 7-13-1340, the commission may decertify that system. A decertified system shall not be used in elections unless the system is reapproved by the commission under subsections (B) and (D).

(L) Neither a member of the State Election Commission, any county board of voter registration and elections or custodian, nor a member of a county governing body shall have any pecuniary interest in any vote recorder, or in the manufacture or sale of the vote recorder.

(M) An optical scan voting system must maintain an image of each ballot that is cast in a manner that protects the integrity of the data and the anonymity of each voter.

(N) All electronic records for a statewide election must be preserved for not less than twenty-four months following the election."

Requirements for optical scan voting systems

SECTION 14. Section 7-13-1340(k) of the 1976 Code is amended to read:

"(k) disables, at all times while utilized in a current election, the following:

(1) a connection to the Internet or an external network;

(2) the capability to establish a wireless connection to an external network;

(3) the establishment of a connection to an external network through a cable, a wireless modem or any other mechanism or process; and

(4) automatic resolution functionality for ballots flagged for further review."

Voting system requirements

SECTION 15. Section 7-13-1620(A) and (G) of the 1976 Code are amended to read:

"(A) Before any kind of voting system, including an electronic voting system, is used at an election, it must be approved by the State Election

Commission, which shall examine the voting system and make and file in the commission's office a report, attested to by the signature of the commission's executive director, stating whether, in the commission's opinion, the kind of voting system examined may be accurately and efficiently used by electors at elections, as provided by law. A voting system may not be approved for use in the State unless certified by a testing laboratory accredited by the Federal Election Assistance Commission as meeting or exceeding the minimum requirements of the latest federal voting system standards and guidelines. If the federal voting system standards and guidelines have been amended less than thirty-six months prior to an election, then the State Election Commission may approve and certify a voting system that meets the prior standards after determining:

(1) the effect that such approval would have on the integrity and security of elections; and

(2) the procedure and cost involved to bring the voting system into compliance with the amended standards.

(G) After a voting system is approved, an improvement or change in the system must be submitted to the State Election Commission for approval pursuant to this section. This requirement does not apply to the technical capability of a general purpose computer, reader, or printer used for election preparation or ballot tally reporting."

Voting machine requirements

SECTION 16. Section 7-13-1640(C) of the 1976 Code is amended to read:

"(C) If approved after July 1, 1999, or if an upgrade in software, hardware, or firmware is submitted for approval as required by Section 7-13-1620(B), the voting system must be able to electronically transmit vote totals for all elections from the county board of voter registration and elections to the State Election Commission in a format and time frame specified by the commission.

(D) Anytime a voter is eligible to cast a ballot, the voting machine and any counting device must have disabled:

(1) a connection to the Internet or an external network;

(2) the capability of establishing a wireless connection;

(3) the establishment of a connection to an external network through a cable, a wireless modem, or any other mechanism or process; and

(4) automatic resolution functionality for ballots flagged for further review.

(E) All electronic records for a statewide election must be preserved for not less than twenty-four months following the election."

Repeal

SECTION 17. Section 7-13-440 of the 1976 Code is repealed.

Reports of individuals who die out-of-state

SECTION 18. Section 7-3-40 of the 1976 Code is amended to read:

"Section 7-3-40. The Bureau of Vital Statistics must furnish the executive director a monthly report of all persons eighteen years of age or older who have died in the State and all individuals eighteen years of age or older who have died out-of-state. All reports must contain the name of the deceased, county of residence, his social security or other identification number, and his date and place of birth."

Statewide voter registration database

SECTION 19. Section 7-5-186 of the 1976 Code is amended to read:

"Section 7-5-186. (A) The State Election Commission shall establish and maintain a statewide voter registration database that must be administered by the commission and made continuously available to each county board of voter registration and elections and to other agencies as authorized by law. The executive director must conduct an annual general registration list maintenance program to maintain accurate voter registration records in the statewide voter registration system.

(B) State agencies including, but not limited to, the Department of Health and Environmental Control, Office of Vital Statistics, Department of Motor Vehicles, Department of Employment and Workforce, and the Department of Corrections, shall provide information and data to the State Election Commission that the commission considers necessary in order to maintain the statewide voter registration database established pursuant to this section, except where prohibited by federal law or regulation. The State Election Commission shall ensure that any information or data provided to the State Election Commission, which is confidential in the possession of the entity

providing the data, remains confidential while in the possession of the State Election Commission.

(C) The State Election Commission may enter into agreements to share information or data with other states or groups of states, as the commission considers necessary, in order to maintain the statewide voter registration database established pursuant to this section. Except as otherwise provided in this subsection, the commission shall ensure that any information or data provided to the commission that is confidential in the possession of the state providing the data remains confidential while in the possession of the commission. The commission may provide such otherwise confidential information or data to persons or organizations that are engaging in legitimate governmental purposes related to the maintenance of the statewide voter registration database.

(D) A county board of voter registration and elections shall send a notice, as described in Section 7-5-330(F)(2), to a registered elector by mail at the address on file with the board to verify the accuracy of the information in the statewide voter registration database regarding that elector if a discrepancy exists between information provided under this section and information that is maintained in the statewide voter registration database.

(E) Information provided under this section for maintenance of the statewide voter registration database must not be used to update the name or address of a registered elector. The name or address of a registered elector must only be updated as a result of the elector's actions in filing a notice of change of name, change of address, or both."

Disposition of voter registration applications

SECTION 20. Section 7-5-330 of the 1976 Code is amended to read:

"Section 7-5-330. (A) In the case of registration with a motor vehicle application under Section 7-5-320, the valid voter registration form of the applicant must be completed at the Department of Motor Vehicles no later than thirty days before the date of the election.

(B) In the case of registration by mail under Section 7-5-155, the valid voter registration form of the applicant must be postmarked no later than thirty days before the date of the election.

(C) In the case of registration at a voter registration agency, the valid voter registration form of the applicant must be completed at the voter registration agency no later than thirty days before the date of the election.

(D) In any other case, the valid voter registration form of the applicant must be received by the county board of voter registration and elections no later than thirty days before the date of the election.

(E)(1) The county board of voter registration and elections shall:

(a) send notice to each applicant of the disposition of the application; and

(b) ensure that the identity of the voter registration agency through which a particular voter is registered is not disclosed to the public.

(2) If the notice sent pursuant to the provisions of subitem (a) of item (1) is returned to the county board of voter registration and elections as undeliverable, the elector to whom it was sent must be reported by the board to the State Election Commission. The State Election Commission must place the elector in an inactive status on the master file within seven days after receipt of the report from the county board of voter registration and elections and shall remove this elector upon compliance with the provisions of Section 7-5-330(F).

(F)(1) The State Election Commission may not remove the name of a qualified elector from the official list of eligible voters on the ground that the qualified elector has changed residence unless the qualified elector:

(a) confirms in writing that the qualified elector has changed residence to a place outside the county in which the qualified elector is registered; or

(b)(i) has failed to respond to a notice described in item (2); and

(ii) has not voted or appeared to vote and, if necessary, correct the county board of voter registration and elections record of the qualified elector's address, in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election that occurs after the date of the notice.

(2) 'Notice', as used in this item, means a postage prepaid and preaddressed return card, sent by forwardable mail, on which the qualified elector may state his current address, together with a statement to the following effect:

(a) if the qualified elector did not change his residence, or changed residence but remained in the same county, the qualified elector shall return the card no later than thirty days before the date of the election. If the card is not returned, affirmation or confirmation of the qualified elector's address may be required before the qualified elector is permitted to vote during the period beginning on the date of the notice and ending on the day after the date of the second general election that occurs after the date of the notice, and if the qualified elector does not

vote in an election during that period, the qualified elector's name must be removed from the official list of eligible voters;

(b) if the qualified elector has changed residence to a place outside the county in which the qualified elector is registered, information as to how the qualified elector can re-register to vote.

(3) The county board of voter registration and elections shall correct the official list of eligible voters in accordance with change of residence information obtained pursuant to the provisions of this subsection.

(4) The program required pursuant to the provisions of subsection (F) of this section must be completed no later than ninety days before the date of a statewide primary or general election."

Removal from official list of eligible voters

SECTION 21. Section 7-5-340 of the 1976 Code is amended to read:

"Section 7-5-340. (A) The State Election Commission shall:

(1) ensure that the name of a qualified elector is removed from the official list of eligible voters within seven days of receipt of information confirming:

(a) the request of the qualified elector to be removed;

(b) the elector is adjudicated mentally incompetent by a court of competent jurisdiction;

(c) the death of the qualified elector;

(d) the elector is not a citizen of the United States; or

(e) a change in the residence to a place outside the county in which the qualified elector is registered when such confirmation is received from the qualified elector in writing;

(2) inform applicants under Sections 7-5-155, 7-5-310, and 7-5-320 of:

(a) voter eligibility requirements; and

(b) penalties provided by law for submission of a false voter registration application;

(3) complete, no later than ninety days before the date of a statewide primary or general election, a program to systematically remove the names of ineligible voters from the official list of eligible voters in compliance with the provisions of Section 7-5-330(F); this item may not be construed to preclude:

(a) the removal of names from the official list of eligible voters on a basis described in item (1); or

(b) correction of registration records pursuant to this article."

Public reporting hotline

SECTION 22. Chapter 25, Title 7 of the 1976 Code is amended by adding:

"Section 7-25-30. The State Law Enforcement Division shall establish a public reporting hotline telephone number and email address for receiving reports of possible election fraud or other violations of the election laws of this State. It shall promptly review all reported violations and take action as it determines appropriate."

Annual voter list maintenance report

SECTION 23. Article 4, Chapter 5, Title 7 of the 1976 Code is amended by adding:

"Section 7-5-350. The State Election Commission shall report to the General Assembly annually regarding the commission's actions taken to maintain the accuracy of the statewide voter registration database and voter registration list maintenance. This report shall include, but is not limited to, the number of: (1) voters removed from the voter registration list and the reason for the removal; (2) voters placed on inactive status; (3) voters placed on archive status; (4) new voter registrations; and (5) voter registration updates, including elector address changes. This annual report must be delivered to the President of the Senate and the Speaker of the House of Representatives by January fifteenth of each year."

Election law challenges

SECTION 24. Chapter 1, Title 7 of the 1976 Code is amended by adding:

"Section 7-1-110. (A) The President of the Senate, on behalf of the Senate, and the Speaker of the House of Representatives, on behalf of the House of Representatives, have an unconditional right to intervene on behalf of their respective bodies in a state court action that challenges the validity of an election law, an election policy, or the manner in which an election is conducted.

(B) In a federal court action that challenges the validity of an election law, an election policy, or the manner in which an election is conducted, the President of the Senate, on behalf of the Senate, and the Speaker of

the House of Representatives, on behalf of the House of Representatives, have standing to intervene as a party on behalf of their respective bodies, to file an amicus brief, or to provide evidence or argument, written or oral, in accordance with the federal rules of procedure, irrespective of whether any other officer of the State has appeared in the action.

(C) A federal court presiding over an action that challenges the validity of an election law, an election policy, or the manner in which an election is conducted is requested to allow the President of the Senate, on behalf of the Senate, and the Speaker of the House of Representatives, on behalf of the House of Representatives, to intervene in any such action as a party.

(D) A request to intervene or the participation of the President of the Senate, on behalf of the Senate, or the Speaker of the House of Representatives, on behalf of the House of Representatives, as a party or otherwise, in an action that challenges the validity of an election law, an election policy, or the manner in which an election is conducted does not constitute a waiver of:

(1) legislative immunity or legislative privilege for any individual legislator, legislative officer, or legislative staff member; or

(2) sovereign immunity or any other rights, privileges, or immunities of the State that arise under the United States Constitution or the South Carolina Constitution.

(E) The State Election Commission and the Attorney General must notify the President of the Senate and the Speaker of the House of Representatives within twenty-four hours of the receipt of service of a complaint that challenges the validity of an election law, an election policy, or the manner in which an election is conducted.

(F) In an action in which the Senate or the House of Representatives intervenes or participates pursuant to this section, the Senate and the House of Representatives must function independently from each other in the representation of their respective bodies, unless otherwise agreed to by the President of the Senate and the Speaker of the House of Representatives.

(G) The Senate and the House of Representatives may employ attorneys other than the Attorney General to defend any action that challenges the validity of an election law, an election policy, or the manner in which an election is conducted.

(H) The President of the Senate, on behalf of the Senate, and the Speaker of the House of Representatives, on behalf of the House of Representatives, have standing to bring an action in mandamus in the original jurisdiction of the Supreme Court to compel an election official to faithfully apply, enforce, and defend the election laws of the State."

Election results audits

SECTION 25. Section 7-3-20(C) of the 1976 Code is amended by adding an appropriately numbered item to read:

"( ) establish methods of auditing election results, which may include risk-limiting audits, hand-count audits, results verification through independent third-party vendors that specialize in election auditing, ballot reconciliation, or any other method deemed appropriate by the executive director. Election result audits must be conducted in all statewide elections after the election concludes, but prior to certification by the State Board of Canvassers, and may be performed following any other election held in the State at the discretion of the executive director. Once completed, audit reports must be published on the commission's website;"

Penalties for election offenses

SECTION 26. A. Section 7-25-20 of the 1976 Code is amended to read:

"Section 7-25-20. It is unlawful for a person to fraudulently:

(1) procure the registration of a name on the books of registration;

(2) offer or attempt to vote that name;

(3) offer or attempt to vote in violation of this title or under any false pretense as to circumstances affecting his qualifications to vote; or

(4) aid, counsel, or abet another in fraudulent registration or fraudulent offer or attempt to vote.

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not less than one thousand dollars nor more than five thousand dollars and imprisoned not more than five years."

B. Section 7-25-110 of the 1976 Code is amended to read:

"Section 7-25-110. It is unlawful for a person qualified to vote at any general, special, or primary election for an office whether local, state, or federal to vote more than once at such election, for the same office. A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not less than one thousand dollars nor more than five thousand dollars and imprisoned not more than five years."

C. Section 7-25-120 of the 1976 Code is amended to read:

"Section 7-25-120. It is unlawful for a person to impersonate or attempt to impersonate another person for the purpose of voting in a general, special, or primary election, whether municipal or state. A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than five years and fined not less than one thousand dollars nor more than five thousand dollars. When a person who violates the provisions of this section is placed under bond, the bond may not be less than six hundred dollars nor more than twelve hundred dollars."

D. Section 7-25-160 of the 1976 Code is amended to read:

"Section 7-25-160. A manager at any general, special, or primary election in this State who wilfully violates any of the duties devolved by law upon such position is guilty of a felony and, upon conviction, must be fined not less than one thousand dollars nor more than five thousand dollars and imprisoned not more than five years. A manager who commits fraud or corruption in the management of such election is guilty of a felony and, upon conviction, must be fined not less than one thousand dollars nor more than five thousand dollars and imprisoned not more than five years."

E. Section 7-25-170 of the 1976 Code is amended to read:

"Section 7-25-170. An officer, other than a manager at any election, on whom a duty is imposed by this title, except under Section 7-13-1170, Articles 1 and 3 of Chapter 17 and Chapters 19 and 23 of this title, who wilfully neglects such duty or engages in corrupt conduct in executing it is guilty of a felony and, upon conviction, must be fined not less than one thousand dollars nor more than five thousand dollars and imprisoned not more than five years."

Members of State Election Commission

SECTION 27. A. Section 7-3-10 of the 1976 Code is amended to read:

"Section 7-3-10. (A) There is hereby created the State Election Commission composed of five members, at least one of whom shall be a member of the majority political party represented in the General

Assembly and at least one of whom shall be a member of the largest minority political party represented in the General Assembly, to be appointed by the Governor to serve terms of four years and until their successors have been appointed and qualify. Any vacancy on the commission shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(B) The Governor shall appoint one of the members to serve as chairman and one of the members to serve as vice chairman. The terms of chairman and vice chairman shall be for two years and until their successors are appointed and qualify. The commission shall select such other officers from among its members as it may deem necessary.

(C) The commission shall meet at its offices in Columbia at least once each month or at such times as considered necessary by the commission. However, the commission may change the location of the meeting if the change is more convenient for the commission or any parties scheduled to appear before the commission.

(D) The commission shall have the powers and duties as enumerated in this title.

(E)(1) No person shall be eligible to be appointed to the commission who:

(a) has not been a registered voter in this State for the five years immediately preceding the term of appointment;

(b) is a member of a candidate's paid campaign staff, or a campaign volunteer;

(c) held an elective public office, was a candidate for an elective public office, or was a lobbyist within the year preceding the start of the term of appointment; or

(d) was an officer of a local or national committee of a political party or an officer in a partisan political club or organization within the year preceding the start of the term of appointment.

(2) No person shall be eligible to continue to serve on the commission who, during the person's term of appointment:

(a) is a candidate for an elective public office, a member of a candidate's paid campaign staff, or a campaign volunteer;

(b) is an officer of a local or national committee of a political party or an officer in a partisan political club or organization;

(c) is a lobbyist;

(d) makes a contribution to a candidate or knowingly attends a fundraiser held for the benefit of a candidate;

(e) takes an official action that contravenes a state election law;

(f) makes a written or oral statement intended for general distribution or dissemination to the public at large discrediting the merit of a state election law; or

(g) fails to supervise and instruct the executive director regarding the execution of the executive director's duties.

(3) A person serving on the commission who was not eligible to be appointed pursuant to item (1), or a person serving on the commission who is no longer eligible to continue to serve pursuant to item (2), is subject to removal:

(a) by the Governor; or

(b) through an action filed in the original jurisdiction of the Supreme Court by the President of the Senate, on behalf of the Senate, or by the Speaker of the House of Representatives, on behalf of the House of Representatives, for a determination of the right of the person to continue to serve on the commission.

(F) The commission shall promulgate regulations to establish standardized processes for the administration of elections and voter registration that must be followed by the county boards of voter registration and elections. The regulations must take into account unique circumstances around the State including, but not limited to, population and geographic disparities among the various counties. The commission is prohibited from promulgating emergency regulations pursuant to Section 1-23-130.

(G) The commission shall provide for the supervision of the executive director to ensure that the State Election Commission and the county boards of voter registration and elections comply with applicable state and federal election law."

B. Notwithstanding Section 7-3-10(A), as amended by this act, the expiration dates for the terms of the current members of the commission shall be staggered as follows:

(1) for members with terms expiring on September 15, 2022, the terms will now expire on June 30, 2023; and

(2) for members with terms expiring on September 15, 2024, the terms will now expire on June 30, 2025.

C. Notwithstanding Section 7-3-10(B), as amended by this act, the initial term of the vice chairman must run concurrently with the existing term of the chairman.

D. The provisions of Section 7-3-10(E)(1), as added by the act, applies to a candidate for appointment to the State Election Commission on and after the effective date of this act.

Executive Director of State Election Commission

SECTION 28. A. Section 7-3-20 of the 1976 Code is amended to read:

"Section 7-3-20. (A) The State Election Commission shall appoint an executive director, upon the advice and consent of the Senate, who shall be directly responsible to the commission and who shall serve at the pleasure of the commission. The executive director shall be the chief administrative officer for the State Election Commission. The term of the executive director is for four years, and he may be reappointed, upon the advice and consent of the Senate, for succeeding terms. In the event of a vacancy in the position of executive director, an interim director must be appointed by the State Election Commission and an appointment for a permanent executive director must be submitted to the Senate as soon as practicable. If a person is appointed by the State Election Commission to be executive director and he is not confirmed by the Senate by the date for the sine die adjournment of the General Assembly following the submission of the appointment, then the person must not serve as an interim or permanent executive director.

(B) The executive director shall receive such compensation and employ such staff, subject to the approval of the State Election Commission, as may be provided by law.

(C)(1) No person shall be eligible to be appointed as the executive director who:

(a) does not possess at least three years' experience in election administration;

(b) is a member of a candidate's paid campaign staff, or a campaign volunteer;

(c) held an elective public office, was a candidate for an elective public office, or was a lobbyist within the year preceding the start of the term of appointment; or

(d) was an officer of a local or national committee of a political party or an officer in a partisan political club or organization within the year preceding the start of the term of appointment.

(2) No person shall be eligible to continue to serve as the executive director who, during the person's term of appointment:

(a) is a candidate for an elective public office, a member of a candidate's paid campaign staff, or a campaign volunteer;

(b) is an officer of a local or national committee of a political party or an officer in a partisan political club or organization;

(c) is a lobbyist;

(d) makes a contribution to a candidate or knowingly attends a fundraiser held for the benefit of a candidate;

(e) takes an official action that contravenes a state election law;

(f) makes a written or oral statement intended for general distribution or dissemination to the public at large discrediting the merit of a state election law; or

(g) fails to supervise and instruct the county boards of voter registration and elections regarding compliance with state and federal election laws.

(3) A person serving as the executive director who was not eligible to be appointed pursuant to item (1), or a person serving as the executive director who is no longer eligible to continue to serve pursuant to item (2), is subject to removal through an action filed in the original jurisdiction of the Supreme Court by the President of the Senate, on behalf of the Senate, or by the Speaker of the House of Representatives, on behalf of the House of Representatives, for a determination of the right of the person to continue to serve as the executive director.

(D) The executive director shall:

(1) direct and supervise the implementation of the standardized processes established by the commission pursuant to Section 7-3-10(F);

(2) supervise the conduct of the county boards of voter registration and elections, as established pursuant to Article 1, Chapter 5, which administers elections and voter registration in the State, and ensure those boards' compliance with the requirements with applicable state or federal law or State Election Commission policies and procedures with regard to the conduct of elections or the voter registration process by all persons involved in the elections process;

(3) conduct reviews, audits, or other postelection analysis of the county boards of voter registration and elections, as established pursuant to Article 1, Chapter 5, to ensure those boards' compliance with the requirements with applicable state or federal law or State Election Commission policies, procedures, or standardized processes with regard to the conduct of elections or the voter registration process by all persons involved in the elections process;

(4) maintain a complete master file of all qualified electors by county and by precincts;

(5) delete the name of any elector:

(a) who is deceased;

(b) who is no longer qualified to vote in the precinct where currently registered;

(c) who has been convicted of a disqualifying crime;

(d) who is otherwise no longer qualified to vote as may be provided by law; or

(e) who requests in writing that his name be removed;

(6) enter names on the master file as they are reported by the county boards of voter registration and elections;

(7) furnish each county board of voter registration and elections with a master list of all registered voters in the county, together with a copy of all registered voters in each precinct of the county, at least ten days prior to each election. The precinct copies shall be used as the official list of voters;

(8) maintain all information furnished to his office relating to the inclusion or deletion of names from the master file for four years;

(9) purchase, lease, or contract for the use of such equipment as may be necessary to properly execute the duties of his office, subject to the approval of the State Election Commission;

(10) secure from the United States courts and federal and state agencies available information as to persons convicted of disqualifying crimes;

(11) obtain information from any other source which may assist him in carrying out the purposes of this section;

(12) perform such other duties relating to elections as may be assigned him by the State Election Commission;

(13) furnish at reasonable price any precinct lists to a qualified elector requesting them;

(14) serve as the chief state election official responsible for implementing and coordinating the state's responsibilities under the National Voter Registration Act of 1993;

(15) serve as the chief state election official responsible for implementing and enforcing the state's responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), as set forth in the U.S.C., Title 42, Section 1973ff, et seq.;

(16) establish and maintain a statewide voter registration database that shall be administered by the commission and made continuously available to each county board of voter registration and elections and to other agencies as authorized by law;

(17) promulgate regulations for voter registrations performed by private entities; and

(18) enter into the master file a separate designation for each voter casting an absentee ballot or an early ballot in an election.

(E) The State Election Commission shall publish on the commission's website each change to voting procedures enacted by state or local governments. State and local governments shall file notice of all changes in voting procedures including, but not limited to, changes to precincts with the State Election Commission within five days after adoption of the change or thirty-five days prior to the implementation, whichever is earlier. All voting procedure changes must remain on the commission's website at least through the date of the next general election. However, if changes are made within three months prior to the next general election, then the changes shall remain on the commission's website through the date of the following general election."

B. The provisions of Section 7-3-20(C)(1), as added by this act, do not apply to a person who holds the position of executive director on the effective date of this act.

C. Notwithstanding Section 7-3-20(A), as amended by this act, the commission must provide an initial appointment for executive director to the Senate for advice and consent no later than January 10, 2023. The appointment must be made even if there is not a vacancy in the position at that time and the commission desires that the executive director continue to serve as the agency's executive director. The term of the initial appointment expires June 30, 2027.

Standardized processes

SECTION 29. Section 7-3-25 of the 1976 Code is amended to read:

"Section 7-3-25. (A) In the event that the State Election Commission, acting through its executive director, determines that a county board of voter registration and elections has failed to comply with applicable state or federal law or State Election Commission policies, procedures, or standardized processes with regard to the conduct of the election or voter registration process, the State Election Commission, acting through its executive director or other designee, must supervise, pursuant to Section 7-3-20(D)(1) and (2), the county board to the extent necessary to:

(1) identify the failure to comply with state or federal law or State Election Commission policies, procedures, or standardized processes;

(2) establish a plan to correct the failure; and

(3) implement the plan to correct the failure. The officials and employees of the State Election Commission and the county board must work together, in good faith, to remedy the failure of the county board to adhere to state or federal law or State Election Commission policies, procedures, or standardized processes. In the event of a difference of policy or opinion between a county election official or employee and the State Election Commission or its designee, pertaining to the manner in which particular functions must be performed, the policy or opinion of the State Election Commission shall control.

(B) If a county board of voter registration and elections does not or cannot determine and certify the results of an election or referendum for which it is responsible by the time set for certification by applicable law, the responsibility to determine and certify the results is devolved upon the State Election Commission.

(C) If the State Election Commission determines that an official or an employee of a county board of voter registration and elections has negligently failed to comply with applicable state or federal law or State Election Commission policies, procedures, or standardized processes with regard to the election or voter registration process or fails to comply with or cooperate with the corrective plan established by the State Election Commission or its designee under the provisions of subsection (A), the commission may order the decertification of that official or employee and if decertified the commission shall require that official to participate in a retraining program approved by the commission prior to recertification. If the commission finds that the failure to comply with state or federal law or State Election Commission policies, procedures, or standardized processes by an official is wilful, it shall recommend the termination of that official to the Governor or it shall recommend termination of a staff member to the director of the appropriate county board of voter registration and elections."

Prohibition on private funds

SECTION 30. Article 1, Chapter 5, Title 7 of the 1976 Code is amended by adding:

"Section 7-5-50. Notwithstanding another provision of law, the State Election Commission and the county boards of voter registration and elections may not receive, accept, or expend gifts, donations, or funding from private individuals, corporations, partnerships, trusts, or any third party not provided through ordinary state or county appropriations."

Security measures

SECTION 31. Article 3, Chapter 5, Title 7 of the 1976 Code is amended by adding:

"Section 7-5-190. The State Election Commission shall ensure that voter registration information, the voting system, and electronic poll books are protected by security measures that meet or exceed current best practices for protecting data integrity. To do so, the State Election Commission shall consider security standards and best practices issued by federal security and intelligence services including, but not limited to, the Department of Homeland Security and the Election Assistance Commission. The State Election Commission shall certify on an annual basis to the Governor, the President of the Senate, and the Speaker of the House of Representatives that the agency has substantially complied with the requirements of this section."

Reports of non-citizens

SECTION 32. A. Section 7-3-70 of the 1976 Code is amended by adding:

"(c) The Department of Motor Vehicles must furnish the executive director a monthly report of all non-United States citizens who are issued a driver's license or identification card. All reports must contain the name of the driver or identification cardholder, social security number, if any, and date of birth. The department must provide this information at no charge."

B. The first monthly report provided by the Department of Motor Vehicles pursuant to this SECTION must include every non-United States citizen in this State with a driver's license or identification card.

Election notices

SECTION 33. Section 7-13-35 of the 1976 Code, as last amended by Act 133 of 2020, is further amended to read:

"Section 7-13-35. The authority charged by law with conducting an election must publish two notices of general, municipal, special, and primary elections held in the county in a newspaper of general circulation in the county or municipality, as appropriate. Included in

each notice must be a reminder of the last day persons may register to be eligible to vote in the election for which notice is given, notification of the date, time, and location of the hearing on ballots challenged in the election, a list of the precincts involved in the election, the location of the polling places in each of the precincts, and notification that the process of examining the return-addressed envelopes containing absentee ballots may begin at 7:00 a.m. on the second day immediately preceding election day at a place designated in the notice by the authority charged with conducting the election. The first notice must appear not later than sixty days before the election and the second notice must appear not later than two weeks after the first notice."

Reports of mentally incapacitated persons

SECTION 34. Chapter 3, Title 7 of the 1976 Code is amended by adding:

"Section 7-3-45. Each county probate court must furnish to the Executive Director of the State Election Commission a monthly report of all persons eighteen years of age or older who have been declared mentally incapacitated by the county probate court. All reports must include the name, county of residence, social security number or other identification number, and date and place of birth of any incapacitated persons. The county probate court must provide the information to the Executive Director of the State Election Commission free of charge."

Voter education program

SECTION 35. The State Election Commission must establish a voter education program concerning the provisions contained in this legislation. The State Elections Commission must educate the public as follows:

(1) post information concerning changes contained in this legislation in a conspicuous location at each county board of registration and elections, each satellite office, the State Elections Commission office, and their respective websites;

(2) train poll managers and poll workers at their mandatory training sessions to answer questions by electors concerning the changes in this legislation;

(3) require documentation describing the changes in this legislation to be disseminated by poll managers and poll workers at every election held from the effective date of this act until October 21, 2022;

(4) coordinate with each county board of voter registration and elections so that at least one seminar is conducted with each county's election officials prior to September 16, 2022;

(5) coordinate with local and service organizations to provide for additional informational seminars at a local or statewide level;

(6) send a media release describing the changes in this legislation in South Carolina newspapers of general circulation by no later than June 20, 2022;

(7) coordinate with local media outlets to disseminate information concerning the changes in this legislation.

In addition to the items above, the State Election Commission may implement additional educational programs in its discretion.

Definition of "authorized representative"

SECTION 36. Section 7-15-310(7) of the 1976 Code is amended to read:

"(7) 'Authorized representative' means a registered elector who, with the voter's permission, acts on behalf of a voter unable to go to the polls because of illness or disability resulting in his confinement in a hospital, sanatorium, nursing home, or place of residence, or a voter unable because of a physical handicap to go to his polling place or because of a handicap is unable to vote at his polling place due to existing architectural barriers that deny him physical access to the polling place, voting booth, or voting apparatus or machinery. Under no circumstance shall a candidate, a member of a candidate's paid campaign staff, or a campaign volunteer be considered an 'authorized representative' of an elector desiring to vote by absentee ballot."

Issuing absentee ballot applications and absentee ballots

SECTION 37. Article 5, Chapter 15, Title 7 of the 1976 Code is amended by adding:

"Section 7-15-400. No absentee ballot application or absentee ballot may be provided by an election official to a qualified elector unless pursuant to a provision of this article or Article 9 of this chapter."

Unlawful acceptance of anything of value

SECTION 38. Chapter 25, Title 7 of the 1976 Code is amended by adding:

"Section 7-25-65. (A) It is unlawful for a person to provide, offer to provide, or accept anything of value in exchange for requesting, collecting, or delivering an absentee ballot. A person who violates this section is guilty of a felony and, upon conviction, must be fined not less than one thousand dollars nor more than five thousand dollars and imprisoned not more than five years.

(B) This section does not apply to an election official in the course and scope of the election official's duties or a public or private mail service provider acting in the course and scope of the mail service provider's duties to carry and deliver mail."

Unlawful distribution of campaign literature

SECTION 39. Section 7-25-180 of the 1976 Code is amended to read:

"Section 7-25-180. (A) It is unlawful for a person to distribute any type of campaign literature or place any political posters within five hundred feet of any entrance used by the voters to enter the polling place, during polling hours on an election day and during the early voting period. The poll manager shall use every reasonable means to keep the area within five hundred feet of any such entrance clear of political literature and displays, and the county and municipal law enforcement officers, upon request of a poll manager, shall remove or cause to be removed any material within five hundred feet of any such entrance distributed or displayed in violation of this section.

(B) A candidate may wear within five hundred feet of the polling place a label no larger than four and one-fourth inches by four and one-fourth inches that contains the candidate's name and the office he is seeking. If the candidate enters the polling place, he may not display any of this identification including, but not limited to, campaign stickers or buttons."

Implementation

SECTION 40. A. Any changes to forms required by this act must be implemented as soon as possible, but not later than May 31, 2022.

B. Notwithstanding the provisions of this act, a county board of voter registration and elections must honor any request made for an absentee ballot for an election during the 2022 calendar year, provided that the request was: (1) received by the county board of voter registration and elections before 5:00 p.m. on May 31, 2022; and (2) made in accordance with the law as of April 21, 2022.

C. An absentee ballot requested prior to the Governor's approval of this act must not be counted towards the limit on absentee ballot requests as prescribed in Section 7-15-330(B)(4), as added by this act.

D. For the 2022 statewide elections, each county board of voter registration and elections must identify each early voting center it intends to utilize and provide the locations to the State Election Commission Executive Director as follows: (1) for the primary election, no later than May 24, 2022; and (2) for the general election, no later than July 1, 2022. The Executive Director must approve any additions or changes to these early voting centers, and may direct the move of early voting centers to ensure proper distribution throughout each county.

Repeal

SECTION 41. Section 7-15-470 of the 1976 Code is repealed.

One subject

SECTION 42. The General Assembly finds that the sections presented in this act constitute one subject as required by Section 17, Article III of the South Carolina Constitution, 1895, in particular finding that each change and each topic relates directly to or in conjunction with other sections to the subject of election reform as clearly enumerated in the title.

The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in the act.

Savings clause

SECTION 43. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter,

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

Severability clause

SECTION 44. 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.

Effective dates

SECTION 45. A. Except as provided in B., C., and D. below, all SECTIONS shall take effect upon approval by the Governor.

B. SECTION 2 shall take effect on January 1, 2023.

C. SECTIONS 3 and 6 shall take effect on July 1, 2022.

D. The requirement that the printed name of the witness be examined on return-addressed envelopes, pursuant to Section 7-15-420(B), as amended by this act, takes effect on July 1, 2022.

Ratified the 12th day of May, 2022.

Approved the 13th day of May, 2022.

No. 151

(R169, S227)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "MASSAGE THERAPY PRACTICE ACT"; TO AMEND CHAPTER 30 OF TITLE 40, RELATING TO MASSAGE THERAPY PRACTICE, SO AS TO PROVIDE THAT IT IS IN THE INTEREST OF PUBLIC HEALTH, SAFETY, AND WELFARE TO REGULATE THE PRACTICE OF MASSAGE THERAPY, TO PROVIDE FOR THE COMPOSITION AND DUTIES OF THE BOARD OF MASSAGE THERAPY, TO PROVIDE THAT THE DEPARTMENT OF LABOR, LICENSING AND REGULATION SHALL PUBLISH A ROSTER OF LICENSED MASSAGE THERAPISTS AND ESTABLISHMENTS, TO PROVIDE FOR LICENSURE FEES, TO REMOVE THE REQUIREMENT FOR AN ANNUAL REPORT ON THE ADMINISTRATION OF THE MASSAGE THERAPY PRACTICE ACT BY THE DEPARTMENT, TO PROVIDE FOR EXEMPTIONS TO THE MASSAGE THERAPY PRACTICE ACT, TO PROVIDE CERTAIN REQUIREMENTS FOR THE TEMPORARY PRACTICE OF MASSAGE THERAPY, TO PROVIDE THAT NO PERSON MAY PRACTICE OR OFFER TO PRACTICE MASSAGE THERAPY WITHOUT A LICENSE, TO PROVIDE THAT NO PERSON OR ENTITY MAY OPEN, OPERATE, MAINTAIN, USE, OR ADVERTISE AS A MASSAGE THERAPY ESTABLISHMENT OR A SOLE PRACTITIONER ESTABLISHMENT WITHOUT OBTAINING A LICENSE, TO PROVIDE PENALTIES, TO CLARIFY LICENSURE REQUIREMENTS FOR A MASSAGE THERAPIST LICENSE, TO PROVIDE LICENSURE REQUIREMENTS FOR A MASSAGE THERAPY ESTABLISHMENT OR SOLE PRACTITIONER ESTABLISHMENT, TO PROVIDE THAT THE BOARD MAY GRANT A LICENSE BY ENDORSEMENT TO A MASSAGE THERAPIST WHO HOLDS AN ACTIVE MASSAGE THERAPIST LICENSE AND IS IN GOOD STANDING IN ANOTHER STATE, THE DISTRICT OF COLUMBIA, OR ANY OTHER UNITED STATES TERRITORY, TO CLARIFY REQUIREMENTS RELATED TO APPLYING FOR AND OBTAINING A LICENSE, TO PROVIDE FOR PERIODIC INSPECTIONS OF MASSAGE THERAPY ESTABLISHMENTS

AND SOLE PRACTITIONER ESTABLISHMENTS, TO PROVIDE THAT CERTAIN REQUIREMENTS RELATING TO LICENSES SHALL BE COMPLETED BIENNIALLY, TO PROVIDE THAT RENEWAL OF LICENSES SHALL BE COMPLETED IN A MANNER PROVIDED BY THE BOARD, TO PROVIDE THAT CONTINUING EDUCATION REPORTS ARE SUBJECT TO AUDITS, TO CLARIFY CERTAIN REQUIREMENTS RELATED TO LAPSED LICENSES, TO PROVIDE THAT A LICENSEE MAY PROVIDE A WRITTEN REQUEST TO THE BOARD TO PLACE A LICENSE IN INACTIVE STATUS, TO PROVIDE THAT A LICENSEE MUST BIENNIALLY RENEW ITS LICENSE TO REMAIN IN INACTIVE STATUS, TO PROVIDE THAT A LICENSE MAY BE REACTIVATED IN A MANNER PROVIDED BY THE BOARD, TO PROVIDE THAT INACTIVE STATUS DOES NOT STAY ANY DISCIPLINARY ACTIONS FOR VIOLATIONS THAT OCCURRED DURING THE COURSE OF AN ACTIVE LICENSE, TO CLARIFY REGULATIONS THAT SHALL BE PROMULGATED BY THE BOARD, TO PROVIDE THAT THE DEPARTMENT SHALL INVESTIGATE COMPLAINTS AND VIOLATIONS, TO PROVIDE THAT THE PRESIDING OFFICER OF THE BOARD MAY ADMINISTER OATHS, TO PROVIDE FOR APPEALS OF THE BOARD'S DECISIONS, TO PROVIDE THAT SERVICE OF A NOTICE OF AN APPEAL DOES NOT STAY THE BOARD'S OR THE DEPARTMENT'S DECISION PENDING COMPLETION OF THE APPELLATE PROCESS, TO CLARIFY GROUNDS FOR DENYING A LICENSE, TO CLARIFY THE INVESTIGATION PROCESS AND CERTAIN DISCIPLINARY ACTIONS, TO PROVIDE THAT AN INDIVIDUAL OR ESTABLISHMENT THAT VOLUNTARILY SURRENDERS A LICENSE MAY NOT PRACTICE AS A MASSAGE THERAPIST OR OPERATE AS A MASSAGE THERAPY ESTABLISHMENT OR SOLE PRACTITIONER ESTABLISHMENT UNTIL THE BOARD REINSTATES THE LICENSE, TO PROVIDE THAT SERVICE OF NOTICE MAY BE MADE BY LEAVING A COPY OF THE NOTICE WITH THE DIRECTOR OF THE DEPARTMENT OR HIS DESIGNEE IN CERTAIN CIRCUMSTANCES, TO PROVIDE THAT COSTS AND FINES IMPOSED ARE DUE AND PAYABLE AS REQUIRED BY THE BOARD, TO PROVIDE THAT A LICENSEE FOUND IN VIOLATION OF THE MASSAGE THERAPY PRACTICE ACT OR RELATED

REGULATIONS MAY BE REQUIRED TO PAY COSTS ASSOCIATED WITH THE INVESTIGATION OF HIS CASE, TO MAKE CONFORMING CHANGES, AND TO DEFINE NECESSARY TERMS.

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

Citation

SECTION 1. This act must be known and may be cited as the "Massage Therapy Practice Act".

Practice act

SECTION 2. Chapter 30, Title 40 of the 1976 Code is amended to read:

"CHAPTER 30

Massage Therapy Practice

Section 40-30-10. The General Assembly recognizes that the practice of massage therapy is potentially harmful to the public in that massage therapists must have a knowledge of anatomy, kinesiology, and physiology and an understanding of the relationship between the structure and the function of the tissues being treated and the total function of the body. Massage therapy is therapeutic, and regulations are necessary to protect the public from unqualified massage therapists and unsafe establishments. It is, therefore, necessary in the interest of public health, safety, and welfare to regulate the practice of massage therapy and the operation of massage therapy establishments and sole practitioner establishments in this State. However, restrictions must be imposed to the extent necessary to protect the public from significant and discernible danger to health and yet not in such a manner which will unreasonably affect the competitive market. Further, consumer protection for both health and economic matters must be afforded to the public through legal remedies provided for in this chapter.

Section 40-30-20. Unless otherwise provided in this chapter, Article 1, Chapter 1, Title 40 applies to massage therapists, massage therapy establishments, and sole practitioner establishments licensed pursuant to this chapter; however, if there is a conflict between this chapter and Article 1, Chapter 1, Title 40, then the provisions of this chapter control.

Section 40-30-30. As used in this chapter:

(1) 'Approved massage therapy education program' means a supervised educational program in a school approved by the Commission on Higher Education. The program must meet minimum qualifications, including course content as approved by the board in regulation.

(2) 'Approved massage therapy school' means a facility that offers an educational program that meets minimum requirements for training and curriculum as determined by the board pursuant to this chapter and related regulations.

(3) 'Board' means the South Carolina Massage Therapy Board under the administration of the department.

(4) 'Client' means a person who receives massage therapy from a licensed massage therapist in exchange for compensation.

(5) 'Client-therapist relationship' means a relationship between a licensed massage therapist and a client in which the licensed massage therapist owes a continuing duty to the client to render massage therapy services consistent with the licensed massage therapist's training, experience, and scope of practice.

(6) 'Currently enrolled student' means a student who is enrolled and actively participating in an approved massage therapy school or an approved massage therapy education program.

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

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

(9) 'Entity' means a sole proprietorship, partnership, limited liability partnership, limited liability company, or other business entity or association as approved by the board.

(10) 'Hydrotherapy' means the use of water, vapor, or ice for treatment of superficial tissues.

(11) 'Licensed massage therapy supervisor' means a licensed massage therapist who has been in good standing for at least two years and who supervises a currently enrolled student. The licensed massage therapy supervisor shall be on premises observing the student and shall be available to the student for consultation and instruction.

(12) 'Licensure' means the procedure by which an individual applies to the department and is granted approval to practice massage therapy, or the procedure by which an establishment applies to the department and is granted approval to operate as a massage therapy establishment or a sole practitioner establishment.

(13) 'Massage device' means a mechanical device that mimics or enhances the action of the hands by means of vibration.

(14) ' Massage therapist' means an individual licensed as required by this chapter, who administers massage therapy for compensation.

(15) 'Massage therapy' means the application of a system of structured touch to the soft tissues of the human body with the hand, foot, knee, arm, or elbow, whether or not the structured touch is aided by hydrotherapy, thermal therapy, a massage therapy device, or application to the human body of an herbal preparation. Massage therapy includes, but is not limited to, bodywork modalities as approved by the board.

(16) 'Massage therapy establishment' means an entity with a physical site or premise, licensed as required by this chapter, in which licensed massage therapists are employees or contractors practicing massage therapy on clients.

(17) 'Sole practitioner establishment' means a licensed massage therapist who is licensed pursuant to this chapter, who is not an employee or contractor of the sole practitioner establishment, and who provides massage therapy to clients at a specific location including, but not limited to, a rental space, home office space, or outcall or onsite space.

(18) 'Thermal therapy' means the use of ice or a heat lamp or moist heat on superficial tissues.

Section 40-30-40. (A) There is created the Board of Massage Therapy under the administration of the department. The board shall be composed of seven members appointed by the Governor, upon the advice and consent of the Senate. Six members must be licensed massage therapists in good standing and must have been engaged in the practice of massage therapy for no fewer than three consecutive years before appointment to the board. One member must represent the public at large and must not have a financial interest, direct or indirect, in the profession or practice of massage therapy. A board member must be a high school graduate or shall have received a graduate equivalency diploma and must be a citizen of the United States and a resident of this State for no fewer than five years. Nominations for appointment to the board may be submitted to the Governor from any individual, group, or association.

(B) Board members serve a term of four years and until their successors are appointed and qualify. A vacancy on the board must be filled in the manner of the original appointment for the remainder of the unexpired term.

(C) Board members must be compensated for their services at the usual rate for mileage, subsistence, and per diem as provided by law for members of state boards, committees, and commissions.

(D) The Governor may remove a member of the board in accordance with Section 1-3-240.

(E) The board must meet at least twice a year.

(F) Any business conducted by the board must be conducted by a majority vote of the entire membership of the board, reduced by any vacancies existing at the time.

Section 40-30-50. (A) The department shall provide all administrative, fiscal, investigative, inspectional, clerical, secretarial, and license renewal operations and activities of the board, pursuant to Section 40-1-50.

(B) The board shall administer and enforce this chapter and related regulations. In addition to the powers and duties enumerated in Section 40-1-70, the board's powers and duties include, but are not limited to:

(1) advising and recommending action to the department in the development of statutory revisions, legislation, and any other matter related to the provisions of this chapter;

(2) recommending to the department regulations necessary to carry out the provisions of this chapter including, but not limited to, establishing a code of ethics to govern the conduct and practices of individuals and establishments licensed pursuant to this chapter;

(3) determining the standards and qualifications for licensure pursuant to this chapter;

(4) conducting hearings:

(a) on alleged violations of this chapter and regulations promulgated pursuant to this chapter and to recommend discipline for individuals and establishments in any manner provided for in this chapter; or

(b) on licensure determinations; and

(5) providing recommendations to the South Carolina Commission on Higher Education concerning minimum qualifications for approved massage therapy schools and approved massage therapy education programs.

(C) The board has jurisdiction over the actions committed or omitted by current and former licensed massage therapists as provided in Section 40-1-115.

Section 40-30-60. (A) The department shall prepare and publish a current roster on its website, updated annually, containing:

(1) the names and places of business of individuals licensed pursuant to this chapter; and

(2) the names of establishments licensed pursuant to this chapter and the names of their owners.

(B) A copy of the roster must be provided upon request and the payment of a fee.

Section 40-30-80. The department shall charge and collect the following fees:

(1) massage therapist initial license application fee, not to exceed one hundred fifty dollars;

(2) massage therapist endorsement application fee, not to exceed two hundred dollars;

(3) biennial massage therapist licensure renewal fee, not to exceed seventy-five dollars;

(4) reinstatement application fee from lapsed status of a massage therapist license, not to exceed two hundred ten dollars;

(5) renewal fee for inactive status of a massage therapist license, not to exceed one hundred fifty dollars;

(6) continuing education course provider fee, not to exceed one hundred dollars and continuing education course provider renewal fee, not to exceed fifty dollars;

(7) massage therapy establishment initial license application fee for each location, not to exceed one hundred fifty dollars;

(8) biennial massage therapy establishment license renewal fee for each location, not to exceed one hundred dollars;

(9) massage therapy establishment license reinstatement fee from lapsed status for each location, not to exceed two hundred fifty dollars;

(10) sole practitioner establishment initial license application fee, not to exceed seventy-five dollars;

(11) biennial sole practitioner establishment license renewal fee, not to exceed fifty dollars; and

(12) sole practitioner establishment license reinstatement fee from lapsed status, not to exceed one hundred fifty dollars.

Section 40-30-90. (A) This chapter shall not be construed to apply to or restrict:

(1) a currently enrolled student from engaging in the practice of massage therapy, provided that the practice, conduct, activities, or services are part of a required course of study and that the currently enrolled student clearly identifies himself as a student. A currently enrolled student shall not be compensated for work experience and must be supervised on site by a licensed massage therapy supervisor;

(2) student clinics operated by an approved massage therapy school or an approved massage therapy education program;

(3) an unlicensed individual from providing massage therapy services related to the domestic care of any family member or household member, as long as the individual does not offer, hold out, or claim to be a massage therapist and does not receive compensation for the massage therapy services;

(4) an individual currently licensed and in good standing to practice massage therapy in another jurisdiction from engaging in the practice of massage therapy in this State on a temporary basis during a professional event for a period of no more than thirty days, or no longer than the time period of the event, whichever is less, provided that:

(a) the individual must submit a written application prior to engaging in the temporary practice of massage therapy pursuant to this item, in a manner prescribed by the board. Upon the board's approval, the individual may engage in the practice of massage therapy on a temporary basis; and

(b) any temporary practice beyond thirty days requires a massage therapist license, pursuant to this chapter; or

(5) an individual currently licensed and in good standing to practice massage therapy in another jurisdiction from engaging in the practice of massage therapy if the individual is responding to a disaster or emergency declared by the appropriate authority or the Governor of this State. An individual practicing massage therapy pursuant to this item must provide notice to the board in a manner prescribed by the board prior to providing massage therapy services in this State and is only eligible to practice during the time of the declared emergency.

(B) Individuals engaging in the practice of massage therapy in this State under subsection (A)(4) or (5) are deemed to have submitted to the jurisdiction of the board and are bound by the applicable laws and regulations of this State.

(C) While a practitioner licensed in another jurisdiction may participate in a continuing education program in this State, he is not authorized to practice massage therapy on the general public without proper approval or licensure from the board.

(D) The following facilities and practices that employ licensed massage therapists, or that engage licensed massage therapists on an independent contractor basis, are not required to obtain a massage therapy establishment license, or a sole practitioner establishment license:

(1) hospitals and long-term health care facilities that are subject to a licensing regime, a supervising authority, or an agency with jurisdiction over the hospital's or facility's operation or licensing;

(2) a chiropractor licensed by the South Carolina Board of Chiropractic Examiners;

(3) a medical doctor or an osteopath licensed by the South Carolina Board of Medical Examiners; and

(4) a physical therapist licensed by the South Carolina Board of Physical Therapy.

Section 40-30-100. (A) No person may practice or offer to practice massage therapy without a license issued in accordance with this chapter; however, a person licensed by the State under this title or any other provision of law whose scope of practice overlaps with the practice of massage therapy is not also required to be licensed under this chapter unless the person holds himself out to be a massage therapist.

(B) Unless otherwise exempt from licensure, no person or entity may open, operate, maintain, use, or advertise as a massage therapy establishment or a sole practitioner establishment without obtaining a massage therapist license, massage therapy establishment license, or sole practitioner establishment license, as applicable, pursuant to this chapter.

(C) Nothing in this chapter may be construed to authorize an individual or establishment licensed under this chapter to practice physical therapy or chiropractic or to utilize chiropractic therapeutic modalities except where the scope of practice for massage therapy, as provided for in this chapter, overlaps with the practice of physical therapy or chiropractic.

Section 40-30-110. (A) To be licensed as a massage therapist, an individual must:

(1) be at least eighteen years of age and have either received a high school diploma or graduate equivalency diploma, or completed a program that has been approved by the board to satisfy this requirement;

(2) have successfully completed:

(a) six hundred fifty hours of an approved massage therapy education program at an approved massage therapy school having a curriculum that includes course content approved by the board; or

(b) an approved massage therapy education program that is substantially equivalent to the education required in subitem (a);

(3) have successfully passed the Federation of State Massage Therapy Board (FSMTB) or any other board-approved examination; and

(4) speak the English language as a native language or demonstrate an effective proficiency in the English language, in the manner prescribed by and to the satisfaction of the board. If English is not an individual's native language, or if an individual does not demonstrate an effective proficiency of the English language in a manner prescribed by and to the satisfaction of the board, then the board may require proof that the applicant has received a passing score from the Test of English as a Foreign Language (TOEFL), Test of Spoken English (TSE) offered by TOEFL/TSE Services, or another service approved by the board. The costs of the TOEFL, TSE, or other service approved by the board shall be paid by the applicant.

(B) If an individual qualifies to be licensed as a massage therapist under subsection (A), then the individual must submit:

(1) a completed application on a form prescribed by the board, accompanied by a two inch by two inch current photograph, and all applicable fees;

(2) an official transcript demonstrating successful completion of the education required pursuant to subsection (A) and proof of passing the FSMTB or other board-approved examination; and

(3) evidence of an effective proficiency in the English language, if applicable.

(C) In addition to other requirements established by law and for the purpose of determining an applicant's eligibility for licensure to practice massage therapy, the board shall require a state criminal history records check, supported by fingerprints, by the South Carolina Law Enforcement Division, and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the board. The South Carolina Law Enforcement Division is authorized to retain fingerprints for certification purposes and for notification to the board regarding criminal charges. The costs of conducting a state criminal history records check and national criminal records check shall be paid by the applicant.

(D) Information received pursuant to this section shall be kept confidential, except that information relied upon in denying licensure may be disclosed as necessary to support administrative action.

Section 40-30-113. (A) To apply for licensure as a massage therapy establishment or a sole practitioner establishment, an applicant must submit:

(1) a completed application on a form prescribed by the board, accompanied by all applicable fees for each massage therapy establishment or sole practitioner establishment location;

(2) the name, address, and telephone number of each owner of the massage therapy establishment or sole practitioner establishment; and

(3) the physical address, mailing address, and telephone number of the premises of the massage therapy establishment or sole practitioner establishment.

(B) A massage therapy establishment or sole practitioner establishment must be organized or registered under applicable South Carolina law as an entity, as defined in this chapter.

(C) Upon the board's receipt and approval of the information required by this section, the department shall conduct a pre-licensing inspection of the proposed establishment to determine whether the establishment may be licensed as a massage therapy establishment or a sole practitioner establishment. The department shall provide its determination on a form approved by the board.

Section 40-30-117. The board may grant a license by endorsement to a massage therapist who holds an active massage therapist license and is in good standing in another state, the District of Columbia, or any other United States territory if the board determines that the standards for licensure are at least substantially equivalent to the licensing standards provided for in this chapter. The board may require the applicant to provide additional information or meet certain requirements provided for in this chapter as it deems necessary for issuing a license by endorsement. A National Certification Board for Therapeutic Massage and Bodywork examination taken prior to November 1, 2014, shall be acceptable.

Section 40-30-120. (A) A licensed establishment shall only employ or contract with a massage therapist holding an active license in good standing in this State to perform massage therapy.

(B) A licensed establishment may operate in the residence of a licensed massage therapist in accordance with procedures approved by the board.

(C) If an establishment's license is revoked, then no new license may be issued to operate on the same premises for one year after the date of revocation.

(D) The board may promulgate regulations to establish additional requirements and prohibitions regarding the operation of massage therapy establishments and sole practitioner establishments.

Section 40-30-130. (A) An applicant who fails an examination pursuant to Section 40-30-110 may be reexamined as provided by the board.

(B) Upon an applicant's successful completion of an examination, the board shall be notified by the examination provider.

Section 40-30-140. (A) If an applicant satisfies the licensure requirements and pays the applicable fees, as provided in this chapter, then the board shall issue the appropriate license to the applicant. A license issued pursuant to this chapter is not transferable.

(B) A person licensed as a massage therapist under this chapter shall display his original license with a two inch by two inch current photo in a prominent and conspicuous place that is viewable by the general public in the massage therapy establishment or sole practitioner establishment. If a massage therapist provides massage therapy services outside of the massage therapy establishment or sole practitioner establishment, then the massage therapist must carry his original licensing card so that it is available at all times.

(C) A massage therapy establishment or sole practitioner establishment licensed pursuant to this chapter shall display its current license in a prominent and conspicuous place that is viewable to the general public.

(1) Establishment licenses are valid only for the owners named on the licensure applications. If there is a new owner or an ownership change, then the new owner must apply for an establishment license, and all applicable requirements of this chapter must be met.

(2) Establishment licenses are valid only for the location named on the initial and renewal licensure applications. If there is an address change, then the owner must notify the department within fifteen business days and must apply for an establishment license, and all applicable requirements of this chapter must be met.

(3) Establishment licenses are valid only for the name of the establishment provided on the licensure and renewal applications. If there is an establishment name change, then the owner must notify the department within fifteen business days of this change. No department inspection is required.

(D) A licensee must include the licensee's license number in any advertisement for the licensee's services.

(E) Only a person licensed under this chapter may use the title of 'massage therapist'. No person or entity shall use the words 'massage therapy', 'bodywork therapy', 'massage-bodywork therapist', 'massage therapist', the acronym 'MT', 'bodywork therapist', 'massage', or

'licensed massage therapist', the acronym 'LMT', or any other words identified by the board in regulation unless the person or entity is licensed pursuant to this chapter.

Section 40-30-150. (A) The department may periodically inspect massage therapy establishments and sole practitioner establishments during business hours, without prior notice. The department shall document inspections on a form approved by the board.

(B) Such inspections may include, but are not limited to, confirmation that a site is being utilized for massage therapy in accordance with its license and a determination as to whether the establishment is in compliance with this chapter and other applicable laws and regulations.

(C) Failure to cooperate with departmental inspections may lead to disciplinary action, cease and desist orders, or temporary suspension pursuant to this chapter and the Administrative Procedures Act.

Section 40-30-160. (A) The board may issue administrative citations and cease and desist orders in person or by certified mail and may assess administrative penalties against an establishment or individual, including unlicensed persons, for violations of this chapter or Chapter 1, Title 40 and related regulations.

(B) For each violation, separate citations may be issued, and separate administrative penalties may be assessed; however, no more than five thousand dollars in administrative penalties may be assessed against an establishment or an individual, including an unlicensed practice, per offense. Administrative penalties authorized under this section are separate from and in addition to all other remedies, either civil or criminal.

(C) An entity or individual that has been assessed administrative penalties may appeal those penalties to the board within ten days of receipt of a citation. If an appeal is filed, then the department shall schedule a hearing before the board, which shall make a determination on the matter. If no appeal is filed, then the citation is considered a final order, and the administrative penalties must be paid within thirty days of receipt of the citation or other written demand.

Section 40-30-180. (A) A person or entity holding a massage therapist license, massage therapy establishment license, or sole practitioner establishment license, pursuant to this chapter, must biennially satisfy the following license renewal requirements:

(1) pay a renewal fee in the amount, at the time, and in the manner provided by the board;

(2) complete continuing education requirements prescribed by the board in accordance with this chapter, if applicable, and submit evidence of compliance on a form prescribed by the board. The submitted continuing education compliance reports may be subject to random audits by the board. A licensee that does not comply with a continuing education audit request or that provides an incomplete compliance report may be subject to disciplinary action.

(B)(1) A license automatically reverts to lapsed status if the licensee fails to timely comply with the renewal requirements of this chapter. The license may be reinstated only upon application and payment of any fees and after having met any additional requirements which the board may establish including, but not limited to, an updated background check and continuing education requirements.

(2) If a massage therapy establishment license or a sole practitioner establishment license lapses, then the establishment must pass an inspection by the department prior to licensure reinstatement. The establishment licensee may also be subject to additional requirements, as determined by the board.

(3) A lapsed license status does not stay any disciplinary actions for violations that occurred during the course of an active license.

(4) An individual or establishment may not provide massage therapy services while a license is in lapsed status.

(C)(1) A license that has lapsed for more than one year shall be automatically canceled if the licensee has not submitted an application for reinstatement.

(2) If a license is canceled pursuant to this section, then an individual or entity may apply for a new license in accordance with this chapter and related regulations.

Section 40-30-185. (A) A licensee may provide a written request to the board to place a license in inactive status. If a license is placed in inactive status, then a licensee is not authorized to practice massage therapy in this State until the license is reinstated to active status.

(B) A licensee holding a license in inactive status must biennially renew the license to retain inactive status. A license may remain in inactive status for an indefinite time.

(C) A license may be reactivated from inactive status in a manner provided by the board.

(D) Inactive status does not stay any disciplinary actions for violations that occurred during the course of an active license.

Section 40-30-190. The board shall promulgate regulations establishing the following:

(1) continuing education requirements and compliance procedures:

(a) for license renewal or reinstatement, not to exceed twelve hours per biennium;

(b) for license reactivation, not to exceed six hours for each year the license is inactive;

(2) criteria for the evaluation and approval of continuing education hours, programs, or courses including, but not limited to, correspondence courses and electronic courses.

Section 40-30-200. (A) The department shall investigate complaints and violations as provided in this chapter and Chapter 1, Title 40.

(B) The presiding officer of the board may administer oaths if taking testimony concerning any matters pertaining to the business or duties of the board. If after investigation it appears that probable cause exists for a hearing, a time and a place must be set by the board for a hearing to determine whether disciplinary action must be taken against the licensee. Notice must be given and the hearing conducted in accordance with the Administrative Procedures Act.

(C) A person aggrieved by a final action of the board may seek an appeal of the decision in accordance with Section 40-1-160.

(D) Service of a notice of appeal does not stay the board's or the department's decision pending completion of the appellate process.

Section 40-30-220. (A) If the board or the department has reason to believe that an individual or an entity is violating or intends to violate a provision of this chapter or a regulation promulgated pursuant to this chapter, in addition to all other remedies, the board may order an individual or an entity to immediately cease and desist from engaging in the conduct. If the individual is practicing massage therapy or an entity is operating a massage therapy establishment or sole practitioner establishment without being licensed pursuant to this chapter, then the board or the department also may apply to an administrative law judge for a temporary restraining order prohibiting the unlawful practice. The board or the department may also seek from an administrative law judge other equitable relief to enjoin the violation or intended violation of this chapter or a regulation promulgated pursuant to this chapter.

(B) A board member, the director of the department, or any other employee of the department may not be held liable for damages resulting from a wrongful temporary restraining order.

Section 40-30-230. (A) In addition to the grounds provided in Section 40-1-110, the board may deny licensure to an applicant for a massage therapist license or may take disciplinary action against an individual who:

(1) used a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act in applying for licensure pursuant to this chapter;

(2) has had his license to practice massage therapy from another state or jurisdiction canceled, revoked, suspended, or otherwise restricted;

(3) has violated a provision of this chapter, a regulation promulgated pursuant to this chapter, or an order of the department or the board;

(4) has intentionally or knowingly, directly or indirectly, aided or abetted in the violation or conspiracy to violate this chapter or a regulation promulgated pursuant to this chapter;

(5) has intentionally used a fraudulent statement in a document connected to the practice of massage therapy or has made false, deceptive, or misleading statements in the practice of massage therapy or in advertising;

(6) has obtained fees or assisted in obtaining fees under intentionally fraudulent circumstances;

(7) lacks the professional or ethical competence to practice massage therapy;

(8) has been convicted of or has pled guilty to or nolo contendere to solicitation or prostitution, assault and battery, or other like offenses; to money laundering or other like offense; to a crime that directly relates to the practice or ability to practice massage therapy; to a crime involving moral turpitude; or to a violent crime as defined in Section 16-1-60, a felony that directly relates to the practice or ability to practice massage therapy during the previous five years, or a felony that reasonably relates to the ability to practice massage therapy and for which an essential element is dishonesty during the previous seven years;

(9) has practiced massage therapy while under the influence of alcohol or drugs or uses alcohol or drugs to such a degree as to render him unfit to practice massage therapy;

(10) has sustained a physical or mental disability, as determined by a physician that renders further practice by the licensee dangerous to the public;

(11) has engaged in or has assisted another to engage in unlicensed practice as provided in this chapter;

(12) has presented another licensee's license as his own or has falsely impersonated another license holder;

(13) has allowed the use of a license by an unlicensed individual or entity; or

(14) has used or attempted to use a license that has been revoked, suspended, or otherwise restricted from active licensure.

(B) The board may not deny an individual a license under this chapter solely because of a prior criminal conviction unless the criminal conviction directly relates to the practice of massage therapy. However, the board may refuse to issue a license under this chapter based upon all information available, including the applicant's record of prior convictions, if it finds that the applicant is unfit or unsuited to engage in the practice of massage therapy, pursuant to Section 40-1-140.

Section 40-30-235. In addition to the grounds provided in Section 40-1-110, the board may deny licensure to an applicant for a massage therapy establishment or sole practitioner establishment license or may take disciplinary action against an entity licensed as a massage therapy establishment or sole practitioner establishment that:

(1) used a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act in applying for a license pursuant to this chapter;

(2) has had a license, permit, certificate, or registration from South Carolina or another state or jurisdiction denied, canceled, revoked, suspended, or otherwise restricted;

(3) has violated a provision of this chapter, a regulation promulgated pursuant to this chapter, or an order of the department or the board;

(4) has intentionally or knowingly, directly or indirectly, aided or abetted in the violation of or a conspiracy to violate this chapter or a regulation promulgated pursuant to this chapter;

(5) has intentionally used a fraudulent statement in a document connected to the conduct of its establishment, or has made false, deceptive, or misleading statements in the conduct of its establishment or in related advertising;

(6) has obtained fees or assisted in obtaining fees under intentionally fraudulent circumstances;

(7) has engaged in unlicensed practice;

(8) has allowed an individual, employee, or independent contractor to practice massage therapy on the premises of the establishment without an active license to practice massage therapy pursuant to this chapter;

(9) has presented as its own license the license of another establishment;

(10) has allowed the use of a license by an unlicensed establishment;

(11) has falsely impersonated another license holder; or

(12) has used or has attempted to use a license that has been revoked, suspended, or otherwise restricted from active licensure.

Section 40-30-240. If investigating grounds for taking disciplinary action based upon an alcohol or drug addiction, as provided for in Section 40-30-230(A)(9), or a physical or mental disability, as provided for in Section 40-30-230(A)(10), the board upon reasonable grounds may:

(1) require an applicant or licensee to submit to a mental or physical examination including a drug test by authorized practitioners designated by the board. The results of an examination are admissible in a hearing before the board, notwithstanding a claim of privilege pursuant to a contrary rule of law. An individual who accepts the privilege of practicing massage therapy in this State or who files an application for a license to practice massage therapy in this State is deemed to have consented to submit to a mental or physical examination including a drug test and to have waived all objections to the admissibility of the results in a hearing before the board upon the grounds that the results constitute a privileged communication. If an applicant or licensee fails to submit to an examination when requested by the board pursuant to this section, unless the failure was due to circumstances beyond the individual's control, then the board shall enter an order automatically denying or suspending the license pending compliance and further order of the board. An applicant or licensee who is prohibited from practicing pursuant to this subsection must be afforded at reasonable intervals an opportunity to demonstrate to the board the ability to resume or begin the practice of massage therapy with reasonable skill and safety to clients;

(2) obtain records of an examination required by item (1) specifically relating to the mental or physical condition of an applicant or licensee who is the subject of an investigation and these records are admissible in a hearing before the board, notwithstanding any other

provision of law. An individual who accepts the privilege of practicing massage therapy in this State or who files an application to practice massage therapy in this State is deemed to have consented to the board obtaining these records and to have waived all objections to the admissibility of these records in a hearing before the board upon the grounds that the records constitute a privileged communication. If a licensee or applicant refuses to sign a written consent for the board to obtain these records when requested by the board pursuant to this section, unless the failure was due to circumstances beyond the individual's control, then the board shall enter an order automatically denying or suspending the license pending compliance and further order of the board. An applicant or licensee who is prohibited pursuant to this section from practicing massage therapy must be afforded at reasonable intervals an opportunity to demonstrate to the board the ability to resume or begin the practice of massage therapy with reasonable skill and safety to clients.

Section 40-30-250. (A) Upon a determination by the board that one or more of the grounds for discipline exists, in addition to sanctions provided in Section 40-1-120, the board may:

(1) issue a nondisciplinary letter of caution;

(2) issue a private reprimand;

(3) issue a public reprimand;

(4) impose a fine not to exceed five thousand dollars per violation;

(5) place the licensee on probation, restrict the license, or suspend the license for a definite or indefinite time and prescribe conditions to be met during probation, restriction, or suspension, respectively including, but not limited to, satisfactory completion of additional education of a supervisory period or of continuing education programs as may be specified; or

(6) temporarily or permanently revoke the license.

(B) A decision by the board to discipline a licensee as authorized pursuant to this section must be made by a majority vote of a quorum of the entire membership of the board, reduced by any vacancies existing at the time.

(C) Except for a private reprimand, a final order of the board pursuant to this section is public information.

Section 40-30-260. (A) A licensee who is under investigation for misconduct, pursuant to Section 40-30-230 or Section 40-30-235, voluntarily may surrender its license to the board, invalidating the license at the time it is surrendered. An individual or establishment that

voluntarily surrenders a license may not practice as a massage therapist or operate as a massage therapy establishment or sole practitioner establishment until the board reinstates the license. An individual or an establishment practicing as a massage therapist or operating as a massage therapy establishment or sole practitioner establishment during the period of voluntary license surrender is deemed an unlicensed practitioner or establishment and is subject to the applicable penalties.

(B) Surrendering a license must not be considered an admission of guilt in a proceeding held pursuant to this chapter. However, surrendering a license does not preclude the board from imposing conditions on the acceptance of the proffered license or from taking disciplinary action against the licensee.

Section 40-30-280. (A) Service of any notice provided for by law upon a nonresident licensed under this chapter or upon a resident who having been licensed, subsequently becomes a nonresident or after due diligence cannot be found at his usual abode or place of business in this State, may be made by leaving with the director of the department or his designee a copy of the notice and any accompanying documents. A copy of the notice, accompanying documents, and a certified copy of the service on the director or his designee must be mailed to the licensee at his last known address, return receipt requested. The director or his designee shall keep a record of the day of the service of the notice, and the return receipt must be attached to and made a part of the return of service of the notice by the department.

(B) A continuance may be given in any hearing under this chapter for which notice is given pursuant to this section so as to afford the licensee a reasonable opportunity to appear and be heard.

Section 40-30-290. (A) All costs and fines imposed under Section 40-30-250 or Section 40-30-160 are due and payable as required by the board. Failure to pay costs and fines may result in action pursuant to Section 40-1-180.

(B) A licensee found to be in violation of this chapter or the regulations promulgated under this chapter may be required to pay costs associated with the investigation of its case, pursuant to Section 40-1-170.

Section 40-30-300. (A) Every communication, whether oral or written, made by or on behalf of an individual or an establishment, to the director, his designee, or the board, whether by way of complaint or testimony, is privileged, and no action or proceeding, civil or criminal,

may be brought against the individual or establishment, by or on whose behalf the communication is made, except upon proof that the communication was made with malice.

(B) Investigations conducted under this chapter are confidential, except that information relied upon in an administrative action may be disclosed as may be necessary to support the administrative action.

(C) Nothing in this chapter may be construed to prohibit the respondent or the respondent's legal counsel from exercising the respondent's constitutional right of due process under the law including, but not limited to, the respondent's right to have normal access to the charges and evidence filed against the respondent.

Section 40-30-320. Nothing in this chapter may be construed to prevent the teaching of massage therapy in this State at an approved massage therapy school or in an approved massage therapy education program."

Time effective

SECTION 3. This act takes effect one year after approval by the Governor.

Ratified the 12th day of May, 2022.

Approved the 13th day of May, 2022.

No. 152

(R180, S953)

AN ACT TO AMEND SECTION 7-7-360, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN LAURENS COUNTY, SO AS TO UPDATE THE MAP NUMBER ON WHICH THE NAMES AND BOUNDARIES OF THE LAURENS 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:

Laurens County voting precincts, map number updated

SECTION 1. Section 7-7-360(B) of the 1976 Code, as last amended by Act 124 of 2020, is further amended to read:

"(B) The precinct lines defining the precincts in subsection (A) are as shown on the official map designated as P-59-22 and on file with the Revenue and Fiscal Affairs Office and as shown on certified copies provided to the Board of Voter Registration and Elections of Laurens County."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 13th day of May, 2022.

No. 153

(R184, S1060)

AN ACT TO AMEND SECTION 7-7-40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN AIKEN COUNTY, SO AS TO ADD CREEK NO. 85 AND COMMUNITY NO. 86 VOTING PRECINCTS, AND TO UPDATE 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:

Aiken County voting precincts designated

SECTION 1. Section 7-7-40 of the 1976 Code is amended to read:

"Section 7-7-40. (A) In Aiken County there are the following voting precincts:

Aiken No. 1
Aiken No. 2
Aiken No. 3
Aiken No. 4
Aiken No. 5
Aiken No. 6
Aiken No. 47
Anderson Pond No. 69
Ascauga Lake
Ascauga Lake No. 84
Bath
Beech Island
Belvedere No. 9
Belvedere No. 44
Belvedere No. 62
Belvedere No. 74
Breezy Hill
Carolina Heights
Cedar Creek No. 64
China Springs
Clearwater
College Acres
Community No. 86
Couchton
Creek No. 85
Eureka
Fox Creek No. 58
Fox Creek No. 73
Gem Lakes No. 60
Gem Lakes No. 77
Gloverville
Graniteville
Hammond
Hammond No. 81
New Holland
Hitchcock No. 66
Hollow Creek
Jackson
Langley
Levels No. 52
Levels No. 72
Levels No. 83

Lynwood
Midland Valley No. 51
Midland Valley No. 71
Millbrook
Misty Lakes
Monetta
Montmorenci No. 22
Montmorenci No. 78
New Ellenton
North Augusta No. 25
North Augusta No. 26
North Augusta No. 27
North Augusta No. 28
North Augusta No. 29
North Augusta No. 54
North Augusta No. 55
North Augusta No. 67
North Augusta No. 68
North Augusta No. 80
Oak Grove
Perry
Redds Branch
Salley
Sandstone No. 70
Sandstone No. 79
Shaws Fork
Shiloh
Silver Bluff
Six Points No. 35
Six Points No. 46
Sleepy Hollow No. 65
South Aiken No. 75
South Aiken No. 76
Tabernacle
Talatha
Pine Forest
Vaucluse
Wagener
Ward
Warrenville
White Pond
Willow Springs

Windsor
Windsor No. 82

(B) Precinct lines defining the precincts provided in subsection (A) of this section are as shown on the official map prepared by and on file with the Revenue and Fiscal Affairs Office designated as document P-03-22 and as shown on certified copies of the official map provided by the office to the State Election Commission and the Board of Voter Registration and Elections of Aiken County.

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

Time effective

SECTION 2. This act takes effect upon approval by the Governor and first applies to the 2022 General Election.

Ratified the 12th day of May, 2022.

Approved the 13th day of May, 2022.

No. 154

(R187, S1178)

AN ACT TO AMEND SECTION 39-20-45, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ENFORCEMENT OF A LIEN ON A SELF-SERVICE STORAGE FACILITY, SO AS TO AUTHORIZE THE CONTENTS OF THE STORAGE FACILITY TO BE SOLD ONLINE BY AN AUCTIONEER.

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

Self-service storage facility

SECTION 1. Section 39-20-45(I) of the 1976 Code is amended to read:

"(I) If no one purchases the property at the public sale and if the owner has complied with the foregoing procedures, the owner may otherwise dispose of the property and shall notify the occupant of the action taken. Any sale or disposition of the personal property must be held at the self-service storage facility, at the nearest suitable place to where the personal property is held or stored, or online by an auctioneer licensed in this State."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 13th day of May, 2022.

No. 155

(R188, S1179)

AN ACT TO AMEND SECTION 40-63-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE LICENSURE OF SOCIAL WORKERS, SO AS TO CLARIFY THAT SOCIAL WORKERS LICENSED IN THIS STATE MAY PROVIDE SERVICES WITHIN THEIR SCOPE OF PRACTICE THROUGH TELEPHONIC, ELECTRONIC, OR OTHER MEANS; BY ADDING SECTION 40-63-35 SO AS TO AUTHORIZE INDEPENDENT CLINICAL PRACTICE SOCIAL WORKERS LICENSED IN OTHER STATES OR JURISDICTIONS TO PROVIDE INDEPENDENT SOCIAL WORK SERVICES BY MEANS OF BEHAVIORAL TELEHEALTH TO CLIENTS LOCATED IN THIS STATE IF REGISTERED IN THIS STATE AND PROVIDING SERVICES WITHIN THEIR SCOPE OF PRACTICE, AND TO PROVIDE RELATED DEFINITIONS AND REQUIREMENTS; AND BY ADDING ARTICLE 5 TO CHAPTER 75, TITLE 40 SO AS TO AUTHORIZE PROFESSIONAL COUNSELORS, ADDICTION COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, AND LICENSED PSYCHO-EDUCATIONAL SPECIALISTS SERVICES IN OTHER STATES OR JURISDICTIONS TO PROVIDE THEIR

PROFESSIONAL SERVICES BY MEANS OF BEHAVIORAL TELEHEALTH TO CLIENTS LOCATED IN THIS STATE IF REGISTERED IN THIS STATE AND PROVIDING SERVICES WITHIN THEIR APPLICABLE SCOPE OF PRACTICE, AND TO PROVIDE RELATED DEFINITIONS AND REQUIREMENTS.

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

Social workers licensed in this State, services provided electronically

SECTION 1. Section 40-63-30(B) of the 1976 Code is amended to read:

"(B) A person providing social work services to a client in this State, through telephonic, electronic, or other means, regardless of the location of the social worker, who is not licensed or registered by this State, is practicing without a license. A social worker licensed by this State may provide services through these means to a client in this State within their appropriate scope of practice."

Out-of-state social workers authorized

SECTION 2. Article 1, Chapter 63, Title 40 of the 1976 Code is amended by adding:

"Section 40-63-35. (A) For purposes of this section, 'behavioral telehealth' means the practice of Independent Social Work-CP using electronic communications, information technology, or other means between a registrant located outside this State and a client located in this State with or without an intervening practitioner. A behavioral telehealth provider has the duty to practice in a manner consistent with his scope of practice and the prevailing professional standard of practice for an Independent Social Work-CP who provides in-person social work services to clients in this State.

(B) An Independent Social Work-CP who holds an active license to provide independent social work services in another state or jurisdiction may provide independent social work services using behavioral telehealth to a client located in this State if the individual is registered with the board and provides the services within the applicable scope of practice established by this State.

(C) To be registered, the individual must:

(1) complete an application in the format prescribed by the board;

(2) be licensed with an active, unencumbered license that is issued by another state, the District of Columbia, or a possession or territory of the United States and that is substantially similar to a license issued by South Carolina to an Independent Social Worker-CP;

(3) have not been the subject of disciplinary action relating to his license during the five-year period immediately prior to the submission of the application; and

(4) pay a ten-dollar fee.

(D) The website of a behavioral telehealth registrant must prominently display a hyperlink to the board's website containing information required under subsection (F).

(E) The individual may not register under this section if his license to provide social work services is subject to a pending disciplinary investigation or action or has been revoked in any state or jurisdiction. A social worker registered under this section must notify the board of restrictions placed on his license to practice, or any disciplinary action taken or pending against him, in any state or jurisdiction. The notification must be provided within five business days after the restriction is placed or disciplinary action is initiated or taken.

(F) The board shall publish on its website a list of all registrants and include, to the extent applicable, each registrant's:

(1) name;

(2) address;

(3) out-of-state social work license type with the license number; and

(4) South Carolina behavioral telehealth registration number.

(G) The board may take disciplinary action against an out-of-state registrant registered under this section if the individual:

(1) fails to notify the board of any adverse actions taken against his license as required under subsection (E);

(2) has restrictions placed on or disciplinary action taken against his license in any state or jurisdiction;

(3) violates any of the requirements of this section; or

(4) commits any act that constitutes grounds for disciplinary action under the board's statutes or regulations.

(H) For the purposes of this section, the delivery of behavioral telehealth services by a registrant licensed by another state or jurisdiction to a client residing in this State is deemed to occur in this State, and the registrant consents, as a condition of registration, to the personal and subject matter jurisdiction and disciplinary authority of the board.

(I) Nothing in this section requires or authorizes an individual licensed by this State pursuant to this chapter to obtain a behavioral telehealth registration in order to provide behavioral telehealth services to a client residing in this State."

Out-of-state counselors and related therapists authorized

SECTION 3. Chapter 75, Title 40 of the 1976 Code is amended by adding:

"Article 5

Behavioral Telehealth

Section 40-75-800. (A) For purposes of this chapter, 'behavioral telehealth' means the practice of professional counseling, addiction counseling, marriage and family therapy, and licensed psycho-educational specialty using electronic communications, information technology, or other means between a registrant located outside this State and a client located in this State with or without an intervening practitioner. A behavioral telehealth provider has the duty to practice in a manner consistent with his scope of practice and the prevailing professional standard of practice for a behavioral health care professional who provides in-person professional counseling, addiction counseling, marriage and family therapy, and licensed psycho-educational specialist services to clients in this State.

(B) Individuals who hold an active license to provide professional counseling, addiction counseling, marriage and family therapy, and licensed psycho-educational specialist services in another state or jurisdiction may provide these services using behavioral telehealth to a client located in this State if the individual is registered with the board and provides the services within the applicable scope of practice established by this State.

(C) To be registered, the individual must:

(1) complete an application in the format prescribed by the board;

(2) be licensed with an active, unencumbered license that is issued by another state, the District of Columbia, or a possession or territory of the United States and that is substantially similar to a license issued by South Carolina to a professional counselor, addiction counselor, marriage and family therapist, or licensed psycho-educational specialist;

(3) have not been the subject of disciplinary action relating to his license during the five-year period immediately prior to the submission of the application; and

(4) pay a ten-dollar fee.

(D) The website of a behavioral telehealth registrant must prominently display a hyperlink to the board's website containing information required under subsection (F).

(E) The individual may not register under this subsection if his license to provide professional counseling, addiction counseling, marriage and family therapy, or licensed psycho-educational specialist services is subject to a pending disciplinary investigation or action, or has been revoked in any state or jurisdiction. An individual registered under this section must notify the board of restrictions placed on his license to practice or any disciplinary action taken or pending against him in any state or jurisdiction. The notification must be provided within five business days after the restriction is placed or disciplinary action is initiated or taken.

(F) The board shall publish on its website a list of all registrants and include, to the extent applicable, each registrant's:

(1) name;

(2) address;

(3) out-of-state professional license type with the license number; and

(4) South Carolina behavioral telehealth registration number.

(G) The board may take disciplinary action against an out-of-state registrant registered under this section if the individual:

(1) fails to notify the board of any adverse actions taken against his license as required under subsection (E);

(2) has restrictions placed on or disciplinary action taken against his license in any state or jurisdiction;

(3) violates any of the requirements of this section; or

(4) commits any act that constitutes grounds for disciplinary action under the board's statutes or regulations.

(H) For the purposes of this section, the delivery of behavioral telehealth services by a registrant licensed by another state or jurisdiction to a client residing in this State is deemed to occur in this State, and the registrant consents, as a condition of registration, to the personal and subject matter jurisdiction and disciplinary authority of the board.

(I) Nothing in this section requires or authorizes an individual licensed by this State pursuant to this chapter to obtain a behavioral telehealth registration in order to provide behavioral telehealth services to a client residing in this State."

Time effective

SECTION 4. This act takes effect thirty days after approval by the Governor.

Ratified the 12th day of May, 2022.

Approved the 13th day of May, 2022.

No. 156

(R198, H3247)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "WORKFORCE ENHANCEMENT AND MILITARY RECOGNITION ACT"; TO AMEND SECTION 12-6-1171, RELATING TO THE MILITARY RETIREMENT INCOME DEDUCTION, SO AS TO ALLOW FOR THE DEDUCTION OF ALL MILITARY RETIREMENT INCOME.

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

Citation

SECTION 1. This act shall be known and may be cited as the "Workforce Enhancement and Military Recognition Act".

Military retirement income tax deduction

SECTION 2. Section 12-6-1171(A) of the 1976 Code is amended to read:

"(A) An individual taxpayer may deduct all military retirement income that is included in South Carolina taxable income."

Time effective

SECTION 3. This act takes effect upon approval by the Governor and first applies to tax years beginning after 2021.

Ratified the 12th day of May, 2022.

Approved the 13th day of May, 2022.

No. 157

(R200, H3325)

AN ACT TO AMEND SECTION 44-63-74, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MANDATORY ELECTRONIC FILING OF DEATH CERTIFICATES WITH THE BUREAU OF VITAL STATISTICS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SO AS TO ELIMINATE EXEMPTIONS FOR PHYSICIANS WHO CERTIFY FEWER THAN TWELVE DEATHS ANNUALLY; AND FOR OTHER PURPOSES.

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

Electronic filing of death certificates

SECTION 1. A. Section 44-63-74(A)(4) of the 1976 Code is amended to read:

"(4) Death certificates must be transmitted electronically between the funeral home, or funeral home director, and the physician, coroner, or medical examiner certifying the cause of death in order to document the death certificate information prescribed by this chapter. Required signatures on death certificates must be provided by electronic signature. An individual who acts, without compensation, as a funeral director on behalf of a deceased family member or friend, is exempt from the requirement to file electronically but must comply with the requirements of items (2) or (3), as applicable."

B. Section 44-63-74(A)(1) of the 1976 Code is amended to read:

"(1) Notwithstanding any other provision of law, death certificates must be electronically filed with the Bureau of Vital Statistics as prescribed by the State Registrar of Vital Statistics within five days after death. As prescribed by law, the Bureau of Vital Statistics shall notify the State Election Commission of the decedent's death who shall subsequently notify the County Board of Voter Registration and Elections in which the decedent was a resident of the decedent's death for purposes of removing the decedent from the voter roll."

Time effective

SECTION 2. This act takes effect July 1, 2022.

Ratified the 12th day of May, 2022.

Approved the 13th day of May, 2022.

No. 158

(R203, H3599)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 3 TO CHAPTER 36, TITLE 40 SO AS TO ENACT THE "OCCUPATIONAL THERAPY LICENSURE COMPACT" WHICH ENTERS SOUTH CAROLINA INTO A MULTISTATE OCCUPATIONAL LICENSURE COMPACT TO PROVIDE FOR THE RECIPROCAL PRACTICE OF OCCUPATIONAL THERAPY AMONG THE STATES THAT ARE PARTIES TO THE COMPACT; TO AMEND SECTION 40-36-230, RELATING TO APPLICANTS FOR LICENSURE AS OCCUPATIONAL THERAPISTS OR OCCUPATIONAL THERAPIST ASSISTANTS, SO AS TO REQUIRE CERTAIN CRIMINAL BACKGROUND CHECKS FOR APPLICATIONS MADE PURSUANT TO THE COMPACT; TO AMEND SECTION 40-36-250, RELATING TO APPLICANTS FOR LICENSURE WITHOUT EXAMINATION AS OCCUPATIONAL THERAPISTS OR OCCUPATIONAL THERAPIST

ASSISTANTS, SO AS TO REQUIRE CERTAIN CRIMINAL BACKGROUND CHECKS FOR APPLICATIONS MADE PURSUANT TO THE COMPACT; AND TO DESIGNATE THE EXISTING SECTIONS OF CHAPTER 36 AS ARTICLE 1, ENTITLED "GENERAL PROVISIONS".

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

Compact

SECTION 1. Chapter 36, Title 40 of the 1976 Code is amended by adding:

"Article 3

Occupational Therapy Licensure Compact

Section 40-36-510. (A) The purpose of this compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services. The practice of occupational therapy occurs in the state where the patient/client is located at the time of the patient/client encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

(B) This compact is designed to achieve the following objectives:

(1) increase public access to occupational therapy services by providing for the mutual recognition of other member state licenses;

(2) enhance the ability of the states to protect the health and safety of the public;

(3) encourage the cooperation of member states in regulating multistate occupational therapy practice;

(4) support spouses of relocating military members;

(5) enhance the exchange of licensure, investigative, and disciplinary information between member states;

(6) allow a remote state to hold a provider of services with a compact privilege in that state accountable to the practice standards of that state; and

(7) facilitate the use of telehealth technology in order to increase access to occupational therapy services.

Section 40-36-520. As used in this compact and except as otherwise provided:

(1) 'Active duty military' means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapter 1209 and Chapter 1211.

(2) 'Adverse action' means any administrative, civil, equitable, or criminal action permitted by the laws of a state that is imposed by a licensing board or other authority against an occupational therapist or occupational therapy assistant, including actions against the license or compact privilege of an individual, such as censure, revocation, suspension, probation, monitoring of the licensee, or restriction on the practice of the licensee.

(3) 'Alternative program' means a nondisciplinary monitoring process approved by an occupational therapy licensing board.

(4) 'Compact privilege' means the authorization, which is equivalent to a license, granted by a remote state to allow a licensee from another member state to practice as an occupational therapist or practice as an occupational therapy assistant in the remote state under its laws and rules. The practice of occupational therapy occurs in the member state where the patient/client is located at the time of the patient/client encounter.

(5) 'Continuing competence/education' means a requirement, as a condition of license renewal, to provide evidence of participation in, and completion of, educational and professional activities relevant to practice or area of work.

(6) 'Current significant investigative information' means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the occupational therapist or occupational therapy assistant to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

(7) 'Data system' means a repository of information about licensees including, but not limited to, license status, investigative information, compact privileges, and adverse actions.

(8) 'Encumbered license' means a license in which an adverse action restricts the practice of occupational therapy by the licensee or said adverse action has been reported to the National Practitioners Data Bank (NPDB).

(9) 'Executive committee' means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

(10) 'Home state' means the member state that is the licensee's primary state of residence.

(11) 'Impaired practitioner' means individuals whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.

(12) 'Investigative information' means information, records, and documents received or generated by an occupational therapy licensing board pursuant to an investigation.

(13) 'Jurisprudence requirement' means the assessment of an individual's knowledge of the laws and rules governing the practice of occupational therapy in a state.

(14) 'Licensee' means an individual who currently holds an authorization from the state to practice as an occupational therapist or as an occupational therapy assistant.

(15) 'Member state' means a state that has enacted the compact.

(16) 'Occupational therapist' means an individual who is licensed by a state to practice occupational therapy.

(17) 'Occupational therapy assistant' means an individual who is licensed by a state to assist in the practice of occupational therapy.

(18) 'Occupational therapy', 'occupational therapy practice', or the 'practice of occupational therapy' means the care and services provided by an occupational therapist or an occupational therapy assistant as set forth in the statutes and regulations of the member state.

(19) 'Occupational Therapy Compact Commission' or 'commission' means the national administrative body whose membership consists of all states that have enacted the compact.

(20) 'Occupational therapy licensing board' or 'licensing board' means the agency of a state that is authorized to license and regulate occupational therapists and occupational therapy assistants.

(21) 'Primary state of residence' means the state, also known as the home state, in which an occupational therapist or occupational therapy assistant who is not active duty military declares a primary residence for legal purposes as verified by a driver's license, federal income tax return, lease, deed, mortgage, voter registration, or other verifying documentation as further defined by commission rules.

(22) 'Remote state' means a member state, other than the home state, where a licensee is exercising or seeking to exercise the compact privilege.

(23) 'Rule' means a regulation promulgated by the commission that has the force of law.

(24) 'State' means a state, commonwealth, district, or territory of the United States of America that regulates the practice of occupational therapy.

(25) 'Single-state license' means an occupational therapist license or occupational therapy assistant license issued by a member state that authorizes practice only within the issuing state and does not include a compact privilege in another member state.

(26) 'Telehealth' means the application of telecommunication technology to deliver occupational therapy services for:

(a) assessment;

(b) intervention;

(c) consultation; or

(d) any combination of (a) through (c).

Section 40-36-530. (A) To participate in the compact, a member state shall:

(1) license occupational therapists and occupational therapy assistants;

(2) participate fully in the commission's data system including, but not limited to, using the commission's unique identifier as defined in rules of the commission;

(3) have a mechanism in place for receiving and investigating complaints about licensees;

(4) notify the commission, in compliance with the terms of the compact and rules, of an adverse action or the availability of investigative information regarding a licensee;

(5) implement or use procedures for considering the criminal history records of applicants for an initial compact privilege, provided these procedures must include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records, and:

(a) within a period established by the commission, require a criminal background check for a licensee seeking or applying for a compact privilege whose primary state of residence is that member state, by receiving the results of the Federal Bureau of Investigation criminal record search, and shall use the results in making licensure decisions; and

(b) ensure communication between a member state, the commission, and among member states regarding the verification of eligibility for licensure through the compact may not include information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member state under Public Law 92-544;

(6) comply with the rules of the commission;

(7) use only a recognized national examination as a requirement for licensure pursuant to the rules of the commission; and

(8) have continuing competence/education requirements as a condition for license renewal.

(B) A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules.

(C) A member state may charge a fee for granting a compact privilege.

(D) A member state shall provide for the state's delegate to attend all occupational therapy compact commission meetings.

(E) An individual not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals may not be recognized as granting the compact privilege in any other member state.

(F) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.

Section 40-36-540. (A) To exercise the compact privilege under the terms and provisions of the compact, the licensee shall:

(1) hold a license in the home state;

(2) have a valid United States Social Security Number or national practitioner identification number;

(3) have no encumbrance on any state license;

(4) be eligible for a compact privilege in any member state in accordance with subsections (D), (F), (G), and (H);

(5) have paid all fines and completed all requirements resulting from any adverse action against any license or compact privilege, and two years have elapsed from the date of such completion;

(6) notify the commission that the licensee is seeking the compact privilege within a remote state;

(7) pay applicable fees, including a state fee, for the compact privilege;

(8) complete a criminal background check in accordance with Section 40-36-530(A)(5), provided the licensee must be responsible for the payment of a fee associated with the completion of a criminal background check;

(9) meet jurisprudence requirements established by the remote state in which the licensee is seeking a compact privilege; and

(10) report to the commission adverse action taken by a nonmember state within thirty days from the date the adverse action is taken.

(B) The compact privilege is valid until the expiration date of the home state license. The licensee must comply with the requirements of subsection (A) to maintain the compact privilege in the remote state.

(C) A licensee providing occupational therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

(D) Occupational therapy assistants practicing in a remote state must be supervised by an occupational therapist licensed or holding a compact privilege in that remote state.

(E) A licensee providing occupational therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period, impose fines, and take other necessary actions to protect the health and safety of its citizens. The licensee may be ineligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

(F) If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

(1) the home state license is no longer encumbered; and

(2) two years have elapsed from the date on which the home state license is no longer encumbered in accordance with item (1).

(G) Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection (A) to obtain a compact privilege in a remote state.

(H) If a licensee's compact privilege in a remote state is removed, the individual may lose the compact privilege in any other remote state until the following occur:

(1) the specific period of time for which the compact privilege was removed has ended;

(2) all fines have been paid and all conditions have been met;

(3) two years have elapsed from the date of completing requirements for items (1) and (2); and

(4) the compact privileges are reinstated by the commission, and the compact data system is updated to reflect reinstatement.

(I) If a licensee's compact privilege in a remote state is removed due to an erroneous charge, privileges must be restored through the compact data system.

(J) Once the requirements of subsection (H) have been met, the licensee must meet the requirements in subsection (A) to obtain a compact privilege in a remote state.

Section 40-36-550. (A) An occupational therapist or occupational therapy assistant may hold a home state license, which allows for compact privileges in member states, in only one member state at a time.

(B) If an occupational therapist or occupational therapy assistant changes primary state of residence by moving between two member states:

(1) the occupational therapist or occupational therapy assistant shall file an application for obtaining a new home state license by virtue of a compact privilege, pay all applicable fees, and notify the current and new home states in accordance with applicable rules adopted by the commission;

(2) upon receipt of an application for obtaining a new home state license by virtue of compact privilege, the new home state shall verify that the occupational therapist or occupational therapy assistant meets the pertinent criteria outlined in Section 40-36-540 by means of the data system, without need for primary source verification except for:

(a) an FBI fingerprint-based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the commission in accordance with Public Law 92-544;

(b) other criminal background check as required by the new home state; and

(c) submission of requisite jurisprudence requirements of the new home state;

(3) the former home state shall convert the former home state license into a compact privilege once the new home state has activated the new home state license in accordance with applicable rules adopted by the commission;

(4) notwithstanding any other provision of this compact, if the occupational therapist or occupational therapy assistant cannot meet the criteria in Section 40-36-540, the new home state shall apply its requirements for issuing a new single-state license; and

(5) the occupational therapist or the occupational therapy assistant shall pay all applicable fees to the new home state in order to be issued a new home state license.

(C) If an occupational therapist or occupational therapy assistant changes primary state of residence by moving from a member state to a nonmember state, or from a nonmember state to a member state, the state criteria applies for issuance of a single-state license in the new state.

(D) Nothing in this compact may be construed to interfere with the ability of a licensee to hold a single-state license in multiple states; however, for the purposes of this compact, a licensee shall have one home state license.

(E) Nothing in this compact may be construed to affect the requirements established by a member state for the issuance of a single-state license.

Section 40-36-560. Active duty military personnel, or their spouses, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual only shall change their home state through application for licensure in the new state or through the process described in Section 40-36-550.

Section 40-36-570. (A) A home state has exclusive power to impose adverse action against an occupational therapist license or occupational therapy assistant license issued by the home state.

(B) In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law to:

(1) take adverse action against an occupational therapist's or occupational therapy assistant's compact privilege within that member state; and

(2) issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state must be enforced in the latter state by a court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

(C) For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(D) The home state shall complete pending investigations of an occupational therapist or occupational therapy assistant who changes primary state of residence during the course of the investigations. The home state, where the investigations were initiated, also shall have the authority to take appropriate action and promptly shall report the conclusions of the investigations to the occupational therapy compact

commission data system. The data system administrator shall promptly notify the new home state of adverse actions.

(E) A member state, if otherwise permitted by state law, may recover from the affected occupational therapist or occupational therapy assistant the costs of investigations and disposition of cases resulting from an adverse action taken against that occupational therapist or occupational therapy assistant.

(F) A member state may take adverse action based on the factual findings of the remote state if the member state follows its own procedures for taking the adverse action.

(G) In addition to the authority granted to a member state by its respective state occupational therapy laws and regulations or other applicable state law, a member state may participate with other member states in joint investigations of licensees. Member states shall share investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(H) If an adverse action is taken by the home state against an occupational therapist license or occupational therapy assistant license, the compact privilege of the occupational therapist or occupational therapy assistant in all other member states must be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an occupational therapist license or occupational therapy assistant license shall include a statement that the compact privilege of the occupational therapist or occupational therapy assistant is deactivated in all member states during the pendency of the order.

(I) If a member state takes adverse action, it promptly shall notify the data system administrator, who promptly shall notify the home state of adverse actions by remote states.

(J) Nothing in this compact may be construed to override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

Section 40-36-580. (A) The compact member states hereby create and establish a joint public agency known as the 'Occupational Therapy Compact Commission'.

(1) The commission is an instrumentality of the compact states.

(2) Venue is proper and judicial proceedings by or against the commission must be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses

to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this compact may be construed to be a waiver of sovereign immunity.

(B) With respect to commission membership, voting, and meetings:

(1) each member state has, and is limited to, one delegate selected by that member state's licensing board;

(2) the delegate must be either:

(a) a current member of the licensing board, who is an occupational therapist, occupational therapy assistant, or public member; or

(b) an administrator of the licensing board;

(3) a delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed;

(4) the member state board shall fill a vacancy occurring in the commission within ninety days;

(5) each delegate is entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission, provided a delegate shall vote in person or by such other means as provided in the bylaws, and the bylaws may provide for delegates' participation in meetings by telephone or other means of communication;

(6) the commission shall meet at least once during each calendar year and additional meetings shall be held as set forth in the bylaws; and

(7) the commission shall establish by rule a term of office for delegates.

(C) The commission has powers and duties to:

(1) establish a code of ethics for the commission;

(2) establish the fiscal year of the commission;

(3) establish bylaws;

(4) maintain its financial records in accordance with the bylaws;

(5) meet and take such actions as are consistent with the provisions of this compact and the bylaws;

(6) promulgate uniform rules to facilitate and coordinate implementation and administration of this compact, which have the force and effect of law and are binding in all member states;

(7) bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of a state occupational therapy licensing board to sue or be sued under applicable law shall not be affected;

(8) purchase and maintain insurance and bonds;

(9) borrow, accept, or contract for services of personnel including, but not limited to, employees of a member state;

(10) hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(11) accept appropriate donations and grants of money, equipment, supplies, materials and services, and receive, and use and dispose of them; provided that the commission shall avoid any appearance of impropriety, or conflict of interest;

(12) lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or use, any property, real, personal or mixed; provided that at all times the commission shall avoid any appearance of impropriety;

(13) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of real property, personal property, or a mixture of real and personal property;

(14) establish a budget and make expenditures;

(15) borrow money;

(16) appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

(17) provide and receive information from, and cooperate with, law enforcement agencies;

(18) establish and elect an executive committee; and

(19) perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of occupational therapy licensure and practice.

(D) With respect to the executive committee:

(1) the executive committee shall have the power to act on behalf of the commission according to the terms of this compact;

(2) the executive committee is composed of nine members, consisting of:

(a) seven voting members who are elected by the commission from the current membership of the commission;

(b) one ex officio, nonvoting member from a recognized national occupational therapy professional association; and

(c) one ex officio, nonvoting member from a recognized national occupational therapy certification organization;

(3) the ex officio members must be selected by their respective organizations;

(4) the commission may remove a member of the executive committee as provided in bylaws;

(5) the executive committee shall meet at least annually; and

(6) the executive committee has the duties and responsibilities to:

(a) recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member states such as annual dues, and any commission compact fee charged to licensees for the compact privilege;

(b) ensure compact administration services are appropriately provided, contractual or otherwise;

(c) prepare and recommend the budget;

(d) maintain financial records on behalf of the commission;

(e) monitor compact compliance of member states and provide compliance reports to the commission;

(f) establish additional committees as necessary; and

(g) perform other duties as provided in rules or bylaws.

(E) With respect to meetings of the commission:

(1) all meetings of the commission are open to the public, and public notice of meetings must be given in the same manner as required under the rulemaking provisions in Section 40-36-600;

(2) the commission, executive committee, or other committees of the commission may convene in a closed, nonpublic meeting if the commission, executive committee, or other committees of the commission must discuss:

(a) noncompliance of a member state with its obligations under the compact;

(b) the employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(c) current, threatened, or reasonably anticipated litigation;

(d) negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(e) accusing a person of a crime or formally censuring a person;

(f) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(g) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(h) disclosure of investigative records compiled for law enforcement purposes;

(i) disclosure of information related to an investigative report prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

(j) matters specifically exempted from disclosure by federal or member state statute;

(3) if a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision; and

(4) the commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(F) With respect to financing of the commission, the commission:

(1) shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities;

(2) may accept appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services;

(3) may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved by the commission each year for which revenue is not provided by other sources, provided the aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states;

(4) may not incur obligations of any kind prior to securing the funds adequate to meet the same, nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state; and

(5) shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the commission.

(G) With respect to qualified immunity, defense, and indemnification:

(1) the members, officers, executive director, employees and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that nothing in this paragraph may be construed to protect any such person from suit or liability for damage, loss, injury, or liability caused by the intentional or wilful or wanton misconduct of that person;

(2) the commission shall defend any member, officer, executive director, employee, or representative of the commission in a civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that no provision of this article may be construed to prohibit that person from retaining his own counsel, and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or wilful or wanton misconduct;

(3) the commission shall indemnify and hold harmless a member, officer, executive director, employee, or representative of the commission for the amount of a settlement or judgment obtained against that person arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or wilful or wanton misconduct of that person.

Section 40-36-590. (A) The commission shall provide for the development, maintenance, and use of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

(B) A member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable, using a unique identifier, as required by the rules of the commission, including:

(1) identifying information;

(2) licensure data;

(3) adverse actions against a license or compact privilege;

(4) nonconfidential information related to alternative program participation;

(5) any denial of application for licensure, and the basis for the denial;

(6) other information that may facilitate the administration of this compact, as determined by the rules of the commission; and

(7) current significant investigative information.

(C) Current significant investigative information and other investigative information pertaining to a licensee in a member state will only be available to other member states.

(D) The commission shall promptly notify all member states of an adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

(E) A member state that contributes information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(F) Information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information must be removed from the data system.

Section 40-36-600. (A) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted pursuant to it. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(B) The commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the compact. Notwithstanding the foregoing, in the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the commission is invalid and has no force and effect.

(C) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then the rule has no further force and effect in any member state.

(D) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(E) Prior to promulgation and adoption of a final rule by the commission, and at least thirty days in advance of the meeting at which

the rule is to be considered and voted upon, the commission shall file a notice of proposed rulemaking on the respective websites of:

(1) the commission or other publicly accessible platform; and

(2) each member state occupational therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

(F) The notice of proposed rulemaking must include:

(1) the proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(2) the text of the proposed rule or amendment and the reason for the proposed rule;

(3) a request for comments on the proposed rule from any interested person; and

(4) the manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(G) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which must be made available to the public.

(H) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) at least twenty-five persons;

(2) a state or federal governmental subdivision or agency; or

(3) an association or organization having at least twenty-five members.

(I) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.

(1) A person wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing no less than five business days before the scheduled date of the hearing.

(2) A hearing must be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(3) A hearing must be recorded. A copy of the recording must be made available on request.

(4) Nothing in this section may be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(J) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(K) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(L) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(M) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section must be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(1) meet an imminent threat to public health, safety, or welfare;

(2) prevent a loss of commission or member state funds;

(3) meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

(4) protect public health and safety.

(N) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of a revision must be posted on the website of the commission. The revision is subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must be made in writing and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

Section 40-36-610. (A) Oversight

(1) The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effect the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.

(3) The commission is entitled to receive service of process in any such proceeding, and has standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or order void as to the commission, this compact, or promulgated rules.

(B) Default, Technical Assistance, and Termination

(1) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall provide:

(a) written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and any other action, if any, to be taken by the commission; and

(b) remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in the compact must be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(4) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(5) The commission may not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(6) The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member must be awarded all costs of such litigation, including reasonable attorney's fees.

(C) Dispute Resolution

(1) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(D) Enforcement

(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member must be awarded all costs of such litigation, including reasonable attorney's fees.

(3) The remedies in this section are not exclusive. The commission may pursue any other remedies available under federal or state law.

Section 40-36-620. (A) The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, must be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

(B) A state that joins the compact subsequent to the commission's initial adoption of the rules is subject to the rules as they exist on the date on which the compact becomes law in that state. A rule that has been previously adopted by the commission must have the full force and effect of law on the day the compact becomes law in that state.

(C) A member state may withdraw from this compact by enacting a statute repealing the same. The withdrawal of a member state may not:

(1) take effect until six months after enactment of the repealing statute; or

(2) affect the continuing requirement of the withdrawing state's occupational therapy licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(D) Nothing contained in this compact may be construed to invalidate or prevent any occupational therapy licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

(E) This compact may be amended by the member states. No amendment to this compact may become effective and binding upon any member state until it is enacted into the laws of all member states.

Section 40-36-630. This compact must be liberally construed to effect the purposes of it. The provisions of this compact are severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of a member state or of the United States or the applicability of it to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability of it to any government, agency, person, or circumstance may not be affected as a consequence. If this compact is held contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

Section 40-36-640. (A) A licensee providing occupational therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

(B) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

(C) Any laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(D) Any lawful actions of the commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

(E) All agreements between the commission and the member states are binding in accordance with their terms.

(F) In the event a provision of the compact exceeds the constitutional limits imposed on the legislature of a member state, the provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state."

Applicants, background checks

SECTION 2. Section 40-36-230 of the 1976 Code is amended to read:

"Section 40-36-230. (A)(1) An applicant for licensure as an occupational therapist shall file a written application on forms provided by the board showing to the satisfaction of the board that the applicant:

(a) has graduated from an occupational therapy educational program approved by ACOTE or other AOTA endorsed accrediting body for occupational therapy or other educational program which the board considers to be substantially equivalent;

(b) has completed successfully a minimum of six months of supervised field work experience at an educational institution approved by the educational institution where the applicant met the academic requirements;

(c) has passed a board approved certification exam for the occupational therapist; and

(d) is in good standing with NBCOT or other board approved certification program.

(2) In addition to other requirements established by law and for the purpose of determining an applicant's eligibility for an initial compact privilege, the department shall require a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of this criminal records check must be reported to the department. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. Costs of conducting a criminal history background check must be borne by the applicant. The department shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as may be necessary to support the administrative action. The results of this criminal records check must not be shared outside the department.

(B)(1) An applicant for licensure as an occupational therapy assistant shall file a written application on a form approved by the board showing to the satisfaction of the board that the applicant:

(a) has graduated from an occupational therapy assistant educational program approved by ACOTE or other AOTA endorsed accrediting body for occupational therapy or other educational program which the board considers to be substantially equivalent;

(b) has completed successfully a minimum of two months of supervised field work experience at a recognized educational institution or a training program approved by the educational institution where the applicant met the academic requirements;

(c) has passed a board approved certification exam for the occupational therapy assistant; and

(d) is in good standing with NBCOT or other board approved certification program.

(2) In addition to other requirements established by law and for the purpose of determining an applicant's eligibility for a compact privilege, the department shall require a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of this criminal records check must be reported to the department. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. Costs of conducting a criminal history background check must be borne by the applicant. The department shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as may be necessary to support the administrative action. The results of this criminal records check must not be shared outside the department."

Nonexamination applicants, background checks

SECTION 3. Section 40-36-250 of the 1976 Code is amended by adding an item at the end to read:

"( ) in addition to other requirements established by law and for the purpose of determining an applicant's eligibility for a compact privilege, the department shall require a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of this criminal records check must be reported to the department. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. Costs of conducting a criminal history background check must be borne by the applicant. The department shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as may be necessary to support the administrative action. The results of this criminal records check must not be shared outside the department."

Designation of existing provisions

SECTION 4. Sections 40-36-5 through 40-36-310 of the 1976 Code are designated Article 1, entitled "General Provisions".

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 13th day of May, 2022.

No. 159

(R207, H3833)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "PSYCHOLOGY INTERJURISDICTIONAL COMPACT (PSYPACT)" BY ADDING ARTICLE 3 TO CHAPTER 55, TITLE 40 SO AS TO PROVIDE FOR THE ENTRY OF SOUTH CAROLINA INTO THIS MULTISTATE COMPACT, TO PROVIDE FOR THE STRUCTURE, FUNCTIONS, POWERS, AND DUTIES OF THE GOVERNING BODY OF THE COMPACT; TO PROVIDE THE OBLIGATIONS, BENEFITS, AND RIGHTS OF COMPACT MEMBERS; TO DESIGNATE THE EXISTING PROVISIONS OF CHAPTER 55, TITLE 40 AS ARTICLE 1 ENTITLED "GENERAL PROVISIONS"; AND TO AMEND SECTIONS 40-55-60 AND 40-55-80, RELATING TO THE STATE BOARD OF EXAMINERS IN PSYCHOLOGY AND QUALIFICATIONS FOR LICENSURE AS A PSYCHOLOGIST RESPECTIVELY, SO AS TO MAKE CONFORMING CHANGES.

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

Citation

SECTION 1. This article shall be known and may be cited as the "Psychology Interjurisdictional Compact (Psypact)".

Psychology Interjurisdictional Compact

SECTION 2. A. Chapter 55, Title 40 of the 1976 Code is amended by adding:

"Article 3

Psychology Interjurisdictional Compact

Section 40-55-310. (A) The Psychology Interjurisdictional Compact (Psypact) is enacted into law and entered into by the State of South Carolina with any and all other states legally joining therein in the form substantially as follows.

(B) The following principles form the basis for Psypact:

(1) States license psychologists, in order to protect the public through verification of education, training, and experience and ensure accountability for professional practice.

(2) This compact is intended to regulate the day-to-day practice of telepsychology, i.e., the provision of psychological services using telecommunication technologies, by psychologists across state boundaries in the performance of their psychological practice as assigned by an appropriate authority.

(3) This compact is intended to regulate the temporary in-person, face-to-face practice of psychology by psychologists across state boundaries for thirty days within a calendar year in the performance of their psychological practice as assigned by an appropriate authority.

(4) This compact is intended to authorize state psychology regulatory authorities to afford legal recognition, in a manner consistent with the terms of the compact, to psychologists licensed in another state.

(5) This compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of psychologists and that such state regulation will best protect public health and safety.

(6) This compact does not apply when a psychologist is licensed in both the home and receiving states.

(7) While this compact does not apply to permanent in-person, face-to-face practice, it does allow for authorization of temporary psychological practice.

(C) Consistent with the principles set forth in subsection (B), this compact is designed to achieve the following purposes and objectives:

(1) increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services into a state in which the psychologist is not licensed to practice psychology;

(2) enhance the states' ability to protect the public's health and safety, especially client/patient safety;

(3) encourage the cooperation of compact states in the areas of psychology licensure and regulation;

(4) facilitate the exchange of information between compact states regarding psychologist licensure, adverse actions, and disciplinary history;

(5) promote compliance with the laws governing psychological practice in each compact state; and

(6) invest all compact states with the authority to hold licensed psychologists accountable through the mutual recognition of compact state licenses.

Section 40-55-320. As used in this article:

(1) 'Adverse action' means any action taken by a state psychology regulatory authority which finds a violation of a statute or regulation that is identified by the state psychology regulatory authority as discipline and is a matter of public record.

(2) 'Association of State and Provincial Psychology Boards (ASPPB)' means the recognized membership organization composed of state and provincial psychology regulatory authorities responsible for the licensure and registration of psychologists throughout the United States and Canada.

(3) 'Authority to practice interjurisdictional telepsychology' means a licensed psychologist's authority to practice telepsychology, within the limits authorized under this compact, in another compact state.

(4) 'Bylaws' means those bylaws established by the Psychology Interjurisdictional Compact Commission pursuant to Section 40-55-400 for its governance, or for directing and controlling its actions and conduct.

(5) 'Client/patient' means the recipient of psychological services, whether psychological services are delivered in the context of health care, corporate, supervision, or consulting services or any combination thereof.

(6) 'Commissioner' means the voting representative appointed by each state psychology regulatory authority pursuant to Section 40-55-400.

(7) 'Compact state' means a state, the District of Columbia, or United States territory that has enacted this compact legislation and which has not withdrawn pursuant to Section 40-55-430(C) or been terminated pursuant to Section 40-55-420(B).

(8) 'Coordinated licensure information system' also referred to as 'coordinated database' means an integrated process for collecting, storing, and sharing information on psychologists' licensure and

enforcement activities related to psychology licensure laws, which is administered by the recognized membership organization composed of state and provincial psychology regulatory authorities.

(9) 'Confidentiality' means the principle that data or information is not made available or disclosed to unauthorized persons or processes, or both.

(10) 'Day' means any part of a day in which psychological work is performed.

(11) 'Distant state' means the compact state where a psychologist is physically present (not through the use of telecommunications technologies), to provide temporary in-person, face-to-face psychological services.

(12) 'E. Passport' means a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that promotes the standardization in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed psychologists to provide telepsychological services across state lines.

(13) 'Executive board' means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

(14) 'Home state' means a compact state where a psychologist is licensed to practice psychology. If the psychologist is licensed in more than one compact state and is practicing under the authorization to practice interjurisdictional telepsychology, the home state is the compact state where the psychologist is physically present when the telepsychological services are delivered. If the psychologist is licensed in more than one compact state and is practicing under the temporary authorization to practice, the home state is any compact state where the psychologist is licensed.

(15) 'Identity history summary' means a summary of information retained by the Federal Bureau of Investigation, or other designee with similar authority, in connection with arrests and, in some instances, federal employment, naturalization, or military service.

(16) 'In-person, face-to-face' means interactions in which the psychologist and the client/patient are in the same physical space and which does not include interactions that may occur through the use of telecommunication technologies.

(17) 'Interjurisdictional practice certificate' also referred to as '(IPC)' means a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that grants temporary authority to practice based on notification to the state psychology regulatory authority of

intention to practice temporarily, and verification of one's qualifications for such practice.

(18) 'License' means authorization by a state psychology regulatory authority to engage in the independent practice of psychology, which would be unlawful without the authorization.

(19) 'Noncompact state' means any state which is not at the time a compact state.

(20) 'Psychologist' means an individual licensed for the independent practice of psychology.

(21) 'Psychology Interjurisdictional Compact Commission' also referred to as 'commission' means the national administration of which all compact states are members.

(22) 'Receiving state' means a compact state where the client/patient is physically located when the telepsychological services are delivered.

(23) 'Rule' means a written statement by the Psychology Interjurisdictional Compact Commission promulgated pursuant to Section 40-55-410 of the compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the commission and has the force and effect of statutory law in a compact state, and includes the amendment, repeal, or suspension of an existing rule.

(24) 'Significant investigatory information' means:

(a) investigative information that a state psychology regulatory authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proven true, would indicate more than a violation of a state statute or ethics code that would be considered more substantial than a minor infraction; or

(b) investigative information that indicates that the psychologist represents an immediate threat to public health and safety regardless of whether the psychologist has been notified or had an opportunity to respond.

(25) 'State' means a state, commonwealth, territory, or possession of the United States, or the District of Columbia.

(26) 'State psychology regulatory authority' means the board, office or other agency with the legislative mandate to license and regulate the practice of psychology.

(27) 'Telepsychology' means the provision of psychological services using telecommunication technologies.

(28) 'Temporary authorization to practice' means a licensed psychologist's authority to conduct temporary in-person, face-to-face

practice, within the limits authorized under this compact, in another compact state.

(29) 'Temporary in-person, face-to-face practice' means where a psychologist is physically present (not through the use of telecommunications technologies), in the distant state to provide for the practice of psychology for thirty days within a calendar year and based on notification to the distant state.

Section 40-55-330. (A) The home state shall be a compact state where a psychologist is licensed to practice psychology.

(B) A psychologist may hold one or more compact state licenses at a time. If the psychologist is licensed in more than one compact state, the home state is the compact state where the psychologist is physically present when the services are delivered as authorized by the authority to practice interjurisdictional telepsychology under the terms of this compact.

(C) Any compact state may require a psychologist not previously licensed in a compact state to obtain and retain a license to be authorized to practice in the compact state under circumstances not authorized by the authority to practice interjurisdictional telepsychology under the terms of this compact.

(D) Any compact state may require a psychologist to obtain and retain a license to be authorized to practice in a compact state under circumstances not authorized by temporary authorization to practice under the terms of this compact.

(E) A home state's license authorizes a psychologist to practice in a receiving state under the authority to practice interjurisdictional telepsychology only if the compact state:

(1) currently requires the psychologist to hold an active E. Passport;

(2) has a mechanism in place for receiving and investigating complaints about licensed individuals;

(3) notifies the commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;

(4) requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation (FBI), or other designee with similar authority, no later than ten years after activation of the compact; and

(5) complies with the bylaws and rules of the commission.

(F) A home state's license grants temporary authorization to practice to a psychologist in a distant state only if the compact state:

(1) currently requires the psychologist to hold an active IPC;

(2) has a mechanism in place for receiving and investigating complaints about licensed individuals;

(3) notifies the commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;

(4) requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation (FBI), or other designee with similar authority, no later than ten years after activation of the compact; and

(5) complies with the bylaws and rules of the commission.

Section 40-55-340. (A) Compact states shall recognize the right of a psychologist, licensed in a compact state in conformance with Section 40-55-330, to practice telepsychology in other compact states (receiving states) in which the psychologist is not licensed, under the authority to practice interjurisdictional telepsychology as provided in the compact.

(B) To exercise the authority to practice interjurisdictional telepsychology under the terms and provisions of this compact, a psychologist licensed to practice in a compact state must:

(1) hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

(a) regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, or authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or

(b) a foreign college or university deemed to be equivalent to item (1)(a) by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and

(2) hold a graduate degree in psychology that meets the following criteria:

(a) the program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;

(b) the psychology program must stand as a recognizable, coherent, organizational entity within the institution;

(c) there must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;

(d) the program must consist of an integrated, organized sequence of study;

(e) there must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

(f) the designated director of the program must be a psychologist and a member of the core faculty;

(g) the program must have an identifiable body of students who are matriculated in that program for a degree;

(h) the program must include supervised practicum, internship, or field training appropriate to the practice of psychology;

(i) the curriculum shall encompass a minimum of three academic years of full-time graduate study for a doctoral degree and a minimum of one academic year of full-time graduate study for a master's degree; and

(j) the program includes an acceptable residency as defined by the rules of the commission;

(3) possess a current, full, and unrestricted license to practice psychology in a home state which is a compact state;

(4) have no history of adverse action that violates the rules of the commission;

(5) have no criminal record history reported on an identity history summary that violates the rules of the commission;

(6) possess a current, active E. Passport;

(7) provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology, criminal background, and knowledge and adherence to legal requirements in the home and receiving states, and provide a release of information to allow for primary source verification in a manner specified by the commission; and

(8) meet other criteria as defined by the rules of the commission.

(C) The home state maintains authority over the license of any psychologist practicing into a receiving state under the authority to practice interjurisdictional telepsychology.

(D) A psychologist practicing in a receiving state under the authority to practice interjurisdictional telepsychology will be subject to the receiving state's scope of practice. A receiving state may, in accordance with that state's due process law, limit or revoke a psychologist's authority to practice interjurisdictional telepsychology in the receiving state and may take any other necessary actions under the receiving state's

applicable law to protect the health and safety of the receiving state's citizens. If a receiving state takes action, the state shall promptly notify the home state and the commission.

(E) If a psychologist's license in any home state, another compact state, or any authority to practice interjurisdictional telepsychology in any receiving state, is restricted, suspended, or otherwise limited, the E. Passport shall be revoked and therefore the psychologist shall not be eligible to practice telepsychology in a compact state under the authority to practice interjurisdictional telepsychology.

Section 40-55-350. (A) Compact states also shall recognize the right of a psychologist, licensed in a compact state in conformance with Section 40-55-330, to practice temporarily in other compact states (distant states) in which the psychologist is not licensed, as provided in the compact.

(B) To exercise the temporary authorization to practice under the terms and provisions of this compact, a psychologist licensed to practice in a compact state must:

(1) hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

(a) regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, or authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or

(b) a foreign college or university deemed to be equivalent to subitem (a) by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and

(2) hold a graduate degree in psychology that meets the following criteria:

(a) the program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;

(b) the psychology program must stand as a recognizable, coherent, organizational entity within the institution;

(c) there must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;

(d) the program must consist of an integrated, organized sequence of study;

(e) there must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

(f) the designated director of the program must be a psychologist and a member of the core faculty;

(g) the program must have an identifiable body of students who are matriculated in that program for a degree;

(h) the program must include supervised practicum, internship, or field training appropriate to the practice of psychology;

(i) the curriculum shall encompass a minimum of three academic years of full-time graduate study for a doctoral degree and a minimum of one academic year of full-time graduate study for a master's degree; and

(j) the program includes an acceptable residency as defined by the rules of the commission;

(3) possess a current, full, and unrestricted license to practice psychology in a home state which is a compact state;

(4) have no history of adverse action that violates the rules of the commission;

(5) have no criminal record history that violates the rules of the commission;

(6) possess a current, active IPC;

(7) provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the commission; and

(8) meet other criteria as defined by the rules of the commission.

(C) A psychologist practicing in a distant state under the temporary authorization to practice shall practice within the scope of practice authorized by the distant state.

(D) A psychologist practicing in a distant state under the temporary authorization to practice will be subject to the distant state's authority and law. A distant state may, in accordance with that state's due process law, limit or revoke a psychologist's temporary authorization to practice in the distant state and may take any other necessary actions under the distant state's applicable law to protect the health and safety of the distant state's citizens. If a distant state takes action, the state promptly shall notify the home state and the commission.

(E) If a psychologist's license in any home state, another compact state, or any temporary authorization to practice in any distant state, is restricted, suspended, or otherwise limited, the IPC shall be revoked and therefore the psychologist shall not be eligible to practice in a compact state under the temporary authorization to practice.

Section 40-55-360. A psychologist may practice in a receiving state under the authority to practice interjurisdictional telepsychology only in the performance of the scope of practice for psychology as assigned by an appropriate state psychology regulatory authority, as defined in the rules of the commission, and under the following circumstances:

(1) the psychologist initiates a client/patient contact in a home state via telecommunications technologies with a client/patient in a receiving state; and

(2) other conditions regarding telepsychology as determined by rules promulgated by the commission.

Section 40-55-370. (A) A home state shall have the power to impose adverse action against a psychologist's license issued by the home state. A distant state shall have the power to take adverse action on a psychologist's temporary authorization to practice within that distant state.

(B) A receiving state may take adverse action on a psychologist's authority to practice interjurisdictional telepsychology within that receiving state. A home state may take adverse action against a psychologist based on an adverse action taken by a distant state regarding temporary in-person, face-to-face practice.

(C)(1) If a home state takes adverse action against a psychologist's license, that psychologist's authority to practice interjurisdictional telepsychology is terminated and the E. Passport is revoked. Furthermore, that psychologist's temporary authorization to practice is terminated and the IPC is revoked.

(2) All home state disciplinary orders which impose adverse action shall be reported to the commission in accordance with the rules promulgated by the commission. A compact state shall report adverse actions in accordance with the rules of the commission.

(3) In the event discipline is reported on a psychologist, the psychologist will not be eligible for telepsychology or temporary in-person, face-to-face practice in accordance with the rules of the commission.

(4) Other actions may be imposed as determined by the rules promulgated by the commission.

(D) A home state's psychology regulatory authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a licensee which occurred in a receiving state as it would if such conduct had occurred by a licensee within the home state. In such cases, the home state's law shall control in determining any adverse action against a psychologist's license.

(E) A distant state's psychology regulatory authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under temporary authorization to practice which occurred in that distant state as it would if such conduct had occurred by a licensee within the home state. In such cases, distant state's law shall control in determining any adverse action against a psychologist's temporary authorization to practice.

(F) Nothing in this compact shall override a compact state's decision that a psychologist's participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the compact state's law. Compact states must require psychologists who enter any alternative programs to not provide telepsychology services under the authority to practice interjurisdictional telepsychology or provide temporary psychological services under the temporary authorization to practice in any other compact state during the term of the alternative program.

(G) No other judicial or administrative remedies shall be available to a psychologist in the event a compact state imposes an adverse action pursuant to subsection (C).

Section 40-55-380. (A) In addition to any other powers granted under state law, a compact state's psychology regulatory authority shall have the authority under this compact to:

(1) issue subpoenas, for both hearings and investigations, which require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a compact state's psychology regulatory authority for the attendance and testimony of witnesses, the production of evidence, or any combination of the foregoing from another compact state shall be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state psychology regulatory authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses, evidence, or both, are located; and

(2) issue cease and desist orders, injunctive relief orders, or both, to revoke a psychologist's authority to practice interjurisdictional telepsychology, temporary authorization to practice, or both.

(B) During the course of any investigation, a psychologist may not change his/her home state licensure. A home state psychology regulatory authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The home

state psychology regulatory authority shall promptly report the conclusions of such investigations to the commission. Once an investigation has been completed, and pending the outcome of said investigation, the psychologist may change his/her home state licensure. The commission shall promptly notify the new home state of any such decisions as provided in the rules of the commission. All information provided to the commission or distributed by compact states pursuant to the psychologist shall be confidential, filed under seal and used for investigatory or disciplinary matters. The commission may create additional rules for mandated or discretionary sharing of information by compact states.

Section 40-55-390. (A) The commission shall provide for the development and maintenance of a coordinated licensure information system (coordinated database) and reporting system containing licensure and disciplinary action information on all psychologists to whom this compact is applicable in all compact states as defined by the rules of the commission.

(B) Notwithstanding any other provision of state law to the contrary, a compact state shall submit a uniform data set to the coordinated database on all licensees as required by the rules of the commission, including:

(1) identifying information;

(2) licensure data;

(3) significant investigatory information;

(4) adverse actions against a psychologist's license;

(5) an indicator that a psychologist's authority to practice interjurisdictional telepsychology, temporary authorization to practice, or both, is revoked;

(6) nonconfidential information related to alternative program participation information;

(7) any denial of application for licensure, and the reasons for such denial; and

(8) other information which may facilitate the administration of this compact, as determined by the rules of the commission.

(C) The coordinated database administrator promptly shall notify all compact states of any adverse action taken against, or significant investigative information on, any licensee in a compact state.

(D) Compact states reporting information to the coordinated database may designate information that may not be shared with the public without the express permission of the compact state reporting the information.

(E) Any information submitted to the coordinated database that is subsequently required to be expunged by the law of the compact state reporting the information shall be removed from the coordinated database.

Section 40-55-400. (A)(1) The compact states hereby create and establish a joint public agency known as the Psychology Interjurisdictional Compact Commission.

(2) The commission is a body politic and an instrumentality of the compact states.

(3) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(4) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(B)(1) The commission shall consist of one voting representative appointed by each compact state who shall serve as that state's commissioner. The state psychology regulatory authority shall appoint its delegate. This delegate shall be empowered to act on behalf of the compact state. This delegate shall be limited to:

(a) executive director, executive secretary, or similar executive;

(b) current member of the state psychology regulatory authority of a compact state; or

(c) designee empowered with the appropriate delegate authority to act on behalf of the compact state.

(2) Any commissioner may be removed or suspended from office as provided by the law of the state from which the commissioner is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the compact state in which the vacancy exists.

(3) Each commissioner shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A commissioner shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for commissioners' participation in meetings by telephone or other means of communication.

(4) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(5) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 40-55-410.

(6) The commission may convene in a closed, nonpublic meeting if the commission must discuss:

(a) noncompliance of a compact state with its obligations under the compact;

(b) the employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(c) current, threatened, or reasonably anticipated litigation against the commission;

(d) negotiation of contracts for the purchase or sale of goods, services, or real estate;

(e) accusation against any person of a crime or formally censuring any person;

(f) disclosure of trade secrets or commercial or financial information which is privileged or confidential;

(g) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(h) disclosure of investigatory records compiled for law enforcement purposes;

(i) disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility for investigation or determination of compliance issues pursuant to the compact; or

(j) matters specifically exempted from disclosure by federal and state statute.

(7) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes which fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, of any person participating in the meeting, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

(C) The commission shall, by a majority vote of the commissioners, prescribe bylaws, rules, or both, to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact including, but not limited to:

(1) establishing the fiscal year of the commission;

(2) providing reasonable standards and procedures:

(a) for the establishment and meetings of other committees; and

(b) governing any general or specific delegation of any authority or function of the commission;

(3) providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals of such proceedings, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the commissioners vote to close a meeting to the public, in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each commissioner with no proxy votes allowed;

(4) establishing the titles, duties, and authority and reasonable procedures for the election of the officers of the commission;

(5) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar law of any compact state, the bylaws shall exclusively govern the personnel policies and programs of the commission;

(6) promulgating a code of ethics to address permissible and prohibited activities of commission members and employees;

(7) providing a mechanism for concluding the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment and/or reserving of all of its debts and obligations;

(8) publishing its bylaws in a convenient form and filing a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the compact states;

(9) maintaining its financial records in accordance with the bylaws; and

(10) meeting and taking such actions as are consistent with the provisions of this compact and the bylaws.

(D) The commission shall have the following powers:

(1) to promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rule shall have the force and effect of law and shall be binding in all compact states;

(2) to bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state psychology regulatory authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law shall not be affected;

(3) to purchase and maintain insurance and bonds;

(4) to borrow, accept, or contract for services of personnel including, but not limited to, employees of a compact state;

(5) to hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(6) to accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize, and dispose of the same; provided that at all times the commission shall strive to avoid any appearance of impropriety or conflict of interest;

(7) to lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed; provided that at all times the commission shall strive to avoid any appearance of impropriety;

(8) to sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

(9) to establish a budget and make expenditures;

(10) to borrow money;

(11) to appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

(12) to provide and receive information from, and to cooperate with, law enforcement agencies;

(13) to adopt and use an official seal; and

(14) to perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of psychology licensure, temporary in-person, face-to-face practice, and telepsychology practice.

(E)(1) The elected officers shall serve as the executive board, which shall have the power to act on behalf of the commission according to the terms of this compact.

(2) The executive board shall be comprised of six members:

(a) five voting members who are elected from the current membership of the commission by the commission; and

(b) one ex officio, nonvoting member from the recognized membership organization composed of state and provincial psychology regulatory authorities.

(3) The ex officio member must have served as staff or member on a state psychology regulatory authority and will be selected by its respective organization.

(4) The commission may remove any member of the executive board as provided in bylaws.

(5) The executive board shall meet at least annually.

(6) The executive board shall have the following duties and responsibilities:

(a) recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact states such as annual dues, and any other applicable fees;

(b) ensure compact administration services are appropriately provided, contractual or otherwise;

(c) prepare and recommend the budget;

(d) maintain financial records on behalf of the commission;

(e) monitor compact compliance of member states and provide compliance reports to the commission;

(f) establish additional committees as necessary; and

(g) other duties as provided in rules or bylaws.

(F)(1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

(3) The commission may levy and collect an annual assessment from each compact state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission which shall promulgate a rule binding upon all compact states.

(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the

commission pledge the credit of any of the compact states, except by and with the authority of the compact state.

(5) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(G)(1) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or wilful or wanton misconduct of that person.

(2) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or wilful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or wilful or wanton misconduct of that person.

Section 40-55-410. (A) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(B) If a majority of the legislatures of the compact states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compact state.

(C) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(D) Prior to promulgation and adoption of a final rule or rules by the commission, and at least sixty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(1) on the website of the commission; and

(2) on the website of each compact states' psychology regulatory authority or the publication in which each state would otherwise publish proposed rules.

(E) The notice of proposed rulemaking shall include:

(1) the proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(2) the text of the proposed rule or amendment and the reason for the proposed rule;

(3) a request for comments on the proposed rule from any interested person; and

(4) the manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(F) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(G) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) at least twenty-five persons who submit comments independently of each other;

(2) a governmental subdivision or agency; or

(3) a duly appointed person in an association that has at least twenty-five members.

(H)(1) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing.

(2) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

(3) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(4) No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the commission from making a transcript or recording of the hearing if it so chooses.

(5) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(I) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(J) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(K) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(L) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(1) meet an imminent threat to public health, safety, or welfare;

(2) prevent a loss of commission or compact state funds;

(3) meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

(4) protect public health and safety.

(M) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall

be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

Section 40-55-420. (A)(1) The executive, legislative, and judicial branches of state government in each compact state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a compact state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.

(3) The commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact or promulgated rules.

(B)(1) If the commission determines that a compact state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(a) provide written notice to the defaulting state and other compact states of the nature of the default, the proposed means of remedying the default, and any other action to be taken by the commission; and

(b) provide remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to remedy the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compact states, and all rights, privileges, and benefits conferred by this compact shall be terminated on the effective date of termination. A remedy of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be submitted by the

commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the compact states.

(4) A compact state which has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations which extend beyond the effective date of termination.

(5) The commission shall not bear any costs incurred by the state which is found to be in default or which has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(6) The defaulting state may appeal the action of the commission by petitioning the U.S. District Court for the State of South Carolina or the federal district where the compact has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(C)(1) Upon request by a compact state, the commission shall attempt to resolve disputes related to the compact which arise among compact states and between compact and noncompact states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes that arise before the commission.

(D)(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the commission may initiate legal action in the United States District Court for the State of South Carolina or the federal district where the compact has its principal offices against a compact state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(3) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

Section 40-55-430. (A) The compact shall come into effect on the date on which the compact is enacted into law in the seventh compact state. The provisions which become effective at that time shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

(B) Any state which joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule which has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

(C)(1) Any compact state may withdraw from this compact by enacting a statute repealing the same.

(2) A compact state's withdrawal shall not take effect until six months after enactment of the repealing statute.

(3) Withdrawal shall not affect the continuing requirement of the withdrawing state's psychology regulatory authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(D) Nothing contained in this compact shall be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a compact state and a noncompact state which does not conflict with the provisions of this compact.

(E) This compact may be amended by the compact states. No amendment to this compact shall become effective and binding upon any compact state until it is enacted into the law of all compact states.

Section 40-55-440. This compact shall be liberally construed so as to effectuate the purposes thereof. If this compact shall be held contrary to the constitution of any state member thereto, the compact shall remain in full force and effect as to the remaining compact states."

B. The existing provisions of Chapter 55, Title 40 are designated as Article 1 entitled "General Provisions".

Code of ethics

SECTION 3. Section 40-55-60 of the 1976 Code is amended to read:

"Section 40-55-60. The board may adopt the code of ethics for psychologists to govern the practices and conduct of psychologists licensed under this chapter. Whenever important aspects of a case fall outside the boundaries of the psychologist's competence, the psychologist shall consult appropriate specialists. A psychologist may not attempt to diagnose, prescribe for, treat, or advise a client with reference to complaints which are outside the limits of psychological practice as determined by the board. The board shall determine areas of

specialization of the applicant to practice psychology and inform the applicant of its decision. The board shall publish a list of licensed psychologists which indicates areas of practice authorized by the board. The board shall have the authority to administer and participate in the 'Psychology Interjurisdictional Compact (Psypact)' set forth in Article 3 of this chapter and to recognize and permit the authority to practice interjurisdictional telepsychology and temporary practice in South Carolina as established under such compact."

License application, criminal background

SECTION 4. Section 40-55-80(7) of the 1976 Code is amended to read:

"(7) submission to a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. The department shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as may be necessary to support the administrative action. The results of these criminal records checks must not be shared outside the department; and"

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 13th day of May, 2022.

No. 160

(R208, H3840)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 3 TO CHAPTER 67, TITLE 40 SO AS TO ESTABLISH THE "AUDIOLOGY AND SPEECH-LANGUAGE INTERSTATE COMPACT ACT", TO STATE THE PURPOSE OF THE ACT, TO PROVIDE DEFINITIONS, TO OUTLINE STATE PARTICIPATION, TO OUTLINE PRIVILEGES FOR AUDIOLOGISTS AND SPEECH-LANGUAGE PATHOLOGISTS RESULTING FROM THE COMPACT, TO ALLOW FOR THE PRACTICE OF TELEHEALTH, TO PROVIDE ACCOMMODATIONS FOR ACTIVE DUTY MILITARY PERSONNEL AND THEIR SPOUSES, TO PROVIDE A MECHANISM FOR TAKING ADVERSE ACTIONS AGAINST LICENSEES, TO ESTABLISH THE "AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY COMPACT COMMISSION", TO ESTABLISH A DATA SYSTEM, TO OUTLINE THE RULEMAKING PROCESS, TO ADDRESS OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT DUTIES AND RESPONSIBILITIES, TO ESTABLISH THE DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY, RULES, WITHDRAWAL, AND AMENDMENT, TO ADDRESS STATUTORY CONSTRUCTION, SEVERABILITY, AND BINDING EFFECT OF THE COMPACT; AND TO DESIGNATE THE EXISTING SECTIONS OF CHAPTER 67, TITLE 40 AS ARTICLE 1, ENTITLED "GENERAL PROVISIONS".

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

Audiology and Speech-Language Pathology Interstate Compact Act

SECTION 1. Chapter 67, Title 40 of the 1976 Code is amended by adding:

"Article 3

Audiology and Speech-Language Pathology Interstate Compact Act

Section 40-67-500. This article may be cited as the 'Audiology and Speech-Language Pathology Interstate Compact Act'.

Section 40-67-510. The purpose of this compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language pathology services. The practice of audiology and speech-language pathology occurs in the state where the patient, client, or student is located at the time of the patient, client, or student's encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure. This compact is designed to achieve the following objectives:

(1) increase public access to audiology and speech-language pathology services by providing for the mutual recognition of other member state licenses;

(2) enhance the states' ability to protect the public's health and safety;

(3) encourage the cooperation of member states in regulating multistate audiology and speech-language pathology practice;

(4) support spouses of relocating active duty military personnel;

(5) enhance the exchange of licensure, investigative, and disciplinary information between member states;

(6) allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards; and

(7) allow for the use of telehealth technology to facilitate increased access to audiology and speech-language pathology services.

Section 40-67-520. As used in this article:

(1) 'Active duty military' means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211.

(2) 'Adverse action' means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against an audiologist or speech-language pathologist, including actions against an individual's license or privilege to practice such as revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice.

(3) 'Alternative program' means a nondisciplinary monitoring process approved by an audiology or speech-language pathology licensing board to address impaired practitioners.

(4) 'Audiologist' means an individual who is licensed by a state to practice audiology.

(5) 'Audiology' means the care and services provided by a licensed audiologist as set forth in the member state's statutes and rules.

(6) 'Audiology and Speech-Language Pathology Compact Commission' or 'Commission' means the national administrative body whose membership consists of all states that have enacted the compact.

(7) 'Audiology and speech-language pathology licensing board', 'audiology licensing board', 'speech-language pathology licensing board', or 'licensing board' means the agency of a state that is responsible for the licensing and regulation of audiologists and/or speech-language pathologists.

(8) 'Compact privilege' means the authorization granted by a remote state to allow a licensee from another member state to practice as an audiologist or speech-language pathologist in the remote state under its laws and rules. The practice of audiology or speech-language pathology occurs in the member state where the patient, client, or student is located at the time of the patient, client, or student encounter.

(9) 'Current significant investigative information' means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the audiologist or speech-language pathologist to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

(10) 'Data system' means a repository of information about licensees including, but not limited to, continuing education, examination, licensure, investigative, compact privilege, and adverse action.

(11) 'Encumbered license' means a license in which an adverse action restricts the practice of audiology or speech-language pathology by the licensee and said adverse action has been reported to the National Practitioners Data Bank (NPDB).

(12) 'Executive committee' means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

(13) 'Home state' means the member state that is the licensee's primary state of residence.

(14) 'Impaired practitioner' means individuals whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.

(15) 'Licensee' means an individual who currently holds an authorization from the state licensing board to practice as an audiologist or speech-language pathologist.

(16) 'Member state' means a state that has enacted the compact.

(17) 'Privilege to practice' means a legal authorization permitting the practice of audiology or speech-language pathology in a remote state.

(18) 'Remote state' means a member state other than the home state where a licensee is exercising or seeking to exercise the compact privilege.

(19) 'Rule' means a regulation, principle, or directive promulgated by the commission that has the force of law.

(20) 'Single-state license' means an audiology or speech-language pathology license issued by a member state that authorizes practice only within the issuing state and does not include a privilege to practice in any other member state.

(21) 'Speech-language pathologist' means an individual who is licensed by a state to practice speech-language pathology.

(22) 'Speech-language pathology' means the care and services provided by a licensed speech-language pathologist as set forth in the member state's statutes and rules.

(23) 'State' means any state, commonwealth, district, or territory of the United States of America that regulates the practice of audiology and speech-language pathology.

(24) 'State-practice laws' means a member state's laws, rules, and regulations that govern the practice of audiology or speech-language pathology, define the scope of audiology or speech-language pathology practice, and create the methods and grounds for imposing discipline.

(25) 'Telehealth' means the application of telecommunication technology to deliver audiology or speech-language pathology services at a distance for assessment, intervention, or consultation.

Section 40-67-530. (A) A license issued to an audiologist or speech-language pathologist by a home state to a resident in that state must be recognized by each member state as authorizing an audiologist or speech-language pathologist to practice audiology or speech-language pathology, under a privilege to practice, in each member state.

(B) In addition to other requirements established by law and for the purpose of determining an applicant's eligibility for an initial compact privilege, the department shall require a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of this criminal records check must be reported to the department. The South Carolina Law Enforcement Division is authorized to retain

the fingerprints for certification purposes and for notification of the department regarding criminal charges. Costs of conducting a criminal history background check must be borne by the applicant. The department shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as may be necessary to support the administrative action. The results of this criminal records check must not be shared outside the department.

(C) Upon application for a privilege to practice, the licensing board in the issuing remote state shall ascertain, through the data system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or privilege to practice held by the applicant, whether any adverse action has been taken against any license or privilege to practice held by the applicant.

(D) Each member state must require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure, as well as, all other applicable state laws.

(E) An audiologist must:

(1) meet one of the following educational requirements:

(a) on or before December 31, 2007, graduate with a master's degree or doctorate in audiology, or equivalent degree regardless of degree name, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board;

(b) on or after January 1, 2008, graduate with a doctoral degree in audiology, or equivalent degree, regardless of degree name, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation or its successor, or by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board;

(c) graduate from an audiology program that is housed in an institution of higher education outside of the United States: (i) for which the program and institution have been approved by the authorized accrediting body in the applicable country and (ii) the degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program;

(2) complete a supervised clinical practicum experience from an accredited educational institution or its cooperating programs as required by the commission;

(3) pass a national examination approved by the commission;

(4) hold an active, unencumbered license;

(5) not have been convicted or found guilty, and has not entered into an agreed disposition, of a felony related to the practice of audiology, under applicable state or federal criminal law; and

(6) have a valid United States Social Security or National Practitioner Identification number.

(F) A speech-language pathologist must:

(1) meet one of the following educational requirements:

(a) graduate with a master's degree from a speech-language pathology program that is accredited by an organization recognized by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board; or

(b) graduate from a speech-language pathology program that is housed in an institution of higher education outside the United States: (i) for which the program and institution have been approved by the authorized accrediting body in the applicable country and (ii) the degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program;

(2) complete a supervised clinical practicum experience from an accredited educational institution or its cooperating programs as required by the commission;

(3) complete a supervised postgraduate professional experience as required by the commission;

(4) pass a national examination approved by the commission;

(5) hold an active, unencumbered license;

(6) not have been convicted or found guilty, and has not entered into an agreed disposition, of a felony related to the practice of speech-language pathology, under applicable state or federal criminal law; and

(7) have a valid United States Social Security or National Practitioner Identification number.

(G) The privilege to practice is derived from the home state license.

(H) An audiologist or speech-language pathologist practicing in a member state must comply with the state practice laws of the state in which the client is located at the time the service is provided. The practice of audiology and speech-language pathology includes all audiology and speech-language pathology practice as defined by the

state practice laws of the member state in which the client is located. The practice of audiology and speech-language pathology in a member state under a privilege to practice subjects an audiologist or speech-language pathologist to the jurisdiction of the licensing board, the courts, and the laws of the member state in which the client is located at the time service is provided.

(I) Individuals not residing in a member state may apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals is not recognized as granting the privilege to practice audiology or speech-language pathology in any other member state. Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.

(J) Member states may charge a fee for granting a compact privilege.

(K) Member states must comply with the bylaws and rules and regulations of the commission.

Section 40-67-540. (A) To exercise the compact privilege under the terms and provisions of the compact, the audiologist or speech-language pathologist must:

(1) hold an active license in the home state;

(2) have no encumbrance on any state license;

(3) be eligible for a compact privilege in any member state in accordance with Section 40-67-530;

(4) have not had any adverse action against any license or compact privilege within the previous two years from the date of application;

(5) notify the commission that the licensee is seeking the compact privilege within a remote state;

(6) pay any applicable fees, including any state fee, for the compact privilege; and

(7) report to the commission adverse action taken by any nonmember state within thirty days from the date the adverse action is taken.

(B) For the purposes of the compact privilege, an audiologist or speech-language pathologist may hold only one home state license at a time.

(C) Except as provided for in Section 40-67-560, if an audiologist or speech-language pathologist changes primary state of residence by moving between two member states, the audiologist or speech-language pathologist must apply for licensure in the new home state, and the license issued by the prior home state must be deactivated in accordance with applicable rules adopted by the commission.

(D) The audiologist or speech-language pathologist may apply for licensure in advance of a change in primary state of residence.

(E) A license may not be issued by the new home state until the audiologist or speech-language pathologist provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a license from the new home state.

(F) If an audiologist or speech-language pathologist changes primary state of residence by moving from a member state to a nonmember state, the license issued by the prior home state converts to a single-state license, valid only in the former home state.

(G) The compact privilege is valid until the expiration date of the home state license. The licensee must comply with the requirements of subsection (A) to maintain the compact privilege in the remote state.

(H) A licensee providing audiology or speech-language pathology services in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

(I) A licensee providing audiology or speech-language pathology services in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and take any other necessary actions to protect the health and safety of its citizens.

(J) If a home state license is encumbered, the licensee loses compact privilege in any remote state until:

(1) the home state license is no longer encumbered; and

(2) two years have elapsed from the date of the adverse action.

(K) Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection (A) to obtain a compact privilege in any remote state.

(L) Once the requirements of subsection (J) have been met, the licensee must meet the requirements in subsection (A) to obtain a compact privilege in a remote state.

Section 40-67-550. Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with Section 40-67-530 and under rules promulgated by the commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.

Section 40-67-560. Active duty military personnel, or their spouse, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual only may change their home state through application for licensure in the new state.

Section 40-67-570. (A) In addition to the other powers conferred by state law, a remote state has the authority, in accordance with existing state due process law, to:

(1) take adverse action against an audiologist's or speech-language pathologist's privilege to practice within that member state;

(2) issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state must be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court, applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located; and

(3) only the home state has the power to take adverse action against an audiologist's or speech-language pathologist's license issued by the home state.

(B) For purposes of taking adverse action, the home state must give the same priority and effect to reported conduct received from a member state as it would if the conduct occurred within the home state. In so doing, the home state must apply its own state laws to determine appropriate action.

(C) The home state must complete any pending investigations of an audiologist or speech-language pathologist who changes primary state of residence during the course of the investigations. The home state also has the authority to take appropriate actions and promptly shall report the conclusions of the investigations to the administrator of the data system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any adverse actions.

(D) If otherwise permitted by state law, the member state may recover from the affected audiologist or speech-language pathologist the costs of investigations and disposition of cases resulting from any

adverse action taken against that audiologist or speech-language pathologist.

(E) The member state may take adverse action based on the factual findings of the remote state, provided that the member state follows its own procedures for taking the adverse action.

(F) In addition to the authority granted to a member state by its respective audiology or speech-language pathology practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(G) If adverse action is taken by the home state against an audiologist's or speech language pathologist's license, the audiologist's or speech-language pathologist's privilege to practice in all other member states is deactivated until all encumbrances are removed from the state license. All home state disciplinary orders that impose adverse action against an audiologist's or speech language pathologist's license must include a statement that the audiologist's or speech-language pathologist's privilege to practice is deactivated in all member states during the pendency of the order.

(H) If a member state takes adverse action, it promptly must notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse actions by remote states.

(I) Nothing in this compact overrides a member state's decision that participation in an alternative program may be used in lieu of adverse action.

Section 40-67-580. (A) The compact member states create and establish a joint public agency known as the Audiology and Speech-Language Pathology Compact Commission.

(1) The commission is an instrumentality of the compact states.

(2) Venue is proper and judicial proceedings by or against the commission must be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this compact may be construed to be a waiver of sovereign immunity.

(B) With respect to membership, voting, and meetings:

(1) Each member state shall have two delegates selected by that member state's licensing board. The delegates shall be current members of the licensing board. One must be an audiologist and one must be a speech-language pathologist.

(2) An additional five delegates, who are either a public member or board administrator from a state licensing board, shall be chosen by the executive committee from a pool of nominees provided by the commission at large.

(3) Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

(4) The member state board shall fill any vacancy occurring on the commission, within ninety days.

(5) Each delegate is entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission.

(6) A delegate shall vote in person or by other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

(7) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(C) The commission has the following powers and duties:

(1) establish the fiscal year of the commission;

(2) establish bylaws;

(3) establish a code of ethics;

(4) maintain its financial records in accordance with the bylaws;

(5) meet and take actions as are consistent with the provisions of this compact and the bylaws;

(6) promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules have the force and effect of law and shall be binding in all member states;

(7) bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state audiology or speech-language pathology licensing board to sue or be sued under applicable law shall not be affected;

(8) purchase and maintain insurance and bonds;

(9) borrow, accept, or contract for services of personnel including, but not limited to, employees of a member state;

(10) hire employees, elect or appoint officers, fix compensation, define duties, grant individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel

policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(11) accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety and conflict of interest;

(12) lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use, any property, real, personal, or mixed; provided that at all times the commission shall avoid any appearance of impropriety;

(13) sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

(14) establish a budget and make expenditures;

(15) borrow money;

(16) appoint committees, including standing committees composed of members, and other interested persons as may be designated in this compact and the bylaws;

(17) provide and receive information from, and cooperate with, law enforcement agencies;

(18) establish and elect an executive committee; and

(19) perform other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of audiology and speech-language pathology licensure and practice.

(D) The executive committee has the power to act on behalf of the commission according to the terms of this compact. The executive committee shall be composed of ten members:

(1) seven voting members who are elected by the commission from the current membership of the commission;

(2) two ex officios, consisting of one nonvoting member from a recognized national audiology professional association and one nonvoting member from a recognized national speech-language pathology association; and

(3) one ex officio, nonvoting member from the recognized membership organization of the audiology and speech-language pathology licensing boards.

(E) The ex officio members shall be selected by their respective organizations.

(1) The commission may remove any member of the executive committee as provided in bylaws.

(2) The executive committee shall meet at least annually.

(3) The executive committee shall have the following duties and responsibilities:

(a) recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member states such as annual dues, and any commission compact fee charged to licensees for the compact privilege;

(b) ensure compact administration services are appropriately provided, contractual or otherwise;

(c) prepare and recommend the budget;

(d) maintain financial records on behalf of the commission;

(e) monitor compact compliance of member states and provide compliance reports to the commission;

(f) establish additional committees as necessary; and

(g) other duties as provided in rules or bylaws.

(4) All meetings must be open to the public, and public notice of meetings must be given in the same manner as required under the rulemaking provisions in Section 40-67-600.

(5) The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive committee or other committees of the commission must discuss:

(a) noncompliance of a member state with its obligations under the compact;

(b) the employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(c) current, threatened, or reasonably anticipated litigation;

(d) negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(e) accusing any person of a crime or formally censuring any person;

(f) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(g) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(h) disclosure of investigative records compiled for law enforcement purposes;

(i) disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

(j) matters specifically exempted from disclosure by federal or member state statute.

(6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

(7) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action must be identified in minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(8) With respect to financing the commission:

(a) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

(c) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

(9) The commission may not incur obligations of any kind prior to securing the funds adequate to meet the same; nor may the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(10) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the commission.

(F) With respect to qualified immunity, defense, and indemnification:

(1) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and

liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing in this item shall be construed to protect any person from suit or liability for any damage, loss, injury, or liability caused by the intentional or wilful or wanton misconduct of that person.

(2) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or wilful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties, or responsibilities, or that person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or wilful or wanton misconduct of that person.

Section 40-67-590. (A) The commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

(B) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

(1) identifying information;

(2) licensure data;

(3) adverse actions against a license or compact privilege;

(4) nonconfidential information related to alternative program participation;

(5) any denial of application for licensure, and the reason(s) for denial; and

(6) other information that may facilitate the administration of this compact, as determined by the rules of the commission.

(C) Investigative information pertaining to a licensee in any member state only shall be available to other member states.

(D) The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state shall be available to any other member state.

(E) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(F) Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information must be removed from the data system.

Section 40-67-600. (A) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(B) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, the rule shall have no further force and effect in any member state.

(C) Rules or amendments to the rules must be adopted at a regular or special meeting of the commission.

(D) Prior to promulgation and adoption of a final rule or rules by the commission, and at least thirty days in advance of the meeting at which the rule is being considered and voted upon, the commission shall file a notice of proposed rulemaking:

(1) on the website of the commission or other publicly accessible platform; and

(2) on the website of each member state audiology or speech-language pathology licensing board or other publically accessible platform or the publication in which each state would otherwise publish proposed rules.

(E) The notice of proposed rulemaking must include:

(1) the proposed time, date, and location of the meeting in which the rule shall be considered and voted upon;

(2) the text of the proposed rule or amendment and the reason for the proposed rule;

(3) a request for comments on the proposed rule from any interested person; and

(4) the manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(F) Prior to the adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(G) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) at least twenty-five persons;

(2) a state or federal governmental subdivision or agency; or

(3) an association having at least twenty-five members.

(H) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.

(1) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing no less than five business days before the scheduled date of the hearing.

(2) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(3) All hearings shall be recorded. A copy of the recording shall be made available on request.

(4) Nothing in this section may be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(I) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(J) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(K) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(L) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section are retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(1) meet an imminent threat to public health, safety, or welfare;

(2) prevent a loss of commission or member state funds; or

(3) meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.

(M) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions must be posted on the website of the commission. The revision must be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision shall take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

Section 40-67-610. (A) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and non-member states.

(B) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(C) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(D) By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of litigation, including reasonable attorney's fees.

(E) The remedies herein are not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

Section 40-67-620. (A) The compact takes effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

(B) Any state that joins the compact subsequent to the commission's initial adoption of the rules is subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission has the full force and effect of law on the day the compact becomes law in that state.

(C) Any member state may withdraw from this compact by enacting a statute repealing the same.

(1) A member state's withdrawal does not take effect until six months after enactment of the repealing statute.

(2) Withdrawal does not affect the continuing requirement of the withdrawing state's audiology or speech-language pathology licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(D) Nothing contained in this compact may be construed to invalidate or prevent any audiology or speech-language pathology licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

(E) This compact may be amended by the member states. No amendment to this compact becomes effective and binding upon any member state until it is enacted into the laws of all member states.

Section 40-67-630. This compact must be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact is held contrary to the constitution of any

member state, the compact remains in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

Section 40-67-640. (A) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

(B) All laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(C) All lawful actions of the commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

(D) All agreements between the commission and the member states are binding in accordance with their terms.

(E) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state."

Designation of existing provisions

SECTION 2. The existing sections of Chapter 67, Title 40 are designated as Article 1, Chapter 67, Title 40 and entitled, "General Provisions".

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 13th day of May, 2022.

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No. 161

(R210, H4048)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1-11-445 SO AS TO PROVIDE THAT THE STATE OF SOUTH CAROLINA MUST PROVIDE A LEGAL DEFENSE FOR AND INDEMNIFICATION TO A STATE AGENCY, DEPARTMENT, OR INSTRUMENTALITY AGAINST A CLAIM OR SUIT THAT ARISES OUT OF OR BY VIRTUE OF THE PERFORMANCE OF OFFICIAL DUTIES ON BEHALF OF A STATE AGENCY, DEPARTMENT, OR INSTRUMENTALITY, AND TO PROVIDE A SIMILAR DEFENSE AND INDEMNIFICATION TO BOARD MEMBERS AND EMPLOYEES, AND OFFICERS OF THE ENTITY; TO REPEAL SECTION 1-11-440 RELATING TO LEGAL DEFENSES AND INDEMNIFICATIONS PROVIDED TO MEMBERS OF THE FISCAL ACCOUNTABILITY AUTHORITY AND ITS DIRECTOR; AND TO REPEAL SECTION 12-4-325 RELATING TO LEGAL DEFENSES AND INDEMNIFICATION PROVIDED TO OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF REVENUE.

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

Defense and indemnification of state agencies

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

"Section 1-11-445. (A) The State of South Carolina, by and through its agencies, departments, and instrumentalities, must defend the state agency, department, or instrumentality, and the members of a governing board of the state agency, department, or instrumentality, as applicable, against an uninsured claim or suit that arises out of or by virtue of the performance of official duties on behalf of the state agency, department, or instrumentality, and must indemnify them for an uninsured loss or judgment incurred by them as a result of the claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. The State also must defend directors, officers, and employees of the entity, and legislative employees performing duties for the entity, against an uninsured claim or suit that arises out of or by

virtue of the performance of official duties unless the director, officer, employee, or legislative employee was acting in bad faith including, but not limited to, acting outside the scope of his official duties, or that the actions constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude. The State shall indemnify these directors, officers, employees, and legislative employees for a loss or judgment incurred by them as a result of such uninsured claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. This commitment to defend and indemnify extends to members of the entity, the entity's officers, the entity's director, the entity's employees, and legislative employees after they have left their employment with the entity or the General Assembly, as applicable, if the uninsured claim or suit arises out of or by virtue of their performance of official duties on behalf of their employer.

(B) The term 'instrumentality' as used in this section includes an entity where a specific duty or function is imposed on the entity by law and includes any function where the entity must exercise a portion of the state's sovereignty. Entities to which this provision applies include, but are not limited to, the State Fiscal Accountability Authority, the Judicial Merit Selection Commission, the Public Utilities Review Committee, the Retirement Systems Investment Panel, and all joint special legislative committees.

(C) The provisions of subsection (A) also apply to employees and officers while acting within the scope of their employment when administering any South Carolina statute which has not been held to be unconstitutional or unlawful by a final decision of a court of competent jurisdiction. For purposes of this section, a final decision is the decision of a court declaring the South Carolina statute unconstitutional or otherwise unlawful, and from which the appropriate officials of this State may not or do not take an appeal or request a rehearing.

(D) This section does not waive any defense, immunity, limitation, or jurisdictional bar including, but not limited to, the Tort Claims Act. This section does not affect the terms or conditions of any applicable policy of insurance."

Repeal

SECTION 2. Sections 1-11-440 and 12-4-325 are repealed on the effective date of this act.

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 13th day of May, 2022.

No. 162

(R214, H4519)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40-13-40 SO AS TO PROVIDE PERSONS REGISTERED WITH THE STATE BOARD OF BARBER EXAMINERS AS BARBERS OR MASTER HAIR CARE SPECIALISTS MAY PRACTICE WITHIN THE SCOPE OF THEIR LICENSE IN SALONS REGISTERED WITH THE STATE BOARD OF COSMETOLOGY.

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

Authorization to practice in registered salons

SECTION 1. Chapter 13, Title 40 of the 1976 Code is amended by adding:

"Section 40-13-40. (A) A person registered as a barber or master hair care specialist pursuant to the requirements of Chapter 7 of this title may practice within the scope authorized by the person's license in a salon registered in accordance with this chapter.

(B) The provisions of this section apply notwithstanding the provisions of Section 40-13-20(1) or another provision of law.

(C) The department shall promulgate regulations to carry out the provisions of this section."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 13th day of May, 2022.

No. 163

(R215, H4597)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 15 TO CHAPTER 43, TITLE 44 SO AS TO PROHIBIT DISCRIMINATION AGAINST INDIVIDUALS WITH DISABILITIES IN ACCESSING ANATOMICAL GIFTS AND ORGAN TRANSPLANTS; TO DEFINE CERTAIN TERMS; TO ESTABLISH REQUIREMENTS AND PROHIBITED CONDUCT FOR COVERED ENTITIES, INCLUDING HOSPITALS AND ORGAN PROCUREMENT ORGANIZATIONS, WITH REGARD TO THE ORGAN TRANSPLANT PROCESS; TO CREATE CIVIL REMEDIES FOR VIOLATION OF THE PROVISIONS OF THE ARTICLE; AND FOR OTHER PURPOSES.

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

Nondiscrimination, access to transplants

SECTION 1. Chapter 43, Title 44 of the 1976 Code is amended by adding:

"Article 15

Nondiscrimination in Access to Anatomical Gift and Organ Transplants

Section 44-43-1510. (A) The General Assembly finds that:

(1) A mental or physical disability does not diminish a person's right to health care.

(2) The Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101, prohibits discrimination against persons with disabilities, yet many individuals with disabilities still experience discrimination in accessing critical health care services.

(3) Nationwide, individuals with mental and physical disabilities have been denied life-saving organ transplants based on assumptions that their lives are less worthy, that they are incapable of complying with posttransplant medical requirements, or that they lack adequate support systems to ensure compliance with posttransplant medical requirements.

(4) Although organ transplant centers must consider medical and psychosocial criteria when determining if a patient is suitable to receive an organ transplant, transplant centers that participate in Medicare, Medicaid, and other federally funded programs are required to use patient selection criteria that result in a fair and nondiscriminatory distribution of organs.

(5) South Carolina residents in need of organ transplants are entitled to assurances that they will not encounter discrimination on the basis of a disability.

(B) The General Assembly declares that the life of a person with a disability who needs an organ transplant is as worthy and valuable as the life of a person with no disability who needs the same medical service.

Section 44-43-1520. For purposes of this article:

(1) 'Anatomical gift' means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation or transfusion.

(2) 'Auxiliary aids or services' means an aid or service that is used to provide information to an individual with a cognitive, developmental, intellectual, neurological, or physical disability and is available in a format or manner that allows the individual to better understand the information. An auxiliary aid or service may include:

(a) qualified interpreters or other effective methods of making aurally delivered materials available to persons with hearing impairments;

(b) qualified readers, taped texts, texts in accessible electronic format, or other effective methods of making visually delivered materials available to persons with visual impairments;

(c) supported decision-making services, including:

(i) the use of a support individual to communicate information to the individual with a disability, ascertain the wishes of the individual, or assist the individual in making decisions;

(ii) the disclosure of information to a legal guardian, authorized representative, or another individual designated by the individual with a disability for such purpose, as long as the disclosure is consistent with state and federal law, including the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d, et seq., and any regulations promulgated by the United States Department of Health and Human Services to implement the act;

(iii) if an individual has a court-appointed guardian or other individual responsible for making medical decisions on behalf of the individual, any measures used to ensure that the individual is included in decisions involving the individual's health care and that medical decisions are in accordance with the individual's own expressed interests;

(iv) any other aid or service that is used to provide information in a format that is easily understandable and accessible to individuals with cognitive, neurological, developmental, or intellectual disabilities, including assistive communication technology.

(3) 'Covered entity' means:

(a) any licensed provider of health care services, including licensed health care practitioners, hospitals, nursing facilities, laboratories, intermediate care facilities, psychiatric residential treatment facilities, institutions for individuals with intellectual or developmental disabilities, and prison health centers;

(b) any entity responsible for matching anatomical gift donors to potential recipients, including an eye bank, organ procurement organization, or tissue bank, as those terms are defined in Section 44-43-305.

(4) 'Disability' has the meaning stated in the Americans with Disabilities Act of 1990, as amended.

(5) 'Organ transplant' means the transplantation or transfusion of a part of a human body into the body of another for the purpose of treating or curing a medical condition.

(6) 'Qualified recipient' means an individual who has a disability and meets the essential eligibility requirements for the receipt of an anatomical gift with or without any of the following:

(a) individuals or entities available to support and assist the individual with an anatomical gift or transplantation;

(b) auxiliary aids or services;

(c) reasonable modifications to the policies, practices, or procedures of a covered entity, including modifications to allow for either or both of the following:

(i) communication with one or more individuals or entities available to support or assist with the recipient's care and medication after surgery or transplantation;

(ii) consideration of support networks available to the individual, including family, friends, and home- and community-based services, including home- and community-based services funded through Medicaid, Medicare, another health plan in which the individual is enrolled, or any program or source of funding available to the individual, when determining whether the individual is able to comply with posttransplant medical requirements.

Section 44-43-1530. (A) The provisions of this section apply to all stages of the organ transplant process.

(B) A covered entity must not, solely on the basis of an individual's disability:

(1) consider the individual ineligible to receive an anatomical gift or organ transplant;

(2) deny medical services or other services related to organ transplantation, including diagnostic services, evaluation, surgery, counseling, and postoperative treatment and services;

(3) refuse to refer the individual to a transplant center or other related specialist for the purpose of being evaluated for or receiving an organ transplant;

(4) refuse to place a qualified recipient on an organ transplant waiting list;

(5) place a qualified recipient on an organ transplant waiting list at a lower priority position than the position at which the individual would have been placed if the individual did not have a disability; or

(6) refuse insurance coverage for any procedure associated with being evaluated for or receiving an anatomical gift or organ transplant, including posttransplantation and posttransfusion care.

(C) Notwithstanding subsection (B), a covered entity may take an individual's disability into account when making treatment or coverage recommendations or decisions, solely to the extent that the disability has been found by a physician or surgeon, following an individualized evaluation of the individual, to be medically significant to the provision of the anatomical gift.

(D) If an individual has the necessary support system to assist the individual in complying with posttransplant medical requirements, a covered entity may not consider the individual's inability to independently comply with posttransplant medical requirements to be medically significant for the purposes of subsection (C).

(E) A covered entity must make reasonable modifications to its policies, practices, or procedures to allow individuals with disabilities access to transplantation-related services, including diagnostic services, surgery, coverage, postoperative treatment, and counseling, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such services.

(F) A covered entity must take steps necessary to ensure that an individual with a disability is not denied medical services or other services related to organ transplantation, including diagnostic services, surgery, postoperative treatment, or counseling, due to the absence of auxiliary aids or services, unless the covered entity demonstrates that taking the steps would fundamentally alter the nature of the medical services or other services related to organ transplantation or would result in an undue burden for the covered entity.

(G) Nothing in this section may be deemed to require a covered entity to make a referral or recommendation for or perform a medically inappropriate organ transplant.

(H) A covered entity must otherwise comply with the requirements of Titles II and III of the Americans with Disabilities Act of 1990, as amended.

Section 44-43-1540. (A) Whenever it appears that a covered entity has violated or is violating any of the provisions of this article, the affected individual may commence a civil action for injunctive and other equitable relief against the covered entity for purposes of enforcing compliance with this article. The action may be brought in the circuit court for the county where the affected individual resides or resided or was denied the organ transplant or referral.

(B) In an action brought under this article, the court shall give priority on its docket and expedited review, and may grant injunctive or other equitable relief, including:

(1) requiring auxiliary aids or services to be made available for a qualified recipient;

(2) requiring the modification of a policy, practice, or procedure of a covered entity; or

(3) requiring facilities be made readily accessible to and usable by a qualified recipient.

(C) Nothing in this article is intended to limit or replace available remedies under the Americans with Disabilities Act of 1990 or any other applicable law.

(D) This article does not create a right to compensatory or punitive damages against a covered entity."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 13th day of May, 2022.

No. 164

(R217, H4601)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 6-1-2020 SO AS TO, AMONG OTHER THINGS, DESIGNATE AMBULANCE SERVICE AS AN ESSENTIAL SERVICE IN SOUTH CAROLINA; TO REQUIRE THAT EACH COUNTY GOVERNING BODY ENSURES THAT AT LEAST ONE LICENSED AMBULANCE SERVICE IS OPERATING WITHIN THE COUNTY; AND TO DEFINE RELEVANT TERMS.

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

Ambulance service designated an essential service

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

"Section 6-1-2020. (A) As used in this section:

(1) 'Ambulance service' means a public or private entity that is a licensed provider who has obtained the necessary permits and licenses for the transportation of persons who are sick, injured, wounded, or otherwise incapacitated.

(2) 'County' means a county of this State.

(3) 'Municipality' means a municipal corporation created pursuant to Chapter 1, Title 5 or a municipal government or governing body as the use of the term dictates.

(B)(1) Ambulance service is hereby designated as an essential service in this State.

(2) Each county governing body in this State shall ensure that at least one licensed ambulance service is available within the county. This may be provided as a county service, but also may be accomplished through other means including, but not limited to:

(a) providing a license or franchise to a private company;

(b) contracting with a public, private, or nonprofit entity for the service;

(c) entering into an intergovernmental agreement with one or more local governments; or

(d) entering into an agreement with a hospital or other health care facility.

(3) A county is not required to appropriate county revenues for ambulance service if the service can be provided by any other means.

(C) Municipal governing bodies also are authorized to make provisions for ambulance service within the boundaries of the municipality. A municipality may not provide and maintain, license, franchise, or contract for ambulance service outside its corporate boundaries without the approval of the county governing body, in the case of unincorporated areas, or the municipal governing body if the area to be served lies within the boundaries of another municipality.

(D) A county may not provide and maintain, license, franchise, or contract for ambulance service within the boundaries of a municipality that has made provisions for ambulance service without the approval of the municipal governing body of the area to be served.

(E) The governing body of any county or municipality may adopt and enforce reasonable regulations to control the provision of private or nonprofit ambulance service.

(F) Two or more counties and municipalities may enter into agreements with each other and with persons providing both emergency and nonemergency ambulance service for a county or counties on a countywide basis, for joint or cooperative action to provide for ambulance service."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 13th day of May, 2022.

No. 165

(R221, H4837)

AN ACT TO AMEND SECTION 40-37-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS CONCERNING THE PRACTICE OF OPTOMETRY, SO AS TO PROVIDE A NECESSARY DEFINITION; AND TO AMEND SECTION 40-37-320, RELATING TO OPTOMETRY MOBILE UNITS, SO AS TO PROVIDE ADDITIONAL REQUIREMENTS FOR THE OPERATION OF SUCH UNITS.

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

Definitions

SECTION 1. Section 40-37-20 of the 1976 Code is amended by adding and item at the end to read:

"( ) 'Operator' means the licensed optometrist, optometric practice, or organization engaged in providing optometric services directly or through persons authorized by law to provide the services."

Optometry mobile unit requirements

SECTION 2. Section 40-37-320(B) of the 1976 Code is amended to read:

"(B)(1) Mobile units may be used either by a licensed optometrist, optometric practice, or organization using a licensed optometrist to operate the mobile optometric unit if the operator obtains a permit for the mobile unit from the board and complies with the other provisions of this subsection. A mobile unit must be limited to visiting and providing services:

(a) to licensed health care facilities within this State; or

(b) on the site of a Title 1 public school to the students attending the school, provided the services must be rendered as part of a not-for-profit program.

(2) In order to operate a mobile unit in this State, the operator shall submit a permit application and fee in the form and manner set forth by the board.

(3)(a) A mobile unit permit only may be issued following an inspection of the mobile unit by an authorized representative of the board. Upon the completion of a satisfactory inspection, the board shall issue the applicant a mobile unit permit. The applicant must affix the permit in a prominent and conspicuous place within the mobile unit.

(b) A mobile unit permit issued under this subsection annually must be renewed upon the payment of a renewal fee and satisfactorily undergoing an annual inspection.

(c) In addition to the annual inspection, a mobile unit authorized to operate under this subsection is subject to periodic unannounced inspections by an authorized representative of the board. If the mobile unit is a not-for-profit organization operating at a Title 1 school, the periodic unannounced inspection must be conducted after school hours.

(4)(a) The mobile unit shall maintain and furnish to the board both an official business address of record, which may not be a post office box, and an official telephone number of record. A mailing address, if different than the business address and used on an official basis, also must be provided to the board.

(b) The board must be notified within thirty days of any change in the address or telephone number of record.

(c) All written or printed documents available from or issued by a mobile unit must contain an official address and telephone number of record for the mobile unit.

(d) All records must be maintained and available for inspection and copying upon request by the board, subject to HIPPA and FERPA privacy protections.

(5) The operator in charge of each mobile unit, in addition to the other requirements of this subsection, shall ensure that:

(a) all services provided in the mobile unit follow all statutes, regulations, and board policies that regulate the practice of optometry in this State;

(b) written procedures are implemented for emergency or follow-up care for patients treated in the mobile unit, including making prior arrangements, as may be appropriate, for emergency or follow-up treatment in an optometric unit located in the geographic area where services are being provided;

(c) the mobile unit complies with all applicable federal, state, and local laws, regulations, and ordinances dealing with flammability, construction, sanitation, zoning, infectious waste management, universal precautions, occupational safety, access by persons with disabilities, and federal Centers for Disease Control guidelines;

(d) the operator possesses all applicable county and city licenses or permits, including business licenses, to operate the unit at the location where services are being provided;

(e) the mobile unit is at all times fitted with working carbon monoxide detection devices;

(f) no services are performed on minors without consent of their parent or guardian; and

(g) during or at the conclusion of each patient's visit to the mobile unit, the patient is provided with an information sheet, and if the patient or their parent or guardian has provided consent to an institutional facility to assist in the patient's health records, the institutional facility is provided with a copy of the information sheet. An institutional facility includes, but is not limited to, a long-term care facility or school, and an information sheet must include the following:

(i) pertinent contact information as provided by this subsection;

(ii) the name of the optometrist, optician, and other staff who provided services and their license numbers, if applicable;

(iii) a description of the treatment rendered;

(iv) a description of any optometric needs diagnosed during the optometrist's examination; and

(v) a recommendation that the patient see another optometrist if the mobile unit is unable to provide the follow-up treatment described in subsubitem (iv).

(6) A mobile unit that accepts a patient and provides preventive treatment, including a screening, eye examination, or prescription for corrective lenses, but does not follow up with treatment or a referral for treatment when such treatment is clearly indicated, is considered to have abandoned the patient. Appropriate arrangements must be made for treatment services within the patient's geographic area on a follow-up basis. Reasonable attempts to have follow-up treatment when a patient does not reappear for treatment or does not meet a scheduled appointment is not considered abandonment.

(7) In addition to the other requirements of this subsection, every mobile unit must have:

(a) written procedures and necessary equipment to provide services provided to disabled persons; and

(b) access to an adequate supply of potable water, including hot water either at the mobile unit or available at locations served by the mobile unit.

(8)(a) All examinations conducted as part of the operation of a mobile unit must be performed by an optometrist who is licensed to

practice optometry in this State. All glasses fitted and dispensed as part of the operation of a mobile unit must be fitted and dispensed by an optician licensed in this State.

(b) The operator of the mobile unit shall identify and advise the board in writing within thirty days of any personnel change relative to all licensed optometrists associated with the mobile unit by providing the full name, address, telephone numbers, and license numbers where applicable.

(c) The operator shall advise the board in writing within thirty days of any change in the written procedure for emergency follow-up care for patients treated in the mobile unit.

(d) An optometrist providing services in the mobile unit prominently shall display his license to practice in this State in plain view of patients.

(9)(a) An operator of a mobile unit shall maintain a confidential written or electronic record detailing each location where services are provided, including:

(i) the street address of the service location;

(ii) the dates and times of each session; and

(iii) the number of patients served.

(b) All confidential written or electronic records required to be maintained by this chapter or applicable regulations shall be made available to the board within ten days of a request by the board, subject to HIPPA and FERPA privacy protections. Costs for such records must be covered by the mobile unit operator.

(10) Optometric services provided on a mobile unit must be in the charge of an optometrist licensed to practice optometry in this State at all times.

(11)(a) Upon cessation of operation by the mobile unit, the operator shall notify the board in writing within thirty days of the last day of operations of the final disposition of patient records and charts.

(b) Upon choosing to discontinue a practice or services in a community, the operator of a mobile unit shall:

(i) notify all of the operator’s active patients in writing that the operator intends to discontinue the mobile unit’s practice in the community;

(ii) encourage the patients to seek the services of another optometrist; and

(iii) make reasonable arrangements with all active patients for the transfer of the patient’s records to the patient or a succeeding practitioner.

(c) As used in this subsection, 'active patient' refers to a person who the mobile unit has examined, treated, cared for, or otherwise consulted with during the two-year period prior to discontinuation of practice, or moving from or leaving the community.

(12) The board shall adopt rules and regulations regarding the registration, administration, and operation of mobile units as may be necessary to carry out the provisions of this subsection, and may amend, modify, and repeal any rules and regulations from time to time. Failure to comply with any statutes, regulations, or board policies governing the practice of optometry and the operation of a mobile unit may subject the mobile unit and any optometrists providing services through the mobile unit to disciplinary action by the board, including suspension or revocation of the optometrist's license or revocation of the mobile unit permit. However, a licensed optometrist providing services through a mobile unit shall not be subject to disciplinary action on the sole basis that the licensed optometrist has prescribed eyeglasses without dilating the patient's eyes where the following provisions are satisfied:

(a) the operator of the mobile unit is a not-for-profit organization providing services at a Title 1 public school; and

(b) the optometrist practicing in the mobile unit shall:

(i) provide an appropriate eye examination prior to diagnosing, treating, and/or prescribing eyeglasses to the patient;

(ii) when providing an appropriate eye examination pursuant to this subsection that does not necessarily require dilation of the eyes, employ technology sufficient to accurately study the health of the eye in order to prescribe eyeglasses to the patient, provided that the prescription for eyeglasses is not based solely on the refractive eye error of the human eye or is generated by a kiosk;

(iii) not prescribe eyeglasses to the patient and provide a referral to another licensed optometrist or ophthalmologist for follow-up care, if the eye examination reveals to the optometrist that a more comprehensive examination is necessary prior to prescribing eyeglasses. Any licensed optometrist performing a comprehensive eye examination of a patient referred under this subsection shall conduct a comprehensive eye exam, including dilation of the eyes; and

(iv) if a patient is referred to the optometrist or ophthalmologist with a prescription issued by another licensed optometrist or physician that has conducted a comprehensive eye examination of the patient, provide eyeglasses to the referred patient according to the prescription issued by the referring licensed optometrist or ophthalmologist."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 13th day of May, 2022.

No. 166

(R166, S152)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "COUNTY GREEN SPACE SALES TAX ACT"; BY ADDING ARTICLE 10 TO CHAPTER 10, TITLE 4, SO AS TO CREATE THE COUNTY GREEN SPACE SALES TAX, TO IMPOSE THE TAX, TO PROVIDE FOR THE CONTENTS OF THE BALLOT AND THE PURPOSE FOR WHICH TAX PROCEEDS MAY BE USED, TO PROVIDE FOR THE IMPOSITION AND TERMINATION OF THE TAX, TO PROVIDE THAT THE DEPARTMENT OF REVENUE SHALL ADMINISTER AND COLLECT THE TAX, TO PROVIDE FOR DISTRIBUTIONS TO COUNTIES AND CONFIDENTIALITY, AND TO PROVIDE FOR UNIDENTIFIED FUNDS, TRANSFERS, AND SUPPLEMENTAL DISTRIBUTIONS.

Whereas, South Carolina is blessed with a broad array of natural resources, from the Blue Ridge Escarpment in the Upstate, to the sandhills of the Midlands, to the farmland and woodlands of the Pee Dee, and to the iconic shoreline and marshes of the coastal plain; and

Whereas, South Carolina's coastal geography consists of 187 miles of oceanfront shoreline and 2,876 miles of tidal shorelines, and includes 500,000 acres of salt marshes that represent twenty percent of all the salt marshes on the United States' Atlantic coast, all of which underpin extensive recreational and commercial fisheries, thriving coastal tourism, important maritime industries, and critical natural defenses for people against storms; and

Whereas, South Carolina's Upstate consists of the 10,000-acre Mountain Bridge Wilderness Area that encompasses the Blue Ridge Escarpment and its vast array of waterfalls, hardwood forests, headwaters, and mountain streams, as well as a diversity of plant and animal life, including the exceptionally rare and endangered bunched arrowhead; and

Whereas, South Carolina's Midlands region is home to the sandhills and longleaf pine habitat, which supports over 30 threatened or endangered plant and animal species, including the red-cockaded woodpecker; and

Whereas, South Carolina's Pee Dee is a region with rich geographic variations, including deep woodlands, a patchwork of timber forests and agricultural fields, black-water swamps and creeks that intermingle with red rivers and high bluffs, historic sites, and one of the most productive agricultural areas in the State; and

Whereas, the quality of life of all South Carolinians is tied to conservation, with homes, businesses, and recreation being drawn to areas with abundant and accessible green space and natural areas; and

Whereas, according to the Census Bureau, South Carolina is the tenth-fastest-growing State in the nation, and in particular, the State contains a number of the fastest-growing metropolitan areas in the nation, including Myrtle Beach, York County, and Charleston, and is projected in the coming years to continue experiencing steady population growth and the expansion of urban and suburban land uses; and

Whereas, studies conducted by City Explained suggest that the amount of developed land in some regions of South Carolina will increase by 250% by 2040 if current development trends continue; and

Whereas, although this rapid growth will bring prosperity and new opportunities to South Carolina, it will also put additional pressures on our state's lands and waters, in that the development and the accompanying infrastructure will result in the destruction of natural wetlands, marshes, headwaters, and other waterways, thereby hampering the functioning of these systems and eliminating valuable and effective natural storm protection and flood abatement, and fish and wildlife habitat; and

Whereas, this growth increases the amount of impervious surfaces throughout our State, which in turn creates new runoff and carries pollutants into our waterways. For example, a 2019 study found that development in the Town of Bluffton has increased levels of fecal coliform in the May River 3,150% since 1999 and Upstate studies found that sediment from land development is a leading cause of water quality degradation, resulting in flooding, increased costs for drinking water treatment, and harm to aquatic life; and

Whereas, there are significant economic benefits that result from protecting land, including tourism and recreation; and

Whereas, farmland protection helps promote agritourism and boosts the local food economy, as demonstrated by a 2013 SC Department of Agriculture study that found that if every South Carolina resident purchased $5 worth of food each week directly from a farmer in the State the potential impact would be about $1.2 billion; and

Whereas, the Southeast United States coast has experienced some of the highest rates of sea level rise and coastal flooding in the world, with some areas losing as much as three feet of bank each year, and additional sea level rises and coastal flooding will adversely impact existing residential and commercial uses on our state's coast and has been cited by the United States Department of Defense as a threat to the viability of the Marine Corps Recruit Depot Parris Island, which employs 6,100 people and has an annual economic impact of $739.8 million; and

Whereas, flooding has significantly affected South Carolina's inland communities, with over 80 dam failures from 2015 to 2018 resulting from extreme weather and flooding that our riverine systems and floodplains were unable to attenuate, leading to significant impacts on transportation and drinking water infrastructure and the loss of homes, livelihoods, and lives; and

Whereas, the topography of our State, whether the low-lying topography of our coastal areas or the small incised streams of the Upstate prone to flash flooding and erosion, our state's development patterns makes our communities highly vulnerable to inland and riverine flooding if the flow of rainwater runoff is greater than the carrying capacities of the natural drainage systems, and over the past six years, major flooding and storm events have caused over one billion dollars in total damages to residential and commercial properties and have imposed substantial

burdens on South Carolina taxpayers through general fund disbursements; and

Whereas, an effective way to avoid incurring such liabilities is to limit development within the floodplain and in areas that are at significant risk from sea level rise and flooding, and there is a need to empower local governments to undertake land preservation efforts that are supportive of, respectful to, and consistent with the principle of private property rights, as opposed to limiting them to the use of traditional land use regulations, which, in order to attain the necessary level of relief, could give rise to inverse condemnation claims; and

Whereas, counties in South Carolina have implemented local land conservation programs including, but not limited to, Beaufort County's Rural and Critical Lands Program, Charleston County's Greenbelt Program, Greenville County's Historic and Natural Resources Trust Initiative, the Oconee County Conservation Bank, and extensive parks and greenspace funding efforts in York County, indicating that such programs enjoy overwhelming public support in all corners of the State. Now, therefore,

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

Citation

SECTION 1. This act must be known and may be cited as the "County Green Space Sales Tax Act".

County Green Space Sales Tax

SECTION 2. Chapter 10, Title 4 of the 1976 Code is amended by adding:

"Article 10

County Green Space Sales Tax

Section 4-10-1010. (A) For the purposes of this article, 'preservation procurements' means procuring open lands or green space for preservation, by and through the acquisition of interests in real property, including:

(1) the acquisition of fee simple titles;

(2) conservation easements;
(3) development rights;
(4) rights of first refusal;
(5) options;
(6) leases with options to purchase; and
(7) any other interests in real property.

(B)(1) Subject to the requirements of this article, a county's governing body may impose a sales and use tax by ordinance, subject to a referendum, within the county area for preservation procurements.

(2) Revenues collected pursuant to this article may be used to defray debt service on bonds issued to pay for preservation procurements authorized in this article. This authorization is in addition to any other locally imposed sales and use taxes.

Section 4-10-1020. (A) A county governing body may impose a sales and use tax up to one percent authorized by this article, by ordinance, subject to a referendum. An enacting ordinance must specify:

(1) the purpose for which the proceeds of the tax are to be used, which may include preservation procurements located within or without, or both within and without, the boundaries of the local governmental entities, including the county, municipalities, and special purpose districts located in the county area;

(2) if the county proposes to issue bonds to provide for the payment of any costs of the preservation procurements, the maximum amount of bonds to be issued, whether the sales tax proceeds are to be pledged to the payment of the bonds and, if other sources of funds are to be used for the preservation procurements, a list of the other sources;

(3) the maximum cost of the preservation procurements, to be funded from the proceeds of the tax or bonds issued as provided in this article and the maximum amount of net proceeds expected to be used to pay the cost or debt service on the bonds, as the case may be; and

(4) the fact that preservation procurements may pertain to real property situated outside of the boundaries of the taxing jurisdiction.

(B) Upon receipt of an ordinance, a county's election commission must conduct a referendum on the question of imposing the sales and use tax in the area of the county that is to be subject to the tax. A referendum for imposition or reimposition of the tax must be held at the time of the next general election in an even-numbered year. Two weeks before a referendum, a county's election commission must publish in a newspaper of general circulation the question that is to appear on the ballot, with a description of the methods by which the county's governing body intends to procure open lands and green space for

preservation. If the proposed question includes the use of sales taxes to defray debt service on bonds issued to pay the costs of any preservation procurements, then the notice must include a statement indicating the principal amount of the bonds proposed to be issued for the purpose and, if the issuance of the bonds is to be approved as part of the referendum, stating that the referendum includes the authorization of the issuance of bonds in that amount. This notice is in lieu of any other notice otherwise required by law.

(C) The referendum question to be on the ballot must read substantially as follows:

'Must a special [percent] sales and use tax be imposed in [county] for not more than [time] to raise the amounts specified for preservation procurements for the purpose of procuring open lands and green space by and through the acquisition of interests in real property, such interests to include:

(a) the acquisition of fee simple titles;
(b) conservation easements;
(c) development rights;
(d) rights of first refusal;
(e) options;
(f) leases with options to purchase; or
(g) any other interests in real property?

Yes ☐

No ☐'

If the referendum includes the issuance of bonds, then the question must be revised to include the principal amount of bonds proposed to be authorized by the referendum and the sources of payment of the bonds if the sales tax approved in the referendum is inadequate for the payment of the bonds.

(D) All qualified electors desiring to vote in favor of imposing the tax for the stated purposes shall vote 'yes', and all qualified electors opposed to levying the tax shall vote 'no'. If a majority of the votes cast are in favor of imposing the tax, then the tax is imposed as provided in this article and the enacting ordinance. Any subsequent referendum on this question must be held on the date prescribed in subsection (B). The election commission shall conduct the referendum under the election laws of this State, mutatis mutandis, and shall certify the result no later than November thirtieth to the county governing body and to the

Department of Revenue. Expenses of the referendum must be paid by the governmental entities that would receive the proceeds of the tax in the same proportion as those entities would receive the net proceeds of the tax.

(E) Upon receipt of the returns of a referendum, a county's governing body must, by resolution, declare the results thereof. In such event, the results of the referendum, as declared by resolution of the county's governing body, are not open to question except by a suit or proceeding instituted within thirty days from the date such resolution is adopted.

(F) The provisions of this section are not available to a county with more than two existing sales and use taxes currently in effect.

Section 4-10-1030. (A) If the sales and use tax is approved in a referendum, then the tax shall be imposed on the first of May following the date of the referendum. If the reimposition of an existing sales and use tax imposed pursuant to this article is approved in a referendum, then the new tax is imposed immediately following the termination of the earlier imposed tax, and the reimposed tax terminates on the applicable thirtieth of April, not to exceed seven years from the date of reimposition. If the certification is not timely made to the Department of Revenue, then the imposition is postponed for twelve months.

(B) The tax terminates the final day of the maximum time period specified for the imposition.

(C) Amounts collected in excess of the required net proceeds must first be applied, if applicable, to complete the preservation procurements for which the tax was imposed.

(D) If the sales and use tax is approved in a referendum, then the Department of Revenue must make available to the public, upon request, all information regarding the amount of the tax that is collected, expenditures, and any remaining funds at the time of the information request to ensure transparency and accountability.

Section 4-10-1040. (A)(1) The tax levied pursuant to this article must be administered and collected by the Department of Revenue in the same manner that other sales and use taxes are collected. The Department of Revenue may prescribe amounts that may be added to sales prices because of the tax.

(2) The county in which a referendum is passed shall assemble an advisory committee to assist the Department of Revenue with directing the distribution of the taxes collected to ensure a transparent and equal distribution within the county. The advisory committee shall include seven members:

(a) one member who is a member of the county council;

(b) one member who is a member of the legislative delegation;

(c) one member who is knowledgeable about the geography and condition of the county's land; and

(d) four citizen members, each representing the northern, southern, eastern, and western portions of the county.

(B) The tax authorized by this article is in addition to all other local sales and use taxes and applies to the gross proceeds of sales in the applicable area that is subject to the tax imposed by Chapter 36, Title 12 and the enforcement provisions of Chapter 54, Title 12. The gross proceeds of the sale of items subject to a maximum tax in Chapter 36, Title 12 are exempt from the tax imposed by this article. Unprepared food items eligible for purchase with United States Department of Agriculture food coupons are exempt from the tax imposed pursuant to this article. The tax imposed by this article also applies to tangible personal property subject to the use tax in Article 13, Chapter 36, Title 12.

(C) A taxpayer required to remit taxes under Article 13, Chapter 36, Title 12 must identify the county in which the personal property purchased at retail is stored, used, or consumed in this State.

(D) A utility is required to report sales in the county in which the consumption of the tangible personal property occurs.

(E) A taxpayer subject to the tax imposed by Section 12-36-920, who owns or manages rental units in more than one county, must separately report in his sales tax return the total gross proceeds from business done in each county.

(F) The gross proceeds of sales of tangible personal property delivered after the imposition date of the tax levied under this article in a county, either under the terms of a construction contract executed before the imposition date, or a written bid submitted before the imposition date, culminating in a construction contract entered into before or after the imposition date, are exempt from the sales and use tax provided in this article if a verified copy of the contract is filed with the Department of Revenue within six months after the imposition date of the sales and use tax provided for in this article.

(G) Notwithstanding the imposition date of the sales and use tax authorized pursuant to this chapter, with respect to services that are billed regularly on a monthly basis, the sales and use tax authorized pursuant to this article is imposed beginning on the first day of the billing period beginning on or after the imposition date.

Section 4-10-1050. The Department of Revenue shall furnish data to the State Treasurer and to the county treasurers receiving revenues for the purpose of calculating distributions and estimating revenues. The information that must be supplied to counties and municipalities upon request includes, but is not limited to, gross receipts, net taxable sales, and tax liability by taxpayers. Information about a specific taxpayer is considered confidential and is governed by the provisions of Section 12-54-240. A person violating this section is subject to the penalties provided in Section 12-54-240.

Section 4-10-1060. Annually, and only in the month of June, funds collected by the Department of Revenue from the county green space sales tax, which are not identified as to the governmental unit due the tax, must be transferred, after reasonable effort by the Department of Revenue to determine the appropriate governmental unit, to the State Treasurer's Office. The State Treasurer shall distribute these funds to the county treasurer in the county area in which the tax is imposed, and the revenues must be only used for the purposes stated in the enacting ordinance. The State Treasurer shall calculate this supplemental distribution on a proportional basis, based on the current fiscal year's county area revenue collections."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 167

(R167, S158)

AN ACT TO AMEND SECTION 40-57-340, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXEMPTIONS FROM CONTINUING EDUCATION REQUIREMENTS FOR REAL ESTATE BROKERS AND SALESPERSONS, SO AS TO PROVIDE AN EXEMPTION TO THE BIENNIAL CONTINUING EDUCATION REQUIREMENT FOR BROKERS AND

SALESPERSONS WHO HAVE TWENTY-FIVE YEARS OF LICENSURE AND ARE SIXTY-FIVE YEARS OF AGE OR OLDER; TO AMEND SECTION 35-1-411, RELATING TO POSTREGISTRATION REQUIREMENTS, SO AS TO PROVIDE AN EXEMPTION TO CONTINUING EDUCATION FOR SUCH REGISTERED INDIVIDUALS WHO HAVE TWENTY-FIVE YEARS OR MORE OF LICENSURE AND ARE SIXTY-FIVE YEARS OF AGE OR OLDER; AND TO AMEND SECTION 38-43-106, RELATING TO CONTINUING EDUCATION REQUIREMENTS, SO AS TO PROVIDE AN EXEMPTION TO CONTINUING EDUCATION FOR SUCH INSURANCE PRODUCERS WHO HAVE TWENTY-FIVE YEARS OR MORE OF LICENSURE AND ARE SIXTY-FIVE YEARS OF AGE OR OLDER.

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

Continuing education exemptions

SECTION 1. Section 40-57-340(B) of the 1976 Code is amended to read:

"(B)(1)Exempt from the biennial continuing education required by subsection (A) are a:

(a) salesperson who successfully completes a post-licensing course or takes a broker course is exempt for the renewal period during which the course was taken;

(b) licensee while on inactive status;

(c) nonresident broker or salesperson who has successfully satisfied the continuing education requirements in their jurisdiction of residence may be exempt with approval of the commission;

(d) broker or salesperson with twenty-five years or more of licensure in South Carolina who is sixty-five years of age or more may apply for an age- and experience-based full continuing education waiver, and upon granting of the waiver, is exempt from the continuing education requirements of this chapter; or

(e) broker or salesperson with a minimum of twenty-five years of licensure in South Carolina may apply to be granted an experience-based partial continuing education waiver, and upon granting of the waiver, is required to complete only the mandatory four-hour core course biennially to maintain active licensure.

(2) A broker-in-charge who has been granted a partial continuing education waiver is required to take the four-hour core course and the mandated four-hour broker-in-charge course biennially.

(3) A licensee who previously has been granted a full continuing education waiver by the commission is exempt from the continuing education requirements of this chapter."

Postregistration requirements

SECTION 2. Section 35-1-411(h) of the 1976 Code is amended to read:

"(h) A rule adopted or order issued under this chapter may require an individual registered under Section 35-1-402 or 35-1-404 to participate in a continuing education program approved by the Securities and Exchange Commission and administered by a self-regulatory organization or, in the absence of such a program, a rule adopted or order issued under this chapter may require continuing education for an individual registered under Section 35-1-404 except for such registered individuals with twenty-five years or more of licensure in South Carolina who are sixty-five years of age or more."

Continuing education exemptions

SECTION 3. Section 38-43-106 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

"( ) A licensee with twenty-five years or more of licensure in South Carolina who is sixty-five years of age or more is exempt from the continuing education requirements of this chapter."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 168

(R168, S222)

AN ACT TO AMEND SECTION 63-7-2320, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE KINSHIP FOSTER CARE PROGRAM, SO AS TO PROVIDE THAT FICTIVE KIN ARE ELIGIBLE TO BE FOSTER PARENTS UNDER THE KINSHIP FOSTER CARE PROGRAM, TO PROVIDE THAT RELATIVES AND FICTIVE KIN MAY FOSTER A CHILD BEFORE BEING LICENSED AS A KINSHIP FOSTER CARE PROVIDER UNDER CERTAIN CIRCUMSTANCES, AND TO DEFINE NECESSARY TERMS.

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

Kinship Foster Care Program

SECTION 1. Section 63-7-2320 of the 1976 Code, as last amended by Act 146 of 2018, is further amended to read:

"Section 63-7-2320. (A) As used in this section, unless the context otherwise requires:

(1) 'Department' means the Department of Social Services.

(2) 'Foster parent' means any person with whom a child in the care, custody, or guardianship of the department is placed for temporary or long-term care.

(3) 'Fictive kin' means an individual who is not related by birth, adoption, or marriage to a child but who has an emotionally significant relationship with the child or the child's family.

(B) There is established a 'Kinship Foster Care Program' in the State Department of Social Services.

(C) When a child has been removed from his home and is in the care, custody, or guardianship of the department, the department shall attempt to identify a relative or fictive kin who would be appropriate for placement of the child in accordance with the preliminary investigation requirements of subarticle 3, Article 3 and in accordance with Section 63-7-1680(E)(1). If the department determines that it is in the best interest of a child requiring out-of-home placement that the child be placed with a relative or fictive kin for foster care, or if a relative or fictive kin advises the department that the relative or fictive kin is interested in providing placement for a child requiring foster care, and

the relative or fictive kin is not already licensed to provide foster care, the department shall inform the relative or fictive kin of the procedures for being licensed as a kinship foster parent, assist the foster parent with the licensing process, and inform the relative or fictive kin of availability of payments and other services to kinship foster parents. If the relative or fictive kin is licensed by the department to provide kinship foster care services, in accordance with rules and regulations adopted by the department regarding kinship foster care, and a placement with the relative or fictive kin is made, the relative or fictive kin may receive payment for the full foster care rate for the care of the child and any other benefits that might be available to foster parents, whether in money or in services.

(D) The department shall establish, in accordance with this section and the rules and regulations promulgated hereunder, eligibility standards for becoming a kinship foster parent.

(1) A person may be eligible for licensure as a kinship foster parent if he is:

(a) a relative within the first, second, or third degree to the parent or stepparent of a child who may be related through blood, marriage, or adoption; or

(b) a person who has been identified by the department as fictive kin.

(2) The kinship foster parent must be twenty-one years of age or older, except that if the spouse or partner of the relative or fictive kin is twenty-one years of age or older and living in the home, and the relative or fictive kin is between eighteen and twenty-one years of age, the department may waive the age requirement.

(3)(a) A person may become a kinship foster parent only upon the completion of a full kinship foster care licensing study performed in accordance with rules and regulations promulgated pursuant to this section. Residents of the household who are eighteen years of age or older must undergo the state and federal fingerprint review procedures as provided for in Section 63-7-2340. The department shall apply the screening criteria in Section 63-7-2350 to the results of the fingerprint reviews and the licensing study.

(b) The department shall maintain the confidentiality of the results of fingerprint reviews as provided for in state and federal regulations.

(4) Notwithstanding the requirement that a relative or fictive kin licensed as a kinship foster parent must be licensed in accordance with the same requirements as nonrelative applicants, the department may waive, on a case-by-case basis, for relative or fictive kin applicants

nonsafety elements as the department deems appropriate. Safety elements, such as criminal and child abuse and neglect background checks required by Title IV-E of the Social Security Act, 42 U.S.C. Section 671(a)(20)(A), may not be waived. The department may not license a relative or fictive kin as a kinship foster parent or place the child with the relative or fictive kin if the placement would violate any provision of Section 63-7-2350. The department shall note on the standard license if there was a waiver of a nonsafety element and identify the element being waived.

(5) The department shall determine, after a thorough review of information obtained in the kinship foster care licensing process, whether the person is able to care effectively for the foster child. The review must take into consideration the parental preference and the preference for placement with a relative or fictive kin who is known to the child and who has a constructive and caring relationship with the child, as provided in Section 63-7-1680(E)(1). The review also must take into consideration the preference for the placement with a relative or fictive kin who, but for the removal of the child at birth, would have had a constructive and caring relationship with the child, based on the relative's or fictive kin's fitness and ability to care for the child.

(E)(1) The department shall involve the kinship foster parents in development of the child's permanent plan pursuant to Section 63-7-1700 and other plans for services to the child and the kinship foster home. The department shall give notice of proceedings and information to the kinship foster parent as provided for elsewhere in this chapter for other foster parents. If planning for the child includes the use of childcare, the department shall pay for childcare arrangements, according to established criteria for payment of these services for foster children. If the permanent plan for the child involves requesting the court to grant custody or guardianship of the child to the kinship foster parent, the department must ensure that it has informed the kinship foster parent about adoption, including services and financial benefits that might be available.

(2) The kinship foster parent shall cooperate with any activities specified in the case plan for the foster child, such as counseling, therapy or court sessions, or visits with the foster child's parents or other family members. Kinship foster parents and placements made in kinship foster care homes are subject to the requirements of Section 63-7-2310.

(F)(1) If a relative or fictive kin is not licensed as a kinship foster parent, then the department may still place the child with the relative or fictive kin notwithstanding the licensure requirement contained in this section if:

(a) the relative or fictive kin begins the kinship foster parent licensure process within a reasonable time after the placement of the child; and

(b)(i) the child has been removed from his home and is in the care, custody, or guardianship of the department, as provided in subsection (C), and the department determines that it is in the best interest of the child to be placed with a relative or fictive kin for foster care; or

(ii) a relative or fictive kin advises the department that the relative or fictive kin is interested in providing placement for the child requiring foster care.

(2) During the licensure process, a relative or fictive kin with whom a child has been placed pursuant to item (1) and who has begun the kinship licensure process shall have the same legal status and access to services as a licensed kinship foster care provider including, but not limited to, the availability of payments and other services."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 169

(R170, S449)

AN ACT TO AMEND ACT 926 OF 1962, AS AMENDED, RELATING TO THE COMPOSITION OF THE AIKEN COUNTY COMMISSION FOR TECHNICAL AND COMPREHENSIVE EDUCATION, SO AS TO ADD TWO NONVOTING MEMBERS; AND TO AMEND SECTION 31-12-40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CREATION AND MEMBERSHIP OF REDEVELOPMENT AUTHORITIES, SO AS TO INCLUDE THE SAVANNAH RIVER SITE REDEVELOPMENT AUTHORITY.

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

Aiken County Commission for Technical and Comprehensive Education, nonvoting members

SECTION 1. SECTION 2 of Act 926 of 1962, as last amended by Act 571 of 1984, is further amended to read:

"SECTION 2. There is hereby created, as an administrative agency of Aiken County a commission, to be known as the 'Aiken County Commission for Technical Education' (hereinafter referred to as the 'commission'), which shall consist of eleven qualified registered electors of Aiken County, two of whom shall be nonvoting members. All appointments to the office of the commission shall be made by the Governor, upon the recommendation of a majority of the legislative delegation, including the Senator, from Aiken County. Of those first appointed, two shall have a term of one year, two shall have a term of two years, two shall have a term of three years, and three shall have terms of four years. Upon the expiration of the terms of office of those first appointed, successors shall be appointed for terms of four years in the same manner as provided for the original appointment. If any vacancy shall arise, a successor shall be appointed by the Governor for the balance of the unexpired term in the same manner as the original appointment was made. The members of the commission shall hold office until their successors shall have been appointed and shall qualify. All terms of office shall terminate on the appropriate anniversary of the effective date of this act, notwithstanding that a delay in making appointments shall lessen the duration of the terms of office. As soon as practicable after the initial appointments are made, the commission shall meet and organize by electing one of its members as chairman, another as vice chairman, and a third as secretary. A transcript of the record of the initial organization shall be filed with the Clerk of Court of Aiken County in order to reflect the initial membership of the commission and those who shall become its officers."

Savannah River Site Redevelopment Authority, membership

SECTION 2. Section 31-12-40(C) of the 1976 Code is amended to read:

"(C) For the Savannah River Site Redevelopment Authority or if the federal property subject to disposal is contained within more than one

county, with no portion of the counties lying within an MSA which extends over more than one South Carolina county, the authority must include:

(1) two representatives of the State nominated by a majority of the Senate and a majority of the House, who must be appointed by the Governor;

(2) two representatives of each county appointed by the respective county governing body;

(3) two representatives of each municipality in which the municipality's boundaries contain all or a portion of the federal defense properties scheduled for disposal, appointed by the respective municipal governing body; and

(4) one at-large appointment by the Governor, who shall be a resident of one of the counties."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 170

(R171, S460)

AN ACT TO AMEND SECTION 23-9-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TRANSFER OF THE OFFICE OF STATE FIRE MARSHAL TO THE DEPARTMENT OF LABOR, LICENSING AND REGULATION AND THE STATE FIRE MARSHAL'S DUTIES AND RESPONSIBILITIES, SO AS TO DELETE CERTAIN OBSOLETE LANGUAGE, MAKE TECHNICAL CHANGES, AND PROVIDE THE DIVISION OF FIRE AND LIFE SAFETY SHALL BE REFERRED TO AS STATE FIRE AND ESTABLISH ITS PROGRAM AREAS; TO AMEND SECTION 23-9-20, RELATING TO THE DUTIES OF THE STATE FIRE MARSHAL, SO AS TO PROVIDE HE HAS STATEWIDE JURISDICTION AND PROVIDE ADDITIONAL RESPONSIBILITIES; TO

AMEND SECTION 23-9-25, RELATING TO THE VOLUNTEER STRATEGIC ASSISTANCE AND FIRE EQUIPMENT PROGRAM, SO AS TO PROVIDE THE PEER-REVIEW PANEL SHALL HAVE AUTHORITY TO ESTABLISH FUNDING PRIORITIES COMMUNICATED THROUGH AN ANNUAL NOTICE OF FUNDING OPPORTUNITY, TO MAKE TECHNICAL CHANGES, TO ALLOW CERTAIN GRANT RECIPIENTS WHO HAVE GRANT FUNDS AVAILABLE AFTER COMPLETING THE APPROVED SCOPE OF WORK PRIOR TO THE END OF THE PERFORMANCE PERIOD TO CONTINUE OR EXPAND CERTAIN ACTIVITIES WITHOUT SUBMITTING AN APPLICATION TO AMEND THEIR GRANT REQUESTS OR SUBMIT APPLICATIONS TO AMEND GRANT REQUESTS, TO REDIRECT REMAINING FUNDS TO ANOTHER ELIGIBLE PROJECT, AND TO PROVIDE THREE PERCENT OF THE FUNDS COVERED BY THIS SECTION SHALL BE USED TO FUND COSTS ASSOCIATED WITH THE ADMINISTRATION OF THIS PROGRAM; TO AMEND SECTION 23-9-30, RELATING TO CERTAIN DUTIES THAT MAY BE DELEGATED TO THE CHIEFS OF ORGANIZED FIRE DEPARTMENTS, COUNTY FIRE MARSHALS, OR DEPUTY STATE FIRE MARSHALS BY THE STATE FIRE MARSHAL, SO AS TO PROVIDE CERTAIN DUTIES RELATING TO INVESTIGATIONS, INSPECTIONS, AND ENFORCEMENT MAY BE DELEGATED TO CERTAIN PERSONS BY THE STATE FIRE MARSHAL AND PROVIDE THE STATE FIRE MARSHAL HAS AUTHORITY TO PROMULGATE CERTAIN REGULATIONS; TO AMEND SECTION 23-9-45, RELATING TO THE ISSUANCE OF CLASS D FIRE EQUIPMENT PERMITS, SO AS TO PROVIDE FOR THE ISSUANCE OF ADDITIONAL CLASSES OF LICENSES AND PERMITS, PROVIDE APPLICANTS OF THESE LICENSES AND PERMITS MUST MEET CERTAIN REQUIREMENTS SET FORTH IN REGULATION, AND ARE ABLE TO MEET THE MAINTENANCE AND PERFORMANCE STANDARDS AND CODES ADOPTED BY THE SOUTH CAROLINA BUILDING CODES COUNCIL, TO MAKE TECHNICAL CHANGES, TO DELETE THE PROVISION THAT ALLOWS THE STATE FIRE MARSHAL TO ESTABLISH LICENSE AND PERMIT FEES; TO AMEND SECTION 23-9-50, RELATING TO THE STATE FIRE MARSHAL'S AUTHORITY TO INSPECT CERTAIN BUILDINGS OR PREMISES, SO AS TO REVISE THE

CIRCUMSTANCES UPON WHICH HE MAY ENTER BUILDINGS AND PREMISES TO INCLUDE WHEN AN EXPLOSION HAS OCCURRED, OR UNDER CERTAIN CIRCUMSTANCES WHEN A FATALITY OR SERIOUS INJURY HAS OCCURRED; BY ADDING SECTION 23-9-125 SO AS TO PROVIDE THE AUTHORITY OF THE STATE BOARD OF PYROTECHNIC OR THE REGULATION OF FIREWORKS ARE NOT AFFECTED BY THESE PROVISIONS; TO AMEND CHAPTER 10, TITLE 26, RELATING TO THE SOUTH CAROLINA FIRE ACADEMY, SO AS TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 23-49-120, RELATING TO THE SOUTH CAROLINA FORESTRY COMMISSION'S ACCEPTANCE OF DONATIONS OF FIRE EQUIPMENT, SO AS TO PROVIDE THE DEPARTMENT OF LABOR, LICENSING AND REGULATION DIVISION OF FIRE AND LIFE SAFETY ALSO MAY ACCEPT DONATIONS OF EQUIPMENT; TO AMEND SECTION 40-80-30, RELATING TO FIREFIGHTERS REGISTERING WITH THE STATE FIRE MARSHAL, SO AS TO REVISE THE COSTS AND PROCESS OF OBTAINING FIREFIGHTER RECORDS; TO REPEAL SECTIONS 23-9-35, 23-9-40, 23-9-60, 23-9-110, AND 23-9-130 ALL RELATING TO CERTAIN DUTIES OF THE STATE FIRE MARSHAL; AND TO AMEND SECTION 23-9-25, RELATING TO THE VOLUNTEER STRATEGIC ASSISTANCE AND FIRE EQUIPMENT PROGRAM, SO AS TO PROVIDE IT IS NOW WITHIN THE DIVISION OF THE STATE FIRE MARSHAL, REMOVE THE LIMITATION PLACED ON THE MAXIMUM DOLLAR AMOUNT OF GRANTS IT MAY OFFER, TO DELETE THE TERM "CHARTERED" AS IT IS USED TO IDENTIFY VARIOUS FIRE DEPARTMENTS, TO PROVIDE FIRE DEPARTMENTS MAY BE AWARDED ONE GRANT ANNUALLY, TO REVISE THE PURPOSES FOR WHICH FIRE DEPARTMENTS MAY USE GRANT MONEY, TO PROVIDE THE PEER-REVIEW PANEL SHALL OVERSEE THE ISSUANCE AND COMPLIANCE WITH THE PRESCRIBED INTENT OF THE GRANTS, TO DELETE THE PROVISIONS THAT RELATE TO JUSTIFICATIONS THAT MUST BE INCLUDED IN GRANT APPLICATIONS AND CRITERIA TO EVALUATE GRANT APPLICATIONS, TO PROVIDE INSTANCES THAT WOULD MAKE FIRE DEPARTMENTS INELIGIBLE TO BE AWARDED FUTURE GRANTS, TO PROVIDE RECIPIENTS MAY USE A CERTAIN AWARD

AMOUNT TO CONTINUE OR EXPAND ACTIVITIES WITHOUT SUBMITTING APPLICATIONS TO AMEND GRANT REQUESTS, TO PROVIDE AWARD RECIPIENTS CAN SUBMIT APPLICATIONS TO HAVE GRANT FUNDS REDIRECTED TO ANOTHER ELIGIBLE PROJECT, TO PROVIDE THE STATE FIRE MARSHAL ADDITIONAL DUTIES, TO PROVIDE HE MAY RETAIN CERTAIN FUNDS TO DEFRAY CERTAIN ADMINISTRATIVE COSTS, AND PROVIDE GRANT FUNDS MAY BE CARRIED FORWARD TO THE NEXT FISCAL YEAR AND USED FOR THE SAME PURPOSE.

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

State Fire Marshal

SECTION 1. Section 23-9-10 of the 1976 Code is amended to read:

"Section 23-9-10. The State Fire Marshal shall have a master's degree from an accredited institution of higher learning and at least four years experience in fire prevention and control or a bachelor's degree and eight years experience in fire prevention and control. The Governor shall appoint the State Fire Marshal who shall serve as the Deputy Director of the Division of Fire and Life Safety of the Department of Labor, Licensing and Regulation. The Division of Fire and Life Safety, in the alternative, shall be referred to as State Fire and shall consist of the following primary program areas: the Office of State Fire Marshal, the State Fire Academy, and the Emergency Response Task Force."

State Fire Marshal

SECTION 2. Section 23-9-20 of the 1976 Code is amended to read:

"Section 23-9-20. (A) The State Fire Marshal shall have jurisdiction and authority statewide, on behalf of the State, in matters including, but not limited to, the following functions and activities provided the aforementioned jurisdiction and authority does not, and is not intended to supersede the authority granted to the State Board of Pyrotechnic Safety relating to the manufacture, sale, and storage of fireworks described in Sections 40-56-1, et seq.:

(1) the enforcement of all laws and ordinances of the State with reference to the following:

(a) the prevention of fires;

(b) the storage, sale, and use of combustibles and explosives;

(c) the installation and maintenance of fire alarm systems and fire extinguishing systems and equipment;

(d) the means of egress from all buildings, except for one-family and two-family dwellings, unless otherwise required or permitted through law or regulation;

(e) the investigation of the cause, origin, and circumstances of a fire;

(f) conformance with fire prevention and protection codes and standards, based upon nationally recognized codes and standards, as may be prescribed by law or regulation for the prevention of fires and the protection of life and property;

(g) the facilitation of the reporting of fires through the National Fire Incident Reporting System;

(h) the collection of information concerning the causes, prevention, and reduction of damage from fire and other forms of community loss. The Office of State Fire Marshal, from time to time, may disseminate this information in an appropriate manner as needed to aid in public protection or the training of firefighters; and

(i) other fire-related activities not inconsistent with the mission of State Fire or otherwise prescribed by law;

(2) the enforcement of the laws and regulations of the Liquefied Petroleum Gas Board and the South Carolina Hydrogen Permitting Program;

(3) the employment and supervision of personnel necessary to carry out the duties of his office;

(4) the implementation of licensing, permitting, and certification programs, based upon nationally recognized codes and standards, and the promulgation of regulations, not to include the manufacture, sale, or storage of fireworks as regulated by the State Board of Pyrotechnic Safety, for:

(a) explosives in accordance with Chapter 36, Title 23;

(b) pyrotechnic displays and shooters;

(c) fire protection systems and all classes of equipment; and

(d) persons performing fire inspections under the authority of Section 23-9-30;

(5) the promulgation of fire prevention and protection regulations, based upon nationally recognized codes and standards, for the protection of the life and property of the residents of this State from fire; and

(6) the administrative and operational responsibilities for all program areas of State Fire, including the Office of State Fire Marshal, the State Fire Academy, and the Emergency Response Task Force.

(B) The Office of State Fire Marshal may issue an administrative citation for any violation of this chapter or the fire code. Service of the citation may be in person or by certified mail. Except that, the Office of State Fire Marshall shall not issue a separate administrative citation, under the authority of this chapter, for violations of the licensing requirements and regulations promulgated by the State Board of Pyrotechnic Safety regarding the manufacture, sale, and storage of fireworks.

(C) The Office of State Fire Marshal may issue separate citations for each violation. However, no more than one thousand dollars in administrative penalties may be assessed for each violation. For a first offense, a written order specifying the code violations that need to be corrected and specifying a time frame for the corrections must be issued. The time frame to complete the corrections is thirty days, unless a finding is made that the violation impacts the health, safety, or welfare of the public and that an imminent threat of harm exists if the violation is not immediately abated. If the violations are not corrected within the time allotted, then an administrative penalty may be assessed.

(D) An entity or individual assessed an administrative penalty by the Office of State Fire Marshal may appeal the penalty to the State Fire Marshal, or his designee, within ten days of the receipt of the citation. If no appeal is filed, then the citation is deemed a final order, and the penalties must be paid within thirty days of the receipt of the citation. The State Fire Marshal may enforce any order by filing a civil action through the administrative law court, in the name of the State, for injunctive relief against a person who violates this article, a regulation promulgated under this article, or a final order.

(E) All fines collected under this section by the Office of State Fire Marshal must be remitted by the Office of State Fire Marshal and deposited in a special fund established for State Fire to defray the administrative costs associated with this article.

(F) Nothing in this section prohibits the State Fire Marshal from exercising the statutory authority outlined in Section 23-9-70."

Peer-review panel

SECTION 3. Section 23-9-25(F)(2) and (5) of the 1976 Code is amended to read:

"(2) The peer-review panel shall consist of nine voting members who shall serve without compensation. Seven members must be fire chiefs from each of the seven regions of the State as defined by the State Fire Marshal. The Chairman of the House Ways and Means Committee shall appoint fire chiefs from Regions 1, 2, and 7. The Chairman of the Senate Finance Committee shall appoint fire chiefs from Regions 3, 4, and 6. The Governor shall appoint one fire chief from Region 5 and one fire chief from the State at large. The State Fire Marshal also shall serve as a member. The President of the South Carolina State Firefighters' Association shall serve as a nonvoting member and chairman of the committee. The peer-review panel shall have the authority to establish funding priorities, by consensus, for each grant cycle, based on its assessment of the greatest needs of the South Carolina Fire Service, and within the purposes established in this section. Funding priorities shall be communicated through an annual Notice of Funding Opportunity, which shall accompany the announcement of the grant application period.

(5) A recipient that completes the approved scope of work prior to the end of the performance period, and still has grant funds available, may:

(a) use the greater of one percent of his award amount or three hundred dollars to continue, or expand, the activities for which he received the award without submitting an application to amend his grant request;

(b) use excess funds to create or expand, a fire or injury prevention program. Excess funds above the amounts discussed in subitem (a) must be used for fire or injury prevention activities or returned to the program. In order to use excess funds for fire or injury prevention activities, a recipient must submit an amendment to its grant. The amendment request must explain fire or injury prevention efforts currently underway within the organization, where the use of excess funds would fit within the existing efforts, the target audience for the fire or injury prevention project and how this audience was identified, and how the effectiveness of the requested fire or injury prevention project will be evaluated;

(c) submit an application to the peer-review panel to amend his grant request to redirect remaining funds to another eligible project;

(d) use a combination of subitems (a) and (b); or

(e) return excess funds to the program. To return the excess funds, a recipient must close out its award and state in the final performance report that the remaining funds are not necessary for the fulfillment of

grant obligations. The recipient also must indicate that it understands that the funds will be unavailable for future expenses."

State Fire Marshal

SECTION 4. Section 23-9-25 of the 1976 Code is amended by adding an appropriately lettered new subsection to read:

"( ) Three percent of these funds shall be retained by the State Fire Marshal for the express purpose of funding costs associated with the administration of the program."

State Fire Marshal

SECTION 5. Section 23-9-30 of the 1976 Code is amended to read:

"Section 23-9-30. (A) The chief of any organized fire department or county fire marshal is ex officio resident fire marshal; however, this chapter does not repeal, amend, or otherwise affect Chapter 25, Title 5.

(B) All duties of investigation, inspection, and enforcement vested in the State Fire Marshal may be exercised or discharged within the area of his service by any deputy state fire marshal, any ex officio resident fire marshal, or any state or local governmental employee certified by the State Fire Marshal.

(C) The State Fire Marshal shall have the authority to promulgate regulations regarding the training, certification, and recertification of fire marshals, and disciplinary procedures, up to and including the revocation of a certification for cause."

Fire equipment dealer licenses and permits

SECTION 6. Section 23-9-45 of the 1976 Code is amended to read:

"Section 23-9-45. (A) An applicant for a Class A, B, C, D, or E fire equipment dealer license or permit, or both, shall provide proof of a current manufacturer's training certificate for each type of preengineered fire extinguishing system and meet additional fire and life safety requirements as set forth in regulation. However, if the applicant can provide proof of a current manufacturer's training certificate for at least one type of preengineered fire extinguishing system, the applicant may submit a sworn affidavit for each additional type of preengineered fire extinguishing system for which a license or permit, or both, is requested.

(B) The affidavit shall attest to the applicant's ability to obtain the proper manufacturer's installation and maintenance manuals and provide testament that all installations and maintenance shall be performed in compliance with the manufacturer's installation and maintenance manuals and codes adopted by the South Carolina Building Codes Council. Any violation of the affidavit is grounds for the revocation of the fire equipment dealer license or the fire equipment permit, or both.

(C) The State Fire Marshal is authorized to charge a license fee for all classes of fire equipment licenses issued by the State Fire Marshal and a permit fee for all classes of fire equipment permits issued by the State Fire Marshal. Fees may be set by regulation not more than once each two years and must be based upon the costs of administering the provisions of this chapter and must give due regard to the time spent by division personnel in performing duties. The qualifications and requirements of licensees and permittees shall be contained in regulation."

State Fire Marshal

SECTION 7. Section 23-9-50 of the 1976 Code is amended to read:

"Section 23-9-50. (A) The State Fire Marshal shall have authority at all times of the day or night, in the performance of duties imposed by this chapter, to enter upon and examine any building or premises where any fire or explosion has occurred and other adjoining buildings or premises. Provided, that the State Fire Marshal may enter a private dwelling or premise only with the permission of the owner or occupant, or if:

(1) there is probable cause to believe that a violation of the provisions respecting fire laws exists;

(2) there exists imminent danger to the occupants thereof or imminent danger of arson; or

(3) a fatality or serious injury has occurred as a result of a fire, an explosion, or arson.

(B) The State Fire Marshal shall have authority at any reasonable hour to enter into any public building or premises or any building or premises used for public purposes to inspect for fire hazards.

(C) Nothing in this section shall restrict the authority of the State Fire Marshal from investigating any premises which has been damaged by a fire of suspicious cause within a reasonable period of time after the occurrence of such fire."

State Board of Pyrotechnic Safety

SECTION 8. Article 1, Chapter 9, Title 23 of the 1976 Code is amended by adding:

"Section 23-9-125. This chapter does not repeal, amend, or otherwise affect the authority of the State Board of Pyrotechnic Safety or the regulation of fireworks, pursuant to Chapter 56, Title 40."

South Carolina State Fire Academy

SECTION 9. Chapter 10, Title 23 of the 1976 Code is amended to read:

"CHAPTER 10

South Carolina State Fire Academy

Section 23-10-10. (A) The State Fire Marshal has the sole responsibility for the operation of the State Fire Academy (academy). The academy is operated for the express purpose of upgrading the state's paid, volunteer, and industrial fire service personnel. All buildings, facilities, equipment, property, and instructional materials which are now or become a part of the academy are assigned to the academy and may not be integrated with any other local or state agency, association, department, or technical education center, without the consent of the Director of the Department of Labor, Licensing and Regulation or his designee.

(B) There is created the State Fire Academy Advisory Committee which shall advise and assist the State Fire Marshal in developing a comprehensive training program based upon the needs of the fire service in this State. Membership on the committee includes:

(1) the Chairman and appointed members of the Training and Education Committee of the South Carolina State Firefighters' Association. The Chairman of the Training and Education Committee also shall serve as the Chairman of the State Fire Academy Advisory Committee;

(2) one member from the South Carolina State Association of Fire Chiefs appointed by the president of the association;

(3) one member from the South Carolina Fire Marshal Association appointed by the president of the association;

(4) one member from the South Carolina Society of Fire Service Instructors appointed by the president of the society;

(5) one member from the Professional Firefighters Association appointed by the president of the association;

(6) one member from the South Carolina Chapter of International Association of Arson Investigators appointed by the president of the chapter;

(7) the Superintendent of the State Fire Academy who shall serve as secretary without voting privileges. Membership from the State Fire Academy is limited to the superintendent only;

(8) one industrial fire protection representative appointed by the President of the South Carolina Chapter of the American Society of Safety Engineers;

(9) the Executive Director of the South Carolina State Firefighters' Association who shall serve as a member ex officio without voting privileges;

(10) the State Fire Marshal as a member ex officio without voting privileges;

(11) one member from higher education having experience and training in curriculum development appointed by the Director of the Department of Labor, Licensing and Regulation; and

(12) one member from the Life Safety Education Section of the South Carolina State Firefighters' Association appointed by the president of the section.

Section 23-10-20. The South Carolina Department of Labor, Licensing and Regulation is authorized to purchase and issue clothing to the staff of the State Fire Academy."

Donations

SECTION 10. Section 23-49-120(B) of the 1976 Code is amended to read:

"(B) The South Carolina Forestry Commission and the Department of Labor, Licensing and Regulation, Division of Fire and Life Safety, may accept donations of new or used fire protection, control, and rescue equipment from individuals or organizations. Donated equipment accepted by the commission or department may be retained for use by the commission or department or distributed to county, municipal, or other fire departments in this State or to other state or local emergency service or rescue organizations. A fire department or other organization accepting donated breathing apparatus from the commission or department shall cause the breathing apparatus to be recertified

according to the manufacturer's specifications by the manufacturer or a technician certified by the manufacturer before it is placed into service or used by the fire department or other organization."

Files

SECTION 11. Section 40-80-30(D) of the 1976 Code is amended to read:

"(D) Any registered firefighter may at any time request and obtain a copy of his file. An unofficial version of a firefighter's file is available at no cost by way of secured web addresses. The fee for an official copy of a firefighter's transcript is three dollars payable to the Office of State Fire Marshal. The fee for a reprinted certificate is five dollars payable to the Office of State Fire Marshal."

Repeal

SECTION 12. Sections 23-9-35, 23-9-40, 23-9-60, 23-9-110, and 23-9-130 of the 1976 Code are repealed.

Volunteer Strategic Assistance and Fire Equipment Program

SECTION 13. Section 23-9-25 of the 1976 Code is amended to read:

"Section 23-9-25. (A) It is the purpose of this section to create the 'Volunteer Strategic Assistance and Fire Equipment Program' (V-SAFE) within the Division of the State Fire Marshal.

(B) This section is contingent upon the General Assembly appropriating funds for the offering of grants to eligible volunteer and combination fire departments for the purpose of protecting local communities and regional response areas from incidents of fire, hazardous materials, terrorism, and to provide for the safety of volunteer firefighters.

(C)(1) As contained in this section:

(a) 'Fire department' means a public or governmental sponsored organization providing fire suppression activities with a minimum of a Class 9 rating from the Insurance Services Office;

(b) 'Volunteer fire department' means a fire department whose personnel serve for no compensation or are paid on a per-call basis; and

(c) 'Combination fire department' means a fire department with both members who are paid and members who serve as volunteer firefighters.

(2) Volunteer fire departments and combination fire departments with a staffing level that is at least fifty percent volunteer are eligible to receive grants pursuant to this section. A fire department that receives a grant must comply with the firefighter registration provisions of Act 60 of 2001 and sign the statewide mutual aid agreement with the South Carolina Emergency Management Division.

(D) An eligible fire department may be awarded only one grant annually.

(E) The grant money received by a fire department must be used for the following purposes:

(1) fire suppression equipment;

(2) self-contained breathing apparatus;

(3) portable air refilling systems;

(4) hazardous materials spill leak detection, repair, and recovery equipment;

(5) protective clothing and equipment;

(6) new and used fire apparatus;

(7) emergency response vehicles;

(8) training;

(9) rescue equipment;

(10) medical equipment;

(11) decontamination equipment;

(12) safety equipment;

(13) real properties or improvements thereto including upgrades and rehabilitations; and

(14) communications equipment.

(F)(1) The State Fire Marshal shall administer the grants in conjunction with a peer-review panel.

(2) The peer-review panel shall consist of nine voting members who shall serve without compensation. Seven members must be fire chiefs from each of the seven regions of the State as defined by the State Fire Marshal. The Chairman of the House Ways and Means Committee shall appoint fire chiefs from Regions 1, 2, and 7. The Chairman of the Senate Finance Committee shall appoint fire chiefs from Regions 3, 4, and 6. The Governor shall appoint one fire chief from Region 5 and one fire chief from the State at large. The State Fire Marshal also shall serve as a member. The President of the South Carolina State Firefighters' Association shall serve as a nonvoting member and chairman of the committee. The peer-review panel shall act as an oversight panel and

act to ensure compliance, relevance, and adherence to the prescribed intent of the grants as set forth in this section.

(3) An applicant for grant money must submit justification for their project that provides details regarding the project and the project's budget. Applicants that falsify their application, or misrepresent their organization in any material manner, shall have their applications deemed ineligible and referred to the Attorney General for further action, as the Attorney General deems appropriate.

(4) The project period for any award grant shall be twelve months from the date of the award. Any equipment purchased with the grant must meet all mandatory regulatory requirements, as well as, all state, national, and Department of Homeland Security adopted standards.

Award recipients must agree to:

(a) perform, within the designated period of performance, all approved tasks as outlined in the application;

(b) retain grant files and supporting documentation for three years after the conclusion and close out of the grant or any audit subsequent to close out;

(c) ensure all procurement actions are conducted in a manner that provides, to the maximum extent possible, open and free competition. In doing so, the recipient must follow its established procurement law when purchasing vehicles, equipment, and services with the grant. If possible, the recipient must obtain at least two quotes or bids for the items being procured and document the process used in the grant files. Sole-source purchasing is not an acceptable procurement method except in circumstances allowed by law;

(d) submit a performance report to the peer-review panel six months after the grant is awarded. If a grant's period of performance is extended for any reason, the recipient must submit performance reports every six months until the grant is closed out. At grant closeout, the recipient must report how the grant funding was used and the benefits realized from the award in a detailed final report. An accounting of the funds also must be included;

(e) Any fire department that fails to submit the required progress and close-out reports shall be deemed ineligible for future grants until the required reports are submitted and for a period of no less than one grant cycle. Any fire department that is found to have fraudulently expended funds or misrepresented how the funds were utilized will be referred to the Attorney General for further action; and

(f) make grant files, books, and records available, if requested by any person, for inspection to ensure compliance with any requirement of the grant program.

(5) A recipient that completes the approved scope of work prior to the end of the performance period, and still has grant funds available, may:

(a) use the greater of one percent of their award amount or three hundred dollars to continue or expand, the activities for which they received the award without submitting an application to amend the grant request;

(b) use excess funds to create or expand, a fire or injury prevention program. Excess funds above the amounts discussed in subitem (a) must be used for fire or injury prevention activities or returned to the program. In order to use excess funds for fire or injury prevention activities, a recipient must submit an amendment to its grant. The amendment request must explain fire or injury prevention efforts currently underway within the organization, where the use of excess funds would fit within the existing efforts, the target audience for the fire or injury prevention project and how this audience was identified, and how the effectiveness of the requested fire or injury prevention project will be evaluated;

(c) use a combination of subitems (a) and (b);

(d) submit an application to the peer-review panel to amend the grant request to redirect funds to another eligible project; or

(e) return excess funds to the program. To return the excess funds, a recipient must close out its award and state in the final performance report that the remaining funds are not necessary for the fulfillment of grant obligations. The recipient also must indicate that it understands that the funds will be unavailable for future expenses.

(6) The State Fire Marshal shall:

(a) develop a grant application package utilizing the established guidelines;

(b) establish and market a written and electronic version of the grant application package;

(c) provide an annual report of all grant awards and corresponding chartered fire department purchases to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and the Governor;

(d) provide all administrative support to the peer-review panel;

(e) provide a grants web page for electronic applications; and

(f) determine the annual maximum amount of grant funding an eligible fire department may receive based on the total amount of grant funding received divided by the total number of eligible fire departments.

(G) Two percent of these funds may be awarded to the South Carolina State Firefighters' Association annually for the express purpose of establishing and maintaining a recruitment and retention program for volunteer firefighters. The association must apply for the grant to the peer-review panel.

(H) Up to three percent of these funds must be retained by the State Fire Marshal for the express purpose of funding costs associated with the administration of the program.

(I) The State Fire Marshal has the authority to receive and distribute to eligible fire departments all grant funds according to this section.

(J) Grant funds that are not distributed may be carried forward to the next fiscal year to be used for the same purposes."

Time effective

SECTION 14. This act takes effect upon approval by the Governor.

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 171

(R172, S613)

AN ACT TO AMEND SECTION 40-33-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS IN THE NURSE PRACTICE ACT, SO AS TO ADD AND REVISE DEFINITIONS; TO AMEND SECTION 40-33-42, RELATING TO THE DELEGATION BY CERTAIN BOARD OF NURSING LICENSEES OF NURSING TASKS TO UNLICENSED ASSISTIVE PERSONNEL, SO AS TO INCLUDE PROVISIONS REGARDING THE ADMINISTRATION OF MEDICATIONS BY CERTIFIED MEDICAL ASSISTANTS; TO AMEND SECTION 40-47-20, AS AMENDED, RELATING TO DEFINITIONS CONCERNING THE REGULATION OF PHYSICIANS AND MISCELLANEOUS HEALTH CARE PROFESSIONALS, SO AS TO ADD DEFINITIONS; BY ADDING SECTION 40-47-196 SO AS TO PROVIDE FOR THE DELEGATION OF CERTAIN TASKS TO CERTIFIED MEDICAL ASSISTANTS BY

PHYSICIANS AND PHYSICIAN ASSISTANTS; TO AMEND SECTION 40-47-30, AS AMENDED, RELATING TO EXCEPTIONS FROM THE REQUIREMENT OF LICENSURE TO PRACTICE MEDICINE, SO AS TO REMOVE PROVISIONS CONCERNING THE DELEGATION BY PHYSICIANS OF CERTAIN TASKS TO UNLICENSED ASSISTIVE PERSONNEL; AND TO AMEND SECTION 40-47-935, AS AMENDED, RELATING TO ACTS AND DUTIES THAT PHYSICIANS ASSISTANTS MAY PERFORM, SO AS TO REMOVE PROVISIONS CONCERNING THE DELEGATION BY PHYSICIANS ASSISTANTS OF CERTAIN TASKS TO UNLICENSED ASSISTIVE PERSONNEL.

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

Nurse Practice Act, definitions

SECTION 1. A. Section 40-33-20 of the 1976 Code, as last amended by Act 139 of 2020, is further amended by adding an appropriately numbered new item to read:

"( ) 'Certified medical assistant' or 'CMA' means a person who is a graduate of a post-secondary medical assisting education program accredited by the National Healthcareer Association, or its successor; by the Commission on Accreditation of Allied Health Education Programs, or its successor; by the Accrediting Bureau of Health Education Schools, or its successor; or by any accrediting agency recognized by the United States Department of Education. The accredited post-secondary medical assisting education program must include courses in anatomy and physiology, medical terminology, pharmacology, medical laboratory techniques, and clinical experience. A certified medical assistant must maintain current certification from the certifying board of the American Association of Medical Assistants, the National Center for Competency Testing, the National Certification Medical Association, American Medical Technologists, or any other recognized certifying body approved by the Board of Medical Examiners."

B. CMAs include medical assistants who are currently employed in that capacity as of the effective date of this act who do not have the certification required by this SECTION but who achieve such certification no later than two years after the effective date of this act.

Nurse Practice Act, definitions

SECTION 2. Section 40-33-20(63) of the 1976 Code, as last amended by Act 234 of 2018, is further amended to read:

"(63) 'Unlicensed assistive personnel' or 'UAP' are persons not currently licensed by the board as nurses, or persons who are not certified medical assistants as defined in Section 40-33-20( ), who perform routine nursing tasks that do not require a specialized knowledge base or the judgment and skill of a licensed nurse. Nursing tasks performed by a UAP must be performed under the supervision of a physician, physician assistant, advanced practice registered nurse, registered nurse, or selected licensed practical nurse. Unlicensed assistive personnel must not administer medications except as otherwise provided by law."

Nurse Practice Act, delegation of tasks

SECTION 3. Section 40-33-42(C) of the 1976 Code is amended to read:

"(C) Subject to the rights of licensed physicians and dentists under state law, and except as provided in Section 40-47-196 regarding the delegation of tasks to certified medical assistants, the administration of medications is the responsibility of a licensed nurse as prescribed by the licensed physician, dentist, other authorized licensed provider or as authorized in an approved written protocol or guidelines. Unlicensed assistive personnel must not administer medications, except as otherwise provided by law."

Physicians and miscellaneous health care professionals, definitions

SECTION 4. A. Section 40-47-20 of the 1976 Code, as last amended by Act 234 of 2018, is further amended by adding appropriately numbered new items to read:

"( ) 'Certified medical assistant' or 'CMA' means a person who is a graduate of a post-secondary medical assisting education program accredited by the National Healthcare Association, or its successor; by the Committee on Allied Health Education and Accreditation of the American Medical Association, or its successor; by the Accrediting Bureau of Health Education Schools, or its successor; or by any accrediting agency recognized by the United States Department of

Education. The accredited post-secondary medical assisting education program must include courses in anatomy and physiology, medical terminology, pharmacology, medical laboratory techniques, and clinical experience. A certified medical assistant must maintain current certification from the certifying board of the American Association of Medical Assistants, the National Center for Competency Testing, the National Certification Medical Association, American Medical Technologists, or any other recognized certifying body approved by the Board of Medical Examiners.

( ) 'Unlicensed assistive personnel' or 'UAP' means persons not currently licensed by the Board of Nursing as nurses, or persons who are not certified medical assistants as defined in Section 40-47-20( ), who perform routine nursing tasks that do not require a specialized knowledge base or the judgment or skill of a licensed nurse. Nursing tasks performed by unlicensed assistive personnel must be performed under the supervision of a physician, physician assistant, APRN, registered nurse, or licensed practical nurse. Unlicensed assistive personnel must not administer medications except as otherwise provided by law."

B. CMAs include medical assistants who are currently employed in that capacity as of the effective date of this act who do not have the certification required by this SECTION but who achieve such certification no later than two years after the effective date of this act.

Physicians and miscellaneous health care professionals, delegation of tasks

SECTION 5. Article 1, Chapter 47, Title 40 of the 1976 Code is amended by adding:

"Section 40-47-196. (A) Specific tasks may be delegated to a CMA by a physician, physician assistant if authorized to do so in his scope of practice guidelines, or advanced practice registered nurse if authorized to do so in his practice agreement. The scope of practice guidelines for a physician assistant and the practice agreement for an advanced practice registered nurse must address what tasks may be appropriately delegated to a CMA, provided, however, that the following tasks must not be delegated to a CMA by a physician assistant or advanced practice registered nurse:

(1) administering controlled medications, intravenous medications, contrast agents, or chemotherapy agents;

(2) injecting neurotoxin products, neuro modulatory agents, or tissue fillers;

(3) using lasers or instruments that results in tissue destruction;

(4) placing sutures;

(5) taking radiographs or using any ionizing radiation unless the CMA is also a certified limited practice radiographer;

(6) analyzing, interpreting, or diagnosing symptoms or tests;

(7) triaging patients; and

(8) performing a clinical decision-making task by means of telemedicine.

(B) A physician, physician assistant, or advanced practice registered nurse may delegate specified tasks to a CMA pursuant to the following requirements:

(1) the task must be delegated directly to the CMA by the physician, physician assistant, or advanced practice registered nurse, and not through another licensed practitioner;

(2) the task must be performed when the physician, physician assistant, or advanced practice registered nurse delegating the task is in such close proximity as to be immediately available to the CMA if needed;

(3) the physician, physician assistant, or advanced practice registered nurse delegating the task must determine that the task is within the training and competency of the CMA and will not pose a significant risk to the patient if improperly performed;

(4) the task must not involve the verbal transmission of an order or prescription to a licensed person if the licensed person requires the order or prescription to be in writing; and

(5) the CMA must wear an appropriate badge identifying the CMA's status, which must be clearly visible to the patient at all times.

(C)(1) A physician or physician assistant, pursuant to the physician assistant's scope of practice guidelines, may delegate nursing tasks to UAP under the supervision of the physician or physician assistant. Such nursing tasks include, but are not limited to, the following:

(a) meeting patients' needs for personal hygiene;

(b) meeting patients' needs relating to nutrition;

(c) meeting patients' needs relating to ambulation;

(d) meeting patients' needs relating to elimination;

(e) taking vital signs;

(f) maintaining asepsis; and

(g) observing, recording, or reporting any of the nursing tasks enumerated in this subsection.

(2) APRNs may delegate nursing tasks to UAP pursuant to Section 40-33-42."

Physicians and physician assistants, exceptions from licensure

SECTION 6. Section 40-47-30(A)(5) and Section 40-47-935(C) of the 1976 Code are deleted.

Time effective

SECTION 7. This act takes effect sixty days after approval by the Governor.

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 172

(R173, S635)

AN ACT TO AMEND SECTION 13-17-40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MEMBERS OF THE SOUTH CAROLINA RESEARCH AUTHORITY BOARD OF TRUSTEES, SO AS TO PROVIDE THAT THE BOARD CONSISTS OF CERTAIN UNIVERSITY PRESIDENTS OR THEIR DESIGNEES, TO PROVIDE CERTAIN REQUIREMENTS FOR DESIGNEES, AND TO PROVIDE THAT THE EXECUTIVE COMMITTEE SHALL ELECT AN ADDITIONAL MEMBER WHO IS NOT REQUIRED TO BE A TRUSTEE AT THE TIME OF HIS ELECTION; TO AMEND SECTION 13-17-70, RELATING TO THE POWERS OF THE BOARD OF TRUSTEES, SO AS TO PROVIDE THAT THE BOARD MAY INVEST IN CERTAIN OBLIGATIONS OF PRIVATE ENTITIES; TO AMEND SECTION 13-17-87, RELATING TO THE ESTABLISHMENT OF RESEARCH INNOVATION CENTERS, SO AS TO PROVIDE THAT THE SOUTH CAROLINA RESEARCH AUTHORITY MAY ALLOW A COMPANY TO REMAIN IN AN INNOVATION CENTER FOR UP TO FIVE YEARS OR UNTIL EXCEEDING FIVE MILLION

DOLLARS BUT DOES NOT APPLY WITH RESPECT TO THIRTY-FIVE PERCENT OF THE SQUARE FEET IN AN INNOVATION CENTER; AND TO AMEND SECTION 12-6-3585, AS AMENDED, RELATING TO THE INDUSTRY PARTNERSHIP FUND TAX CREDIT, SO AS TO PROVIDE THAT IF THE AGGREGATE CREDIT AMOUNT IS NOT MET IN A CERTAIN TIMEFRAME THEN THE SINGLE TAXPAYER MAXIMUM CREDIT IS INCREASED TO ONE MILLION DOLLARS.

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

South Carolina Research Authority Board

SECTION 1. A. Section 13-17-40(B)(1) and (2) of the 1976 Code is amended to read:

"(1)(a) The President of Clemson University or his designee, the President of the Medical University of South Carolina or his designee, the President of the University of South Carolina at Columbia or his designee, the President of South Carolina State University or his designee, the Governor or his designee, the Chairman of the House Ways and Means Committee or his designee, the Chairman of the Senate Finance Committee or his designee, and the chairman of the board of trustees shall serve on the executive committee of the SCRA.

(b) A designee of one of the four university presidents must be an individual serving in no less than a vice president or comparable role and shall report directly to the president, with such determination to be made in the sole discretion of the designating president. Each university president may designate only one person for each calendar year, except in the case of the designee's death, incapacity, or termination of employment, in which case the designating university president may replace the designee for the remainder of the calendar year. Any university president is authorized in any event to participate, in any meeting or otherwise, in person rather than through a previously named designee.

(c) The executive committee shall elect two additional members of the executive committee, who shall be trustees at the time of their election, and one additional member, who is not required to be a trustee at the time of his election, by the affirmative vote of a majority of the executive committee then serving.

(d) The executive committee has all powers and authority of the board of trustees. The board shall have an advisory role only and shall advise the executive committee of the actions recommended by the board.

(2) Terms of elected executive committee members are for four years, and the term of at least one executive committee member shall expire every two years. An elected executive committee member may not serve more than two consecutive four-year elected terms. A vacancy must be filled for the unexpired term in the manner of original election, and occurs upon the expiration of the term of service, death, resignation, disqualification, or removal of an elected executive committee member. An elected executive committee member who must be a trustee at the time of his election need not continue to be a trustee in order to complete his term as an executive committee member. An elected executive committee member may be removed from office by the affirmative vote of two-thirds of the executive committee members serving."

B. The initial term of the member of the executive committee of the South Carolina Research Authority Board of Trustees who is not required to be a trustee at the time of his election, pursuant to Section 13-17-40(B)(1), as amended by this act, begins on July 1, 2021, and ends on July 1, 2024.

Powers of Board of Trustees

SECTION 2. Section 13-17-70(8) of the 1976 Code is amended to read:

"(8) from time to time to borrow money, make and issue negotiable notes, bonds, and other evidences of indebtedness, including refunding and advanced refunding notes, bonds, and other evidences of indebtedness of the authority; to secure the payment of the obligations or any part by mortgage, lien, pledge, or deed of trust, on all or any of its property, contracts, franchises, or revenues, including the proceeds of any refunding and advanced refunding notes, bonds, and other evidences of indebtedness and the investments in which proceeds are invested and the earning on and income therefrom; to invest its monies, including without limitation its revenues and proceeds of the notes, bonds, or other evidences of indebtedness, in obligations of, or obligations the principal of and interest on which are guaranteed by or are fully secured by contracts with the United States of America, in obligations of any agency, instrumentality, or corporation which has been or may hereafter be created by or pursuant to an act of Congress of the United States as

an agency, instrumentality, or corporation thereof, in direct and general obligations of the State of South Carolina, and in certificates of deposit issued by any bank, trust company, or national banking association and, in addition, in obligations of any private entity existing under the laws of the United States of America or any state thereof, which at the time of purchase bear an investment grade rating of at least two nationally recognized credit rating services; provided, that the authority, when investing in certificates of deposit, shall invest in certificates of deposit issued by institutions authorized to do business in South Carolina if such institutions offer terms which, in the opinion of the authority, are equal to or better than those offered by other institutions; to make agreements with the purchasers or holders of such notes, bonds, or other evidences of indebtedness or with others in connection with any such notes, bonds, or other evidences of indebtedness, whether issued or to be issued, as the authority shall deem advisable; and in general to provide for the security for the notes, bonds, or other evidences of indebtedness and the rights of the holders thereof; provided, that in the exercise of the powers herein granted to issue advanced refunding notes, bonds, or other evidences of indebtedness the authority may, but shall not be required to, avail itself of or comply with any of the provisions of Sections 11-21-10 to 11-21-80 (Advanced Refunding Act);"

Research Innovation Centers

SECTION 3. Section 13-17-87(F)(3) of the 1976 Code is amended to read:

"(3) allow a company to remain in an innovation center for up to five years or until exceeding five million dollars in annual commercial revenue; provided, however, that this requirement may not apply with respect to thirty-five percent of the square feet in an innovation center, as determined by the SCRA;"

Income Tax Credit

SECTION 4. Section 12-6-3585(A) of the 1976 Code, as last amended by Act 15 of 2019, is further amended to read:

"(A) For each tax year beginning after 2020, a taxpayer may claim as a credit against state income tax imposed by Chapter 6, Title 12, bank tax imposed by Chapter 11, Title 12, license fees imposed by Chapter 20, Title 12, or insurance premiums imposed by Chapter 7, Title 38, or

any combination of them, one hundred percent of an amount contributed to the Industry Partnership Fund at the South Carolina Research Authority (SCRA), or an SCRA designated affiliate, or both, pursuant to Section 13-17-88(E), up to a maximum credit of five hundred thousand dollars for a single taxpayer, not to exceed an aggregate credit of nine million dollars for all taxpayers. If the aggregate credit of nine million dollars for all taxpayers is not met within sixty days of the annual opening date for the application for the credit, the single taxpayer maximum credit is automatically increased to one million dollars for the remainder of that year until the maximum aggregate credit of nine million dollars is met. For purposes of determining a taxpayer's entitlement to the credit for qualified contributions for a given tax year in which more than the applicable aggregate annual limit on the credit is contributed by taxpayers for that year, taxpayers who have made contributions that are intended to be qualified contributions earlier in the applicable tax year than other taxpayers must be given priority entitlement to the credit. The SCRA shall certify to taxpayers who express a bona fide intention of making one or more qualified contributions as to whether the taxpayer is entitled to that priority."

Time effective

SECTION 5. This act takes effect on July 1, 2021.

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 173

(R174, S637)

AN ACT TO AMEND SECTION 37-22-110, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS APPLICABLE TO THE MORTGAGE LENDING LAWS OF THIS STATE, SO AS TO ESTABLISH CERTAIN CRITERIA A RETAILER OF MANUFACTURED OR MODULAR HOMES MUST MEET TO QUALIFY AS AN "EXEMPT PERSON"; AND TO AMEND SECTION 40-58-20, RELATING TO DEFINITIONS APPLICABLE TO THE LICENSING OF MORTGAGE

BROKERS ACT, SO AS TO ESTABLISH CERTAIN CRITERIA A RETAILER OF MANUFACTURED OR MODULAR HOMES MUST MEET TO QUALIFY AS AN "EXEMPT PERSON".

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

Definition of "exempt person"

SECTION 1. Section 37-22-110(18)(i) of the 1976 Code is amended to read:

"(i) a retailer of manufactured or modular homes or an employee of the retailer if the retailer or employee:

(i) does not receive compensation or other gain for engaging in activities described in item (1), (2), or (26) in excess of any compensation or gain received in a comparable cash transaction;

(ii) discloses in writing to the consumer any corporate affiliation with any creditor and, if a corporate affiliation exists, the identity of at least one unaffiliated creditor; and

(iii) does not directly negotiate with the consumer or lender on loan terms including, but not limited to, rates, fees, and other costs; or"

Definition of "exempt person"

SECTION 2. Section 40-58-20(16)(i) of the 1976 Code is amended to read:

"(i) a retailer of manufactured or modular homes or an employee of the retailer if the retailer or employee:

(i) does not receive compensation or other gain for engaging in activities described in item (1), (2), or (24) in excess of any compensation or gain received in a comparable cash transaction;

(ii) discloses in writing to the consumer any corporate affiliation with any creditor and, if a corporate affiliation exists, the identity of at least one unaffiliated creditor; and

(iii) does not directly negotiate with the consumer or lender on loan terms including, but not limited to, rates, fees, and other costs; or"

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 174

(R175, S812)

AN ACT TO AMEND CHAPTER 2, TITLE 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REGULATION OF ACCOUNTANTS, SO AS TO REVISE PROVISIONS REGULATING CERTIFIED PUBLIC ACCOUNTANTS, PUBLIC ACCOUNTANTS, AND ACCOUNTING PRACTITIONERS.

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

Regulation of certified public accountants, public accountants, and accounting practitioners

SECTION 1. Chapter 2, Title 40 of the 1976 Code is amended to read:

"CHAPTER 2

Accountants

Article 1

Regulation of Certified Public Accountants and Public Accountants

Section 40-2-5. It is the policy of this State, and the purpose of this chapter, to promote the reliability of information used for guidance in financial transactions or for accounting or for assessing the financial status or performance of commercial, noncommercial, and governmental enterprises. The public interest requires that persons professing special competence in accountancy or offering assurance of the reliability or

fairness of presentation of such information shall have demonstrated their qualifications, and that persons who have not demonstrated and maintained such qualifications not be permitted to represent themselves as having special competency or offering such assurance; that the conduct of persons licensed as having special competence in accountancy be regulated in all aspects of their professional work; that a public authority competent to prescribe and assess the qualifications and to regulate the conduct of licensees be established; and that the use of titles with a capacity or tendency to deceive the public of the status or competence of the persons using such titles be prohibited.

Section 40-2-10. (A)(1) There is created the South Carolina Board of Accountancy which is responsible for the administration and enforcement of this chapter. The board shall consist of eleven members appointed by the Governor, all of whom must be residents of this State and:

(a) there must be one resident licensed certified public accountant from each congressional district and one additional resident licensed certified public accountant from the public at large;

(b) one member must be a licensed public accountant or a licensed accounting practitioner; and

(c) two members must be from the public at large, one of whom must be an attorney licensed in this State, who:

(i) are not engaged in the practice of public accounting;

(ii) have no financial interest in the profession of public accounting; and

(iii) have no immediate family member in the profession of public accounting. As used in this section, 'immediate family member' is defined in Section 8-13-100(18).

(2) Members are appointed for terms of four years and serve until their successors are appointed and qualify. Vacancies must be filled by the Governor for the unexpired portions of the term in the manner of the original appointment. The Governor shall remove a member of the board in accordance with Section 1-3-240.

(3) Failure by a licensed certified public accountant to maintain residency in the district for which he is appointed shall result in the forfeiture of his office.

(B) The board shall elect annually from among its members a chairman, a vice chairman, and a secretary. The board shall meet at least two times a year at places fixed by the chairman. Meetings of the board must be open to the public except those concerned with investigations under Section 40-2-80 and except as necessary to protect confidential

information in accordance with board regulations, federal law, state law, or Section 40-2-90(C). A majority of the board members in office constitutes a quorum at any meeting of the board. A board member shall attend meetings or provide proper notice and justification of inability to attend. Unexcused absences from meetings may result in removal from the board as provided for in Section 1-3-240.

(C) The board shall have a seal which must be judicially noticed. In any court proceeding, civil or criminal, arising out of or founded upon any provision of this chapter, copies of any records certified as true copies under the seal of the board are admissible in evidence as proving the contents of these records.

(D) All monies collected by the Department of Labor, Licensing and Regulation from fees authorized to be charged by this chapter must be received and accounted for by the Department of Labor, Licensing and Regulation and must be deposited in the State Treasury. The budget of the board must include adequate funds for the expenses of administering the provisions of this chapter, which may include, but is not limited to, the costs of conducting investigations, of taking testimony, and of procuring the attendance of witnesses before the board or its committees; all legal proceedings undertaken for the enforcement of this chapter; participation in national efforts to regulate the accounting profession, and educational and licensing programs for the benefit of the public, the licensees and their employees. Initial fees must be established by the board and shall serve as the basis for necessary adjustments in accordance with Section 40-1-50(D).

(E) The board may appoint committees or persons, to advise or assist it in the administration and enforcement of this chapter, as it sees fit.

(F)(1) The director shall designate for the use of the board one full-time administrator who is a certified public accountant licensed in this State. The administrator's primary responsibility is to administer the board.

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

Section 40-2-20. As used in this chapter:

(1) 'AICPA' means the American Institute of Certified Public Accountants or successor organizations.

(2)(a) 'Attest' means providing the following services:

(i) any audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);

(ii) any review of a financial statement to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS);

(iii) any examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE);

(iv) any engagement to be performed in accordance with Public Company Accounting Oversight Board (PCAOB) Auditing Standards; or

(v) any examination, review, or agreed upon procedure to be performed in accordance with the SSAE, other than an examination described in subitem (c).

(b) Any standards specified in this definition shall be adopted by reference by the board pursuant to rulemaking and shall be those developed for general application by national accountancy organizations, such as the AICPA or the PCAOB.

(3) 'Board' means the South Carolina Board of Accountancy.

(4) 'Client' means a person or entity that agrees with a licensee or licensee's employer to receive any professional service.

(5) 'Client records' means those accounting records or other records provided by a client or removed from a client's premises, including hardcopy and electronic reproductions of records, that belong to the client and that were provided to a certified public accountant, public accountant, or accounting practitioner by, or on behalf of, the client.

(6) 'Compilation' means providing a service of any compilation engagement to be performed in accordance with SSARS.

(7) 'CPA-prepared records' means accounting or other records that a licensee or firm was not specifically engaged to prepare and that are not in a client's books and records or are otherwise not available to the client, which render the client's financial or tax information incomplete. Examples include adjusting, closing, combining, and consolidating journal entries, including computations supporting journal entries; depreciation schedules and supporting schedules; and documents that were proposed or prepared as part of an engagement.

(8) 'CPA work papers' are all other records created in the course of an engagement that are not client records, CPA work products or CPA-prepared records.

(9) 'CPA work products' are deliverables set forth in the terms of an engagement, such as tax returns.

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

(11) 'Direct' means the person supervised in the usual line of authority or is in a staff position reporting to the supervisor.

(12) 'Electronic files' means data files in a format created by software commonly available to the general public such as Adobe Acrobat, Microsoft Excel or Word, and consumer accounting programs. Electronic files do not include data files in a format created by proprietary software or software commonly unavailable to the general public.

(13) 'Experience' means providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills whether gained through employment in government, industry, academia, or public practice.

(14) 'Firm' means a sole proprietorship, a corporation, a partnership, or any other form of organization registered under this chapter. 'Firm' includes a person or persons practicing public accounting in the form of a proprietorship, partnership, limited liability partnership, limited liability company, or professional corporation or association.

(15) 'Firm ownership' means one hundred percent of the partners, members, managers, shareholders, and equity owners in a firm, which must be owners.

(16) 'License' means authorization to practice as issued under this chapter.

(17) 'Licensee' means the holder of a license.

(18) 'Manager' means a licensee in responsible charge of an office.

(19) 'NASBA' means the National Association of State Boards of Accountancy.

(20) 'Non-CPA owner' means any owner in a firm who is not a currently licensed certified public accountant.

(21) 'Owner' means any person who owns all or part of a firm.

(22) 'Peer review' means a study, appraisal, or review of one or more aspects of the professional work of a licensee of the board or a firm registered with the board that performs attest or compilation services by a person or persons who hold certificates and who are not affiliated with the certificate holder or certified public accountant firm being reviewed.

(23) 'Practice of accounting' means:

(a) issuing a report on financial statements of a person, firm, organization, or governmental unit or offering to render or rendering any attest or compilation service. This restriction does not prohibit any act of a public official or public employee in the performance of that person's duties or prohibit the performance by a nonlicensee of other services involving the use of accounting skills, including the preparation of tax

returns, management advisory services, and the preparation of financial statements without the issuance of reports; or

(b) using or assuming the title 'Certified Public Accountant' or the abbreviation 'CPA' or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant.

(24) 'Preparation of financial statements' means any preparation of financial statements engagement to be performed in accordance with SSARS.

(25) 'Principal place of business' means the office location designated by a licensee for the purposes of substantial equivalency and reciprocity.

(26) 'Professional' means arising out of or related to the specialized knowledge or skills associated with licensees.

(27) 'Registration' means an authorization, issued under this chapter, to practice as a firm.

(28) 'Renewal due date' is February first of a licensing year.

(29) 'Renewal lapse date' is a date fifteen days subsequent to the renewal date.

(30) 'Report', when used with reference to any attest or compilation service, means an opinion, report, or other form of language that states or implies assurance as to the reliability of the attested information or compiled financial statements and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competency in accounting or auditing. This statement or implication of special knowledge or competency may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor. The term 'report' includes any form of language which disclaims an opinion when the form of language is conventionally understood to imply positive assurance as to the reliability of the attested information or compiled financial statements referred to or special competency on the part of the person or firm issuing such language, or both; and it includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competency, or both.

(31) 'Resident manager' means a responsible party for a firm.

(32) 'State' means any state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Guam; except that 'this State' means the State of South Carolina.

(33) 'Substantial equivalency' or 'substantially equivalent' is a determination by the board or its designee that the education, examination, and experience requirements contained in the statutes and

administrative rules of another jurisdiction are comparable to, or exceed the completion of, a baccalaureate or higher degree in an accounting concentration that includes one hundred fifty semester hours of education, at least one year of acceptable experience, and successful completion of the Uniform CPA Examination. Any jurisdiction found to be substantially equivalent by NASBA's National Qualification Appraisal Service is considered to be substantially equivalent to this State. In ascertaining substantial equivalency as used in this chapter, the board or its designee shall take into account the qualifications without regard to the sequence in which experience, education, or examination requirements were attained.

(34) 'Supervision' means having jurisdiction, oversight, or authority over the practice of accounting and over the people who practice accounting.

(35) 'Uniform CPA Examination' means the Uniform Certified Public Accountant Examination as prepared by the AICPA.

Section 40-2-30. (A) It is unlawful for a person to engage in the practice of accountancy as regulated by this board without holding a valid license or registration or without qualifying for a practice privilege pursuant to Section 40-2-245.

(B) Only licensed certified public accountants or public accountants or individuals qualifying for a practice privilege pursuant to Section 40-2-245 may issue a report on financial statements of a person, firm, organization, or governmental unit or offer to render or render any attest or compilation service as defined, except as provided in Section 40-2-610. This restriction does not prohibit an act of a public official or public employee in the performance of that person's duties or prohibit the performance by any nonlicensee of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports.

(C) Persons, other than certified public accountants or public accountants, may prepare financial statements and issue nonattest transmittals or information thereon which do not purport to be in compliance with the SSARS. Transmittals using the following language must not be considered the unlicensed practice of accountancy:

'I (we) have prepared the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing in the form of financial statements information that is the representation of management (owners).

I (we) have not audited or reviewed the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.'

(D) Only a person holding a valid license as a certified public accountant or qualifying for a practice privilege under Section 40-2-245 shall use or assume the title 'Certified Public Accountant' or the abbreviation 'CPA' or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the person is a certified public accountant.

(E) A firm may not provide attest services or assume or use the title 'Certified Public Accountants', 'Public Accountants' or the abbreviation 'CPAs' and 'PAs', or any other title, designation, words, letters, abbreviation, sign, card, or device indicating the firm is a CPA firm unless:

(1) the firm holds a valid registration issued under this chapter or is exempt from the registration requirement by operation of subsection (I);

(2) ownership of the firm is in accordance with Section 40-2-40(C) and implementing regulations promulgated by the board, unless the firm is exempt from the registration requirement by operation of subsection (I); and

(3) owners who are not certified public accountants must be permitted to use the titles 'principal', 'partner', 'owner', 'officer', 'member', or 'shareholder' but must not hold themselves out to be certified public accountants.

(F) A person must not assume or use the title 'Public Accountant' or the abbreviation 'PA' or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the person is a public accountant unless that person holds a valid registration issued under this chapter.

(G)(1) Only a person or firm holding a valid license or registration issued under this chapter, an individual qualifying for practice privileges under Section 40-2-245, or a firm exempt from the registration requirement by operation of subsection (I) shall assume or use any title or designation likely to be confused with the titles 'Certified Public Accountant' or 'Public Accountant' or use a similar abbreviation likely to be confused with the abbreviations 'CPA' or 'PA'. The title 'Enrolled Agent' or 'EA' may only be used by individuals designated by the Internal Revenue Service.

(2) Persons or firms that are not licensed or registered, individuals qualifying for practice privileges under Section 40-2-245, and firms exempt from the registration requirement by operation of subsection (I)

may use designations granted by national accrediting organizations so long as those designations do not imply qualification to render any attest or compilation service.

(H) This section does not apply to a person or firm holding a certification, designation, degree, or license granted in a foreign country entitling the holder to engage in the practice of public accountancy or its equivalent in that country; whose activities in this State are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the person holds the entitlement; who performs no attest or compilation services and who issues no reports, as defined in this chapter, with respect to the information of any other persons, firms, or governmental units in this State; and who does not use in this State any title or designation other than the one under which the person practices in their country, followed by a translation of the title or designation into the English language, if it is in a different language, and by the name of the country.

(I)(1) Firms that do not have an office in this State may engage in the practice of accounting, without obtaining a registration pursuant to Section 40-2-40, as specified in this subsection.

(2) A firm described in item (1) may perform services described in Section 40-2-20(2) for a client in this State, may engage in the practice of accounting, as specified in this section, and may use the title 'CPA' or 'CPA firm' only if the firm:

(a) has the qualifications described in Section 40-2-40(C) and Section 40-2-255(C);

(b) performs these services through an individual with practice privileges under Section 40-2-245; and

(c) can lawfully perform these services in the state where the individual with practice privileges under Section 40-2-245 has his principal place of business.

(3) A firm described in item (1) that is not subject to the requirements of item (2) may perform other professional services within the practice of accounting while using the title 'CPA' or 'CPA firm' in this State only if the firm:

(a) performs these services through an individual with practice privileges under Section 40-2-245; and

(b) can lawfully do so in the state where these individuals with practice privileges have their principal place of business.

(4) Notwithstanding any other provision of this section, it is not a violation of this section for a firm that does not hold a valid permit under Section 40-2-40 and which does not have an office in this State to

provide its professional services or to engage in the practice of accounting so long as it complies with the requirements of item (2) or (3), whichever is applicable.

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

Section 40-2-35. (A) The board shall grant a license to practice as a certified public accountant to persons who make application and provide the following:

(1) evidence of good moral character, which includes a lack of a history of:

(a) any conviction of a felony that has an element of dishonesty or fraud or any other crime that has an element of dishonesty or fraud, under the laws of the United States, of this State, or of any other state if the acts involved constitute a crime under state laws;

(b) an active or stayed revocation or suspension of any occupational license, privilege, or other authority to practice any licensed occupation by or before any state, federal, foreign, or other licensing or regulatory authority, provided that the grounds include wrongful conduct, such as fraud, dishonesty, or deceit, or any other conduct that evidences any unfitness of the applicant to practice public accountancy; and

(c) any acts that would be grounds for the revocation or suspension of a license if committed by a licensee;

(2) a transcript or transcripts showing that the candidate meets the educational requirements pursuant to subsection (C);

(3) evidence of a passing score on a standardized test of accounting knowledge, skills, and abilities approved by the board and substantially equivalent to the Uniform CPA Examination;

(4) evidence of a passing score on an examination in professional ethics as approved by the board and an affidavit by the candidate acknowledging that he or she has read the statute and regulations governing the practice of accountancy in South Carolina and subscribes both to the spirit and letter of the statute and regulations and agrees to observe them faithfully in the performance of his or her professional work; and

(5) evidence of appropriate experience.

(B)(1) In addition to other requirements established by law and for the purpose of determining an applicant’s eligibility for licensure to practice as a certified public accountant, the board may require a state criminal records check, including fingerprints, performed by the South

Carolina Law Enforcement Division, and a national criminal records check, including fingerprints, performed by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the board. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the board regarding criminal charges. The board shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as may be necessary to support the administrative action.

(2) Notwithstanding any other provision of law to the contrary, the dismissal of a prosecution of fraudulent intent in drawing a dishonored check by reason of want of prosecution or proof of payment of restitution and administrative costs must not be used as evidence of a lack of good moral character for the purposes of disqualifying a person seeking licensure or renewal of licensure pursuant to this chapter.

(3) The applicant must bear all costs associated with conducting criminal records checks.

(C)(1) To meet the educational requirement as part of the one hundred fifty semester hours of education needed for licensure, the applicant must demonstrate successful completion of:

(a) a baccalaureate, masters, or doctoral degree;

(b) at least twenty-four semester credit hours, or the substantial equivalent, of accounting courses that are applicable to a baccalaureate, masters, or doctoral degree and that cover some or all of the following subject-matter content, excluding principles or introductory accounting courses: financial accounting for business organizations, financial statement auditing and attestation services, taxation, accounting information systems, financial accounting for government and not-for-profit entities, managerial or cost accounting, mergers and acquisitions, accounting-based data analytics and interrogation techniques, financial planning, fraud examination, internal controls and risk assessment, financial statement analysis, accounting research and analysis, tax research and analysis, accounting professional ethics, and other areas approved by the board taught at the junior level or above; and

(c) at least twenty-four semester credit hours, or the substantial equivalent, of business courses, other than accounting, that are applicable to a baccalaureate, masters, or doctoral degree and that cover some or all of the following subject-matter content: business law, economics, management, marketing, finance, business communications, statistics, quantitative methods, data analytics, data interrogation techniques, business data acumen, information systems or technology, business ethics, and other areas approved by the board and which may

include semester credit hours, or the substantial equivalent, in accounting content not used toward meeting the requirement in subitem (b).

(2) The board may review and accept individual courses and educational programs determined to be substantially equivalent to the foregoing.

(D) The board shall accept transcripts from a college or university holding an accreditation from an accreditation body approved by the United States Department of Education and shall accept education, training, and experience completed by an individual as a member of the military in Section 40-1-640. Official transcripts signed by the college or university registrar and bearing the college or university seal or verification through any service provided by NASBA must be submitted to demonstrate education and degree requirements. Photocopies of transcripts must not be accepted.

(E) An applicant may apply for examination by submitting forms approved by the board. In order for an application to be considered a completed application, all blanks and questions on the application form must be completed and answered and all applicable documentation must be attached and:

(1) the application must be accompanied by the submission of photo identification, fingerprints, or other identification information as considered necessary to ensure the integrity of the exam administration;

(2) application fees must accompany the application. Fees for the administration of the examination must recover all costs for examination administration. The fees required for each examination must be published to applicants on the application form. If any payment form used in payment of examination fees fails to clear the bank, the application is considered incomplete and the application must be returned to the candidate; and

(3) the applicant must have on record with the board official transcripts that meet the education requirement and that demonstrate successful completion of at least one hundred twenty semester hours credit, including:

(a) at least twenty-four semester hours of accounting in course areas that are applicable to a baccalaureate, masters, or doctoral degree, including a minimum of six semester credit hours at the undergraduate level or three semester credit hours at the graduate level of principles or introductory accounting. The remaining semester credit hours, or the substantial equivalent, must cover some or all of the following subject-matter content: financial accounting for business organizations, financial statement auditing and attestation services, taxation, accounting information systems, financial accounting for government

and not-for-profit entities, managerial or cost accounting, mergers and acquisitions, accounting-based data analytics and interrogation techniques, financial planning, fraud examination, internal controls and risk assessment, financial statement analysis, accounting research and analysis, tax research and analysis, accounting professional ethics, and other areas approved by the board; and

(b) at least twenty-four semester hours of business courses that are applicable to a baccalaureate, masters, or doctoral degree and that cover some or all of the following subject-matter content: business law, economics, management, marketing, finance, business communications, statistics, quantitative methods, data analytics, data interrogation techniques, business data acumen, information systems or technology, business ethics, and other areas approved by the board, which may include semester credit hours, or the substantial equivalent, in accounting content not used toward meeting the requirement in subitem (a).

(F) To meet the exam requirement, a candidate must pass all sections of the Uniform CPA Examination.

(1) A candidate may take the required test sections individually and in any order. Credit for any test section passed is valid for eighteen months from the actual date the candidate took that test section, without having to attain a minimum score on any failed test section and without regard to whether the candidate has taken other test sections.

(a) A candidate must pass all sections of the Uniform CPA Examination within a rolling eighteen-month period, which begins on the date that the first test section is passed. The board by regulation may provide additional time to an applicant on active military service. The board also may accommodate any hardship which results from the conditions of administration of the examination.

(b) A candidate who applies for a license more than three years after the date upon which the candidate passed the last section of the Uniform CPA Examination must also document one hundred twenty hours of acceptable continuing professional education in order to qualify, in addition to all other requirements imposed by this section.

(2) A candidate may arrange to have credits for passing sections of the Uniform CPA Examination under the jurisdiction of another state or territory of the United States transferred to this State. Credits transferred for less than all sections of the examination are subject to the same conditional credit rules as if the examination had been taken in South Carolina.

(G) An applicant shall attain the following experience:

(1) at least one year of accounting experience, which must include providing a service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills verified by a CPA in industry, academia, or public practice or verified by a valid report from NASBA's Experience Verification. This experience may be supervised by a non-licensee but must be verified by a CPA with direct knowledge of the experience who is licensed to practice accounting in some state or territory of the United States or the District of Columbia;

(2) teaching experience to include at least twenty-four semester hours of teaching courses that are applicable to a baccalaureate, masters, or doctoral degree and which may cover subject matter areas such as financial accounting, taxation, and auditing, taught at the intermediate accounting level or above. This experience may be supervised by a non-licensee but must be verified by a CPA with direct knowledge of the experience who is licensed to practice accounting in any state or territory of the United States;

(3) submitting Substantial Equivalency Evaluation report from the NASBA National Qualification Appraisal Service verification that his CPA qualifications are substantially equivalent to the CPA licensure requirements of the AICPA and NASBA Uniform Accountancy Act; or

(4) any combination of experience determined by the board to be substantially equivalent to the foregoing.

(H) Qualifying experience for licensure cannot be earned until an applicant meets the requirements of subsection (E)(3)(a).

(I)(1) An applicant may demonstrate experience as follows:

(a) to meet the one-year accounting experience requirement:

(i) accounting experience may be gained in either full-time or part-time employment;

(ii) two thousand hours of part-time accounting experience is equivalent to one year;

(iii) accounting experience may not accrue more rapidly than forty hours per week; and

(iv) the applicant must show evidence of meeting the accounting experience requirement in a manner prescribed by the board;

(b) to meet the twenty-four semester hour teaching experience requirement in academia:

(i) teaching experience may not accrue more rapidly than elapsed chronological time;

(ii) an applicant must not be granted credit for teaching more than twenty-four semester hours completed in less than one academic year; and

(iii) semester hours must not be granted for teaching subjects outside the scope of the Uniform CPA Examination;

(c) to meet other qualifying experience requirements:

(i) experience other than accounting experience and teaching experience counts only in proportion to duties which, in the opinion of the board, contribute to competence in public accounting; and

(ii) the board may require other information as it considers reasonably necessary to determine the acceptability of experience.

(2) Any applicant using experience obtained seven or more years before submitting an application shall have obtained additional experience within the two-year period prior to submitting the application, as defined in subsection (G).

Section 40-2-40. (A) The board shall grant or renew a registration to practice as a firm to applicants that demonstrate their qualifications in accordance with this section.

(B) The following must hold a registration issued pursuant to this section:

(1) a firm with an office in this State performing attest services as defined in Section 40-2-20(2) or engaging in the practice of accounting;

(2) a firm with an office in this State that uses the title 'CPA' or 'CPA firm'; or

(3) a firm that does not have an office in this State but performs attest services described in Section 40-2-20(2) for a client in this State, unless it is exempt from registration pursuant to Section 40-2-30(I).

(C) Qualifications for registration as a certified public accountant firm are as follows:

(1) A simple majority of the firm ownership in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers must belong to certified public accountants currently licensed in some state. Although firm ownership may include non-CPA owners, the firm and its owners must comply with regulations promulgated by the board. All non-CPA owners must be active individual participants in the firm or affiliated entities.

(2) Partners, officers, shareholders, members, or managers whose principal place of business is in this State, and who also perform professional services in this State, must hold a valid license issued pursuant to this section. An individual who has practice privileges under Section 40-2-245 must not be required to obtain a license from this State pursuant to Section 40-2-35.

(3) For firms registering under subsection (B)(1)(a) or (b), there must be a designated resident manager in charge of each office in this State who must be a certified public accountant licensed in this State.

(4) Non-CPA owners must not assume ultimate responsibility for any financial statement, attest, or compilation engagement.

(5) Non-CPA owners shall abide by the code of professional ethics adopted pursuant to this chapter.

(6) Owners shall at all times maintain ownership equity in their own right and must be the beneficial owners of the equity capital ascribed to them. Provision must be made for the ownership to be transferred to the firm or to other qualified owners if the noncertified public accountant ceases to be an active individual participant in the firm.

(7)(a) This section applies only to non-CPA owners who are residents of this State.

(b) Non-CPA owners must complete the same number of hours of continuing professional education as licensed certified public accountants in this State, including the annual ethics requirement pursuant to Section 40-2-250(C)(6).

(c) Non-CPA owners who are licensed professionals subject to continuing education requirements applicable to that profession may complete the required number of continuing professional education hours in courses offered or accepted by organizations or regulatory bodies governing that profession, and also must complete the same number of hours of continuing professional education as licensed certified public accountants in this State.

(8) A certified public accounting firm and its designated resident manager under item (3) are responsible for the following in regard to a noncertified public accountant owner:

(a) a non-CPA owner shall comply with all applicable accountancy statutes and regulations; and

(b) a non-CPA owner shall be of good moral character and shall not engage in any conduct that, if committed by a licensee, would constitute a violation of the regulations promulgated by the board.

(D) Registration must be initially issued and renewed annually. Applications for registration must be made in such form, and in the case of applications for renewal, between such dates as the board by regulation may specify, and the board shall grant or deny any such application after filing in proper form.

(E) Any firm applicant for initial issuance or renewal of a registration to practice pursuant to this chapter shall register each firm within this State with the board and shall demonstrate that all attest and

compilation services rendered in this State are under the charge of a person holding a valid license issued pursuant to this section or the corresponding provision of prior law or of some other state.

(F) The board may charge a fee for each application for initial issuance or renewal of a registration issued pursuant to this section.

(G) An applicant for initial issuance or renewal of a registration to practice pursuant to this chapter shall list on the application all states in which the firm has applied for or holds registration and shall list any past denial, revocation, or suspension of a registration by any other state.

(H) Each holder of or applicant for a registration issued pursuant to this section shall notify the board in writing, within thirty days after its occurrence, of any change in the identities of partners, officers, shareholders, members, or managers whose principal place of business is in this State, any change in the number or location of offices within this State, any change in the identity of the licensee in charge of these offices, and any issuance, denial, revocation, or suspension of a registration by any other state.

(I) A firm that falls out of compliance with the provisions of this section due to changes in firm ownership or personnel, after receiving or renewing a permit, shall take corrective action to bring the firm back into compliance as quickly as possible. The board may grant a reasonable period of time for a firm to take this corrective action. Failure to bring the firm back into compliance within a reasonable period as defined by the board shall result in the suspension or revocation of the firm permit.

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

(1) determine the eligibility of applicants for examination and licensure and may use the assistance of NASBA-provided tools;

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

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

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

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

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

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

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

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

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

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

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

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

(11) issue safe harbor language nonlicensees may use in connection with financial statements, transmittals, or financial information which does not purport to be in compliance with the SSARS;

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

(13) promulgate standards for peer review; and

(14) issue non-binding interpretations of statutes and regulations based on a written set of facts and a request from any member of the public, including licensees and the board.

(B) All public board orders, interpretations, and policies of this chapter must be made available to the public in an electronic format organized by applicable law or regulation.

Section 40-2-80. (A) The department, upon receipt of a complaint or other information suggesting violation of this chapter or of regulations promulgated pursuant to this chapter, shall conduct an appropriate investigation to determine whether there is probable cause to institute proceedings. An investigation under this section is not a prerequisite to conducting proceedings if a determination of probable cause can be made without investigation. In aid of investigations, the administrator of

the board shall issue subpoenas to compel witnesses to testify and to produce evidence, as necessary for an appropriate investigation.

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

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

(C) The results of an investigation must be presented to the board.

(D) For the purpose of an investigation under this section, the department may administer oaths and issue subpoenas for the attendance and testimony of witnesses and the production and examination of books, papers, and records as necessary for an appropriate investigation and on behalf of the board or, upon request, on behalf of a party to the case. Upon failure to obey a subpoena or to answer questions propounded by the board or its hearing officer or panel, the board may apply to the Administrative Law Court for an order requiring compliance with the subpoena.

(E) The testimony and documents submitted in support of the complaint or gathered in the investigation must be treated as confidential information and must not be disclosed to any person except law enforcement authorities and, to the extent necessary in order to conduct the investigation, the subject of the investigation, persons whose complaints are being investigated, and witnesses questioned in the course of the investigation. All proceedings related to the investigations and inquiries during the investigation process undertaken pursuant to this chapter are confidential, unless the licensee or registrant who is the subject of the investigation or inquiry waives the confidentiality of the existence of the complaint.

(F) The board may review the publicly available professional work of licensees, and all professional work submitted to the State, on a general and random basis, without any requirement of a formal complaint or suspicion of impropriety. If as a result of a review the board

discovers reasonable grounds for a more specific investigation, the board may proceed under subsections (A) through (E).

(G) If the department receives information indicating a possible violation of state or federal law, the department may provide that information, to the extent the department considers necessary, to the appropriate state or federal law enforcement agency or regulatory body.

(H)(1) In an investigation or disciplinary proceeding concerning a licensee, the department may require a state criminal records check, including fingerprints, performed by the South Carolina Law Enforcement Division, and a national criminal records check, including fingerprints, performed by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. The department shall keep information received pursuant to this section confidential, except that information relied upon in an administrative action may be disclosed as may be necessary to support the administrative action.

(2) Notwithstanding any other provision of this section or any other provision of law, the dismissal of a prosecution of fraudulent intent in drawing a dishonored check by reason of want of prosecution or proof of payment of restitution and administrative costs must not be used as evidence of performance of a fraudulent act for disciplinary purposes.

(3) Costs of conducting a criminal records check are the responsibility of the department and may be recovered as administrative costs associated with an investigation or hearing pursuant to this chapter unless ordered by the department as a cost in a disciplinary proceeding.

Section 40-2-90. (A) If the Department of Labor, Licensing and Regulation or the board has reason to believe that a licensee or registrant has violated a provision of this chapter or a regulation promulgated pursuant to this chapter or that a licensee has become unfit to practice as a certified public accountant, a public accountant, or an accounting practitioner the department shall present its evidence to the board and the board may, in accordance with the Administrative Procedures Act, take action as authorized by law. The board may designate a hearing officer or panel to conduct hearings or take other action as may be necessary.

(B) The board shall notify the accused licensee or registrant in writing not less than thirty days before the hearing with a copy of the formal charges attached to the notice. The notice must be served

personally or sent to the charged licensee or registrant by certified mail, return receipt requested, directed to his or her last mailing address furnished to the board. The post office registration receipt signed by the licensee or registrant, his or her agent, or a responsible member of his or her household or office staff, or if not accepted by the person to whom addressed, the postal authority stamp showing the notice refused, is prima facie evidence of service of the notice.

(C) If a hearing is to be held, the licensee or registrant has the right to be present, to present evidence and argument on all issues involved, to present and to cross-examine witnesses, and to be represented by counsel at the licensee's or registrant's expense. For the purpose of these hearings, the board may require by subpoena the attendance of witnesses, the production of documents and other evidence, and may administer oaths and hear testimony, either oral or documentary, for and against the accused licensee. All evidence, including the records that the board or the board's hearing panel considers, must be made part of the record in the proceedings. These hearings must be open to the public, except:

(1) as necessary to protect confidential information in accordance with federal or state law; and

(2) as necessary to protect confidential information provided by a client for whom a licensee performs services, or the heirs, successors, or personal representatives of the client.

(D) Every communication, whether oral or written, made by or on behalf of any complainant to the board or its agents or any hearing panel or member pursuant to this chapter, whether by way of complaint or testimony, is privileged against liability. No action or proceeding, civil or criminal, lies against any person by whom or on whose behalf such communication has been made, except upon proof that the communication was made with malice.

(E) Nothing contained in this section may be construed to prevent the board from making public a copy of its final order in any proceeding, as authorized or required by law.

Section 40-2-100. (A) If the board has reason to believe that a person is violating or intends to violate a provision of this chapter or a regulation promulgated pursuant to this chapter, in addition to all other remedies, it may order the person immediately to cease and desist from engaging in the conduct. If the person is practicing accountancy without being licensed pursuant to this chapter, is violating an order of the board, a provision of this chapter, or a regulation promulgated pursuant to this chapter, the board also may apply, in accordance with the rules of the

Administrative Law Court for a temporary restraining order. A board member or the Director of the Department of Labor, Licensing and Regulation or another employee of the department may not be held liable for damages resulting from a wrongful temporary restraining order.

(B) The board may seek from the Administrative Law Court other equitable relief to enjoin the violation or intended violation of this chapter or a regulation promulgated pursuant to this chapter.

Section 40-2-110. (A) After notice and hearing pursuant to the Administrative Procedures Act, the board may revoke, suspend, refuse to renew, reprimand, censure, or limit the scope of practice of a licensee and impose an administrative fine not exceeding ten thousand dollars per violation. The board also may place a licensee on probation, require a peer review as the board may specify, or require satisfactory completion of a continuing professional education program as the board may specify, all with or without terms, conditions, and limitations, for any one or more of the following reasons:

(1) conviction of a felony that has an element of dishonesty or fraud or any other crime that has an element of dishonesty or fraud, under the laws of the United States, of this State, or of any other state if the acts involved constitute a crime under state laws;

(2) conduct reflecting adversely upon the licensee's fitness to perform services as a licensee;

(3) use of a false, fraudulent, or forged statement or document or committal of a fraudulent, deceitful, or dishonest act or omission of a material fact in obtaining licensure pursuant to this chapter;

(4) intentional use of a false or fraudulent statement in a document connected with the practice of the individual's profession or occupation;

(5) obtaining fees or assistance in obtaining fees under fraudulent circumstances;

(6) failure to comply with established professional standards, including standards set by federal or state law or regulation;

(7) violation of the code of professional ethics adopted by the board or of the AICPA Professional Standards: Code of Professional Conduct;

(8) failure to respond to requests for information or to cooperate in investigations on behalf of the board;

(9) engagement or aid of another, intentionally or knowingly, directly or indirectly, in unlicensed practice of accounting;

(10) failure to disclose or disclaim the appropriate license status of a person or entity not holding a license but associated with financial statements;

(11) engagement in advertising or other forms of solicitation or use of a firm name in a manner that is false, misleading, deceptive, or tending to promote unsupported claims;

(12) the revocation, suspension, reprimand, or other discipline of the right to practice by the licensee in any other state or by a federal agency for a cause other than the failure to pay an annual registration fee.

(B) After notice and hearing, as provided in Section 40-2-90, the board shall revoke the registration of a firm if at any time it does not meet the requirements prescribed by Section 40-2-40 and also may revoke, suspend, refuse to renew, reprimand, censure, or limit the scope of practice of a registrant and impose an administrative fine not to exceed ten thousand dollars per violation for any of the causes enumerated in subsection (A) or for:

(1) the revocation or suspension or refusal to renew the license to practice of a member of a firm;

(2) the revocation, suspension, reprimand, or other discipline of the right to practice by the firm in any other state or by a federal agency for a cause other than the failure to pay an annual registration fee;

(3) the failure to notify the board in writing, within thirty days after its occurrence, of any revocation, suspension, reprimand, or other discipline of the right to practice by the licensee in any other state or by a federal agency.

(C) A final order of the board disciplining a licensee under this section is public information.

(D) Upon a determination by the board that discipline is not appropriate, the board may issue a nondisciplinary letter of caution.

(E) The board may establish a procedure to allow a licensee who has been issued a public reprimand to petition the board for expungement of the reprimand from the licensee's record.

(F) Licensees of this State offering or rendering services or using their 'Certified Public Accountant' title in another state are subject to disciplinary action in this State for an act committed in another state for which the licensee would be subject to discipline.

Section 40-2-130. The board may deny an authorization to practice to an applicant who has committed an act that would be grounds for disciplinary action under this chapter. The board must deny authorization to practice to an applicant who has failed to demonstrate the qualifications or standards for licensure required by this chapter. The applicant shall demonstrate to the satisfaction of the board that the applicant meets all the requirements for the issuance of a license.

Section 40-2-140. A person may not be refused an authorization to practice, pursue, or engage in accounting solely because of a prior criminal conviction unless the criminal conviction directly relates to accounting for which the authorization to practice is sought. However, the board may refuse an authorization to practice if, based upon all information available, including the applicant's record of prior convictions, the board finds that the applicant is unfit or unsuited to engage in accounting.

Section 40-2-150. A licensee who is under investigation for a violation provided for in this chapter or Section 40-1-110 may voluntarily surrender his or her authorization to practice to the board. The voluntary surrender invalidates the authorization to practice at the time of its relinquishment, and no person whose authorization to practice is surrendered voluntarily may practice accountancy unless the board, by a majority vote, reinstates the license. A person practicing accountancy during the period of voluntary surrender is considered an illegal practitioner and is subject to the penalties provided by this chapter. The surrender of an authorization to practice must not be considered an admission of guilt in a proceeding under this chapter and does not preclude the board from taking disciplinary action against the licensee as provided for in this chapter including, but not limited to, imposing prerequisite conditions for board reinstatement of the license.

Section 40-2-160. A person aggrieved by a final action of the board may appeal the decision to the Administrative Law Court in accordance with the Administrative Procedures Act and the rules of the Administrative Law Court. Service of a petition requesting a review does not stay the board's decision pending completion of the appellate process.

Section 40-2-170. (A) In an order issued in resolution of a disciplinary proceeding before the board, a licensee found in violation of the applicable licensing act may be directed to pay a sum not to exceed the reasonable costs of the investigation and prosecution of the case in addition to other sanctions.

(B) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the director, or the director's designee, is prima facie evidence of reasonable costs.

(C) Failure to make timely payment in accordance with the order results in the collection of costs in accordance with Section 40-1-180.

(D) The board may conditionally renew or reinstate for a maximum of one year the license of an individual who demonstrates financial hardship and who enters into a formal agreement to reimburse the board within that time period for the unpaid costs.

Section 40-2-180. (A) All costs and fines imposed pursuant to this chapter are due and payable immediately upon imposition or at the time indicated by final order of the board. Unless the costs and fines are paid within sixty days of the date they are due, the order becomes a judgment and may be filed and executed upon in the same manner as a judgment in the court of common pleas, and the board may collect costs and attorney's fees incurred in executing the judgment. Interest at the legal rate accrues on the amount due from the date imposed until the date paid. All costs and fines imposed pursuant to this chapter must be paid in accordance with and are subject to the collection and enforcement provisions of Section 40-1-180 and subject to the collection and enforcement provisions of the Setoff Debt Collection Act.

(B) All fines and costs collected under this chapter must be remitted by the department to the State Treasurer and deposited in a special fund established for the department to defray the administrative costs associated with investigations and hearings under this chapter.

Section 40-2-190. (A) Except by permission of the client for whom a licensee performs services or the heirs, successors, or personal representatives of a client, or through the terms of a contract between the client and a licensee, a licensee under this chapter must not voluntarily disclose information communicated by the client relating to and in connection with services rendered. This information is confidential. However, nothing in this chapter may be construed to prohibit the disclosure of information requiring disclosure by the standards of the public accounting profession in reporting on the examination of financial statements or to prohibit disclosures in court proceedings, investigations or proceedings under this chapter, in ethical investigations conducted by private professional organizations, in the course of peer reviews, in performing services for that client on a need to know basis by other active persons of the organization, or in the business of persons in the entity needing this information for the sole purpose of assuring quality control.

(B) Subject to the provisions of this section, CPA-prepared records and CPA work papers created by a licensee or on behalf of a registrant, incident to, or in the course of, rendering services to a client, except the reports submitted by the licensee to the client and except for CPA work

product, are and remain the property of the licensee in the absence of an expressed agreement between the licensee and the client to the contrary. No statement, record, schedule, working paper, or memorandum may be sold, transferred, or bequeathed, without the consent of the client or the client's personal representative or assignee, to anyone other than one or more surviving partners, stockholders, members or new partners, new stockholders, or new members of the registrant, or any combined or merged firm or successor in interest to the licensee or named successor in the event of the death of the licensee. Nothing in this section may be construed to prohibit temporary transfer of work papers or other material necessary in the course of carrying out peer reviews or as otherwise interfering with the disclosure of information pursuant to this section.

(C) A licensee shall furnish to a client or former client, upon request and reasonable notice, the following documents with respect to the client or former client:

(1) any client records; and

(2) a copy of the licensee's CPA-prepared records or CPA work product, except that such information may be withheld if fees are due to the licensee for the CPA work product, if the work is incomplete, if providing the CPA work product violates professional standards, or if threatened litigation or outstanding litigation exists concerning the engagement or the work performed.

(D) The licensee may make and retain copies of any client records.

(E) With regard to CPA-prepared records:

(1) the licensee may charge the client a fee for the time and expense incurred to retrieve and copy CPA-prepared records and require that the client pay the fee before the licensee provides the records to the client; and

(2) the licensee is not required to convert records that are not in an electronic format to an electronic format. If the client requests records that are already electronic records, then the client's request should be honored. In addition, the licensee is not required to provide the client with formulas, unless the formulas support the client's underlying accounting or other records or unless the licensee was engaged to provide such formulas as a part of its CPA work product.

(F) A licensee's CPA work papers shall be the licensee's property, and the licensee is not required to provide such information to a client. However, state and federal statutes and regulations and contractual agreements may impose additional requirements on the licensee.

(G) Nothing in this section requires a licensee to keep copies of client records, CPA-prepared records, CPA work product, or CPA work papers beyond the period prescribed in any other applicable law.

Section 40-2-200. A person or firm who knowingly violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned for not more than one year, or both.

Section 40-2-210. If the board believes that a person or firm has engaged, or is about to engage, in an act or practice which constitutes or will constitute a violation of Section 40-2-30, the board may issue a cease and desist order. The board may also apply to the Administrative Law Court pursuant to Section 40-1-210 for an order enjoining these acts or practices, and upon a showing by the board that the person or firm has engaged or is about to engage in these acts or practices, the division shall grant an injunction, restraining order, or other order as may be appropriate. For each violation, the Administrative Law Court may impose a fine of no more than ten thousand dollars.

Section 40-2-240. (A) The board shall issue a license to an applicant who holds a certificate, license, or permit issued under the laws of any state or territory of the United States or the District of Columbia or any authority outside the United States upon a showing that the applicant:

(1) holds a valid certified public accountant license from a substantially equivalent jurisdiction and may lawfully practice in the jurisdiction in which he is licensed;

(2) submits to the board a substantial equivalency evaluation report from the NASBA National Qualification Appraisal Service verification that his CPA qualifications are substantially equivalent to the CPA licensure requirements of the AICPA and NASBA Uniform Accountancy Act; or

(3) submits to the board evidence that he has passed the CPA Examination and, within the ten years prior to applying, has acquired four years of experience of the type described in Section 40-2-35(G) after passing the examination upon which the applicant's certificate, license, or permit was issued.

(B) To apply for a license pursuant to this section an applicant must:

(1) identify all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy or in which any applications have been denied;

(2) demonstrate the completion of eighty hours of qualified continuing professional education within the last two years; and

(3) file an application with the board together with the application fee prescribed by the board.

(C) Each person issued a license pursuant to this section shall notify the board in writing within thirty days after any issuance, denial, revocation, or suspension of a designation or commencement of a disciplinary or enforcement action against the licensee by any jurisdiction.

Section 40-2-245. (A) An individual whose principal place of business is outside this State is presumed to have qualifications substantially equivalent to this state's requirements and may exercise all the privileges of licensees of this State without the need to obtain a license under Section 40-2-35 if the individual holds a valid license as a certified public accountant from a substantially equivalent jurisdiction as set out in Section 40-2-20(33) and can lawfully practice in the jurisdiction where privileges have been granted.

(B) Notwithstanding any other provision of law, an individual who offers or renders professional services, whether in person or by mail, telephone, or electronic means pursuant to this section is granted practice privileges in this State subject to the requirements of subsection (C). No notice, fee, or other submission may be required of the individual.

(C) An individual licensee or holder of a permit to practice in another state exercising the privilege afforded under this section and the firm that employs that licensee simultaneously consents, as a condition of exercising this privilege:

(1) to the personal and subject matter jurisdiction and disciplinary authority of the board;

(2) to comply with the provisions of this section and the regulations promulgated pursuant to this section;

(3) that in the event the license or permit to practice from the state of the individual's principal place of business is no longer valid, to cease offering or rendering professional services in this State individually and on behalf of a firm; and

(4) to have an administrative notice of hearing served on the board in the individual's principal state of business in any action or proceeding by this board against the licensee.

(D) A licensee of this State offering or rendering services or using his or her CPA title in another state is subject to disciplinary action in this State for an act committed in another state for which the licensee would be subject to discipline for an act committed in the other state. The board shall investigate any complaint made by the board of accountancy of another state.

Section 40-2-250. (A) A licensee desiring to renew his license shall file an application for renewal on or before the renewal due date of the following year.

(B) The application for renewal of a license must include:

(1) current information concerning practice status;

(2) an accounting professional education report in a form acceptable to the board and subject to audit at the discretion of the board;

(3) an acknowledgment of the licensee's responsibility to substantiate and maintain records to support his continuing professional education report; and

(4) a renewal fee, if any.

(C) A licensee shall document forty hours of continuing professional education that is acceptable to the board, completed during the immediately preceding calendar year.

(1) Hour limitations in specific topics or subjects may be determined by the board.

(2) The board may by regulation provide for the carryover of excess hours of continuing professional education, and such carryover may be applied as if completed during the immediately preceding calendar year.

(3) A licensee is not required to report continuing professional education for the year in which the initial license was obtained.

(4) No carryover is allowed from a year in which continuing professional education was not required.

(5) The board may review, approve, and test any content or delivery type of continuing professional education.

(6) An annual ethics requirement must be met and included in the documented hours of continuing professional education. No less than two hours of the annual forty hours of continuing professional education must relate to ethics.

(D) All licensees who have not filed an application for renewal by the renewal date must be given notice, prior to the renewal lapse date, that an application for renewal has not been received.

(E) If a licensee does not file an application for renewal on or before the renewal due date, then the license is considered late. If a licensee does not file an application for renewal on or before the renewal lapse date, then the license is considered lapsed. Continued practice with a lapsed license may be sanctioned as the unlicensed practice of accounting.

(F) Renewal applications filed or completed after the renewal lapse date are subject to a reinstatement fee in the amount of five hundred dollars.

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

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

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

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

Section 40-2-255. (A) A registrant shall file an application for renewal of the calendar-year registration on or before the renewal date of the following year.

(B) The application for renewal of a registration shall include:

(1) current information concerning ownership;

(2) current information concerning the identity of the licensee in charge of the office;

(3) renewal fee, if any.

(C) As a condition of renewal of registration, an applicant who engages in attest or compilation services, or both, must provide evidence of satisfactory completion of peer review no more frequently than once every three years. Peer review must be conducted in a manner as the board specifies by regulation. This review must include a verification that individuals in the firm, who are responsible for supervising attest or compilation services, or both, and who sign or authorize someone to sign the accountant's report on the financial statements on behalf of the firm, meet the competency requirements set out in the professional standards for these services and these regulations must:

(1) require an applicant to show that the applicant has, within the preceding three years, undergone a peer review that is a satisfactory equivalent to peer review as generally required pursuant to this subsection;

(2) require peer reviews to be subject to oversight by a body established or sanctioned by the board, which shall periodically report to the board on program review effectiveness under its charge and provide to the board a listing of firms that have participated in a peer review program;

(3) require peer reviews to be conducted and that work and documents be maintained in a manner designed to preserve

confidentiality of documents furnished or generated in the course of the review.

(D) All licensees who have not filed an application for renewal by the renewal due date shall be given notification, prior to the renewal lapse date, that an application for renewal has not been received.

(E) If a registrant does not file an application for renewal on or before the renewal due date, then the registration is considered late. If a registrant does not file an application for renewal on or before the renewal lapse date, then the registration is considered lapsed. Continued practice with a lapsed registration may be sanctioned as the unlicensed practice of accounting.

(F) Renewal applications filed or completed after the renewal lapse date are subject to a reinstatement fee in the amount of five hundred dollars.

Section 40-2-270. (A) A licensee who is retired and does not perform or offer to perform for compensation one or more kinds of services involving the use of accounting or auditing skills, including issuance of reports on financial statements or of one or more kinds of management advisory, financial advisory, or consulting services or the preparation of tax returns or the furnishing of advice on tax matters, may apply to the board for permission to place the word 'Emeritus' adjacent to the licensee's 'Certified Public Accountant' title or 'Public Accountant' title on any document or device on which the 'Certified Public Accountant' or 'Public Accountant' title appears.

(B) A license in 'Emeritus' status must be renewed annually with no fee required. A license in 'Emeritus' status may be reinstated as an active license, subject to fulfilling the requirements for the reinstatement of a lapsed license under Section 40-2-250.

Section 40-2-275. (A) A licensee may apply to the board for permission to place the word 'Retired' adjacent to his 'Certified Public Accountant' title on any document or device on which the 'Certified Public Accountant' title appears if he has:

(1) attained at least thirty years of combined experience as a licensee in this State or in a substantially equivalent state;

(2) reached at least fifty-five years of age during a prior license year;

(3) works no more than an average of twenty hours per week; and

(4) does not offer attest services pursuant to Section 40-2-20(2) or compilation services pursuant to Section 40-2-20(6).

(B) A licensee with 'Retired' status pursuant to subsection (A) may meet the continuing professional education requirement for renewal in Section 40-2-250(C) by documenting the completion of one-half the required hours during the immediately preceding calendar year, provided that he includes no more than one-half of the required hours with the carryover of excess hours provided through board regulation.

(C) All other requirements for the renewal of a license with 'Retired' status remain the same as in Section 40-2-250.

(D) Nothing in this section is intended to prevent a licensee with 'Retired' status from providing prepared financial statements or income tax returns.

Section 40-2-330. If a provision of this chapter or the application of a provision of this chapter to a person or entity or in any circumstances is held invalid, the remainder of the chapter and the application of the provision to others or in other circumstances must not be affected thereby.

Section 40-2-335. (A) Licensed certified public accountants/public accountants performing or supervising the performance of attest or compilation services must provide those services in accordance with professional standards.

(B) A person holding a license or firm holding a registration under this chapter must not use a professional or firm name or designation that is misleading.

(1) A common brand name, including common initials, used by a CPA firm in its name is not misleading if the firm is a network firm as defined in the AICPA Code of Professional Conduct and, when offering or rendering services that require independence under AICPA standards, the firm complies with the AICPA Code of Professional Conduct's applicable standards on independence.

(2) A misleading CPA firm name is one that:

(a) contains any representation that would be likely to cause a reasonable person to misunderstand or be confused about the legal form of the firm, or about who the owners or members of the firm are, such as a reference to a type of organization or an abbreviation thereof that does not accurately reflect the form under which the firm is organized including, but not limited to, a name that:

(i) implies the existence of a corporation when the firm is not incorporated or is not a professional corporation, such as through the use of the words 'corporation', 'incorporated', 'Ltd.', or 'professional corporation', or an abbreviation thereof as part of the firm name;

(ii) implies the existence of a partnership when there is not a partnership, such as by use of the term 'partnership' or 'limited liability partnership' or the abbreviation 'LLP';

(iii) includes the name of an individual who is not a CPA if the title 'CPAs' is included in the firm name;

(iv) includes information about or indicates an association with persons who are not members of the firm, except as permitted in item (1). Notwithstanding the prohibition in this subitem, the names of one or more former partners, members, managers, or shareholders who are no longer in public practice may be included in the name of the firm or its successor; or

(v) includes the terms '& Company', '& Associate', or 'Group' when the firm does not include, in addition to the named partner, shareholder, owner, or member, at least one other unnamed partner, shareholder, owner, member, or staff employee;

(b) contains any representation that would be likely to cause a reasonable person to have a false or unjustified expectation of favorable results or capabilities, through the use of a false or unjustified statement of fact as to any material matter;

(c) claims or implies the ability to influence a regulatory body or official; or

(d) includes the name of an owner whose license has been revoked for disciplinary reasons by the board, whereby the licensee has been prohibited from practicing public accountancy, using the title CPA, or holding himself out as a certified public accountant.

Article 3

Regulation of Accounting Practitioners

Section 40-2-510. A person, firm, or professional association not exempt under Section 40-2-530 is considered to be engaged in the practice of offering to render and rendering to the public the services which are regulated by this article if the person, firm, or professional association:

(1) offers to prospective clients in South Carolina to perform for compensation one or more of these services:

(a) the development, recording, analysis, or presentation of financial information including, but not limited to, the preparation of financial statements; or

(b) advice or assistance in regard to accounting controls, systems, and procedures; and

(2) in any manner holds himself or itself out to the public in South Carolina as skilled in one or more of the types of services described in item (1).

Section 40-2-520. (A) No professional association, person, partnership, or other legal entity, other than a person, partnership, or other legal entity holding a permit to practice issued pursuant to this article, may engage in the practice defined in Section 40-2-510 unless he or it plainly indicates on all signs, cards, letterheads, advertisements, and directories used to disclose his or its practice or business that he or it does not hold a license to practice under this article.

(B) No professional association, person, partnership, or other legal entity, other than a person, partnership, or other legal entity holding a permit to practice issued pursuant to this article, may assume or use the title or designation 'Accounting Practitioner' or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is an accounting practitioner or that the partnership is composed of accounting practitioners or that the person, partnership, professional association, or other legal entity is authorized under this article to engage in the practice defined under Section 40-2-510.

Section 40-2-530. Nothing contained in this article:

(1) applies to a certified public accountant or public accountant who holds a license to practice issued under the law of South Carolina and no provision of this article applies to a partnership of certified public accountants or public accountants which holds a permit to practice issued under South Carolina authority;

(2) applies to a person, firm, or professional association which plainly indicates on all signs, cards, letterheads, advertisements, and directories used to disclose his or its practice or business that he or it does not hold a license to practice under this article;

(3) prohibits a person from serving as an employee of a person, partnership, or professional association if the employee does not engage in the practice defined in Section 40-2-510 on his own account;

(4) prohibits a person, partnership, or professional association from offering to prepare or from preparing a tax return with respect to taxes imposed by a governmental authority, whether federal, state, or local, and this article does not prevent a person from advising clients in connection with tax matters;

(5) prohibits a person, partnership, or professional association holding a license or permit issued by another state, territory, or the

District of Columbia, which authorizes the person, partnership, or professional association to engage in the other jurisdiction in the type of practice described in Section 40-2-510, from temporarily practicing in this State as an incident to his or its regular practice outside of this State if the temporary practice is conducted in conformity with the rules of ethical conduct promulgated by the board;

(6) applies to the affixing of the signature or name of an officer, employee, partner, or principal of an organization to a statement or report in reference to the financial affairs of the organization with wording designating the position, title, or office which he holds in the organization, and the provisions of this article do not apply to an act of a public official or public employee in the performance of his duties;

(7) applies to the offering or rendering of data processing services by mechanical or electronic means or to the offering or rendering of services in connection with the operation, sale, lease, rental, or installation of mechanical or electronic bookkeeping or data processing equipment or to the sale, lease, rental, or installation of this equipment.

Section 40-2-540. The South Carolina Board of Accountancy shall examine, license, and discipline accounting practitioners. The board may charge a reasonable fee for examinations, not exceeding the fee charged for certified public accountants' examinations.

Section 40-2-550. In order to be eligible for licensing under this article as an accounting practitioner, an applicant may not hold another license granted under this chapter and must:

(1) not have any history of dishonest or felonious acts;

(2) be a resident of this State or have a place of business in this State, or as an employee, be regularly employed in this State;

(3) be at least eighteen years of age; and

(4) meet these requirements:

(a) pass an examination approved by the board, which is designed to test the applicant's basic knowledge of the subjects described in Section 40-2-510(1) and which may consist of parts of the examination administered to certified public accountant applicants or another examination as the board may prescribe; and

(b)(i) have a bachelor's degree with a major in accounting from a college or university holding an accreditation from an accreditation body approved by the United States Department of Education; or

(ii) have transcripts or a degree determined by the board to be substantially equivalent to the foregoing standards.

(5) surrenders, if licensed and holds a current annual permit to practice in this State as a certified public accountant or public accountant, his license and permit to practice as a certified public accountant or public accountant upon being licensed as an accounting practitioner.

Section 40-2-560. (A) Licenses must be issued by the board to persons satisfying the requirements of Section 40-2-550 upon the payment of a license fee in an amount to be determined by the board.

(B) A licensee must file an application for renewal in accordance with Section 40-2-250.

(C) A partnership, firm, or registrant must file an application in accordance with Section 40-2-40 and Section 40-2-255.

(D) Legal entities, without payment of a permit fee, must meet the following standards:

(1) at least one owner must be an accounting practitioner of this State in good standing;

(2) each partner must be lawfully engaged in the practice, as defined in Section 40-2-520, in a state of the United States; and

(3) each resident manager in charge of an office must be an accounting practitioner of this State in good standing.

Section 40-2-570. (A) After notice and hearing pursuant to Section 40-2-210, the board may revoke a license or permit as accounting practitioner issued under this article; suspend a license or permit for a period of not more than five years; reprimand, censure, or limit the scope of practice of a license or permit holder; impose an administrative fine not exceeding ten thousand dollars; or place a license or permit holder on probation, all with or without terms, conditions, and limitation for any one or more of these reasons:

(1) fraud or deceit in obtaining a license or permit;

(2) cancellation, revocation, or suspension of, or refusal to renew authority to engage in the practice of public accountancy in another state, territory of the United States, or the District of Columbia for any cause;

(3) revocation or suspension of the right to practice before a state or federal agency;

(4) dishonesty, fraud, or gross negligence in the practice of public accounting or in filing or failure to file the license or permit holder's own income tax return;

(5) violation of a provision of this article or Article 1 or a regulation promulgated by the board under the authority granted by this chapter;

(6) violation of a rule of professional conduct promulgated by the board under the authority granted by this chapter;

(7) conviction of a felony or any crime, an element of which is dishonesty or fraud, under the laws of the United States, of this State, or another state if the acts involved would have constituted a crime under the laws of this State. The record of conviction or a copy of the record, certified by the clerk of court or the judge in whose court the conviction is had, is conclusive evidence of the conviction and 'conviction' shall include a plea of guilty or a plea of nolo contendere;

(8) performance of a fraudulent act while holding a license or permit under this article; or

(9) conduct reflecting adversely upon the license or permit holder's fitness to engage in the practice of public accountancy.

(B)(1) In lieu of or in addition to a remedy specifically provided in subsection (A), the board may require one or more of these requirements of a license or permit holder:

(a) a quality review conducted in a fashion as the board may require; or

(b) satisfactory completion of continuing professional education programs as the board may specify.

(2) A 'quality review' means a study, appraisal, or review of one or more aspects of the professional work of a person or firm in the practice of public accountancy by a person or persons who hold certificates or licenses and who are not affiliated with the person or firm being reviewed.

(C) In a proceeding in which a remedy imposed by subsections (A) and (B) is imposed, the board also may require the respondent license or permit holder to pay the costs of the proceeding.

Section 40-2-580. The board may initiate proceedings under this article on its own motion or on the complaint of a person, and the procedures provided in Article 1 for these proceedings are applicable and binding in procedures under this article.

Section 40-2-590. A person who violates a provision of this article is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty dollars or more than two hundred dollars or imprisoned not less than twenty days or more than sixty days. Each violation constitutes a separate offense and each day's violation constitutes a separate offense.

Section 40-2-600. Nothing contained in this article may be construed to prohibit the formation of legal entities by and between certified public

accountants, public accountants, and accounting practitioners if all members or shareholders of the legal entities and all resident managers of offices of the legal entities are licensed under this chapter as certified public accountants or public accountants or are properly licensed under Article 3 of this chapter as accounting practitioners and if the partnerships apply for an annual permit in the manner prescribed in this article for other partnerships. The composition of the ownership of a legal entity will determine whether the entity is subject to the additional restrictions imposed by Article 1 of this chapter.

Section 40-2-610. An accounting practitioner or firm of accounting practitioners is permitted to associate his or the firm's name with compiled financial statements as defined by SSARS, provided that a disclaimer is used that complies with the most recent version of SSARS and that a statement in the report provides:

'I / we have not audited or reviewed the accompanying financial statements, and I am / we are prohibited by law from expressing an opinion on them'."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 175

(R176, S888)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40-11-40 SO AS TO PROVIDE APPLICANTS FOR CONTRACTORS LICENSES VOLUNTARILY MAY MAKE CONTRIBUTIONS TO BE APPLIED TO ACCREDITED PUBLIC INSTITUTIONS OF HIGHER LEARNING OFFERING DEGREES IN CONSTRUCTION SCIENCE, BUILDING SCIENCE, OR CIVIL ENGINEERING, TO PROVIDE FOR THE MANAGEMENT AND DISTRIBUTION OF THESE CONTRIBUTIONS, AND TO

IMPOSE CERTAIN RELATED REPORTING REQUIREMENTS ON INSTITUTIONS RECEIVING FUNDS FROM THESE CONTRIBUTIONS AND THE STATE COMMISSION ON HIGHER EDUCATION.

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

Voluntary contributions with licensee applications, uses, reporting requirements

SECTION 1. Chapter 11, Title 40 of the 1976 Code is amended by adding:

"Section 40-11-40. (A)(1) An applicant for a new, reinstatement, or renewal contractor's license must be given an opportunity in writing to make a voluntary contribution to be distributed to an accredited public institution of higher learning offering degrees in construction science, building science, or civil engineering. The applicant may designate a specific accredited institution to receive the contribution. Undesignated contributions shall be distributed to accredited institutions in a pro rata manner based on the number of full-time equivalent students enrolled in each program at each institution. Any voluntary contribution must be added to the contractor's license fee and must be transferred to the State Treasurer and credited to the appropriate institution.

(2) By June first of each year, the State Commission on Higher Education shall provide to the department a list of accredited public institutions of higher learning offering degrees in construction science, building science, or civil engineering, and include in the annual report the number of students enrolled in each of these programs for the prior academic year.

(B)(1) Each institution receiving funds pursuant to this section shall utilize the funds to provide or enhance programs related to building science or civil engineering, which shall include, but is not limited to, scholarships, fellowships, research, faculty development, and continuing education programs.

(2) Each institution receiving funds pursuant to this section shall provide an annual report to the department by January thirty-first disclosing the amount of funds received during the prior fiscal year and an accounting of how the funds were utilized.

(C) The department shall retain five percent of the amount to be distributed for administrative expenses associated with the collection and distribution of funds."

Time effective

SECTION 2. This act takes effect sixty days after approval by the Governor.

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 176

(R179, S946)

AN ACT TO AMEND SECTION 59-5-63, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DUTY-FREE LUNCH PERIODS FOR PUBLIC ELEMENTARY SCHOOL TEACHERS, SO AS TO INSTEAD PROVIDE AT LEAST THIRTY MINUTES OF UNENCUMBERED TIME ON EACH REGULAR SCHOOL DAY FOR ALL FULL-TIME PUBLIC ELEMENTARY SCHOOL TEACHERS AND FOR TEACHERS RESPONSIBLE FOR INSTRUCTING SPECIAL EDUCATION CLASSES FOR MORE THAN TWENTY PERCENT OF THE SCHOOL DAY WITH STUDENTS REMOVED FROM THE GENERAL EDUCATION SETTING, TO PROVIDE DETAILS FOR RELATED POLICIES, TO PROVIDE IMPLEMENTATION REQUIREMENTS OF LOCAL SCHOOL BOARDS, AND TO PROVIDE THE PROVISIONS OF THIS ACT MUST BE COMPLETELY IMPLEMENTED BEFORE JULY 1, 2023.

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

Unencumbered time requirement, policies, school district adoptions

SECTION 1. Section 59-5-63 of the 1976 Code is amended to read:

"Section 59-5-63. (A)(1) The State Board of Education shall adopt and periodically revise as necessary a statewide policy that each local school board shall use to develop and implement a plan that directs the principal of each elementary school to provide at least thirty minutes of unencumbered time on each regular school day to all full-time teachers

teaching in a grade between kindergarten through fifth grade. The policy also shall direct a principal of any elementary, middle, or high school to provide at least thirty minutes of unencumbered time on each regular school day to any teacher who is responsible for instructing a special education class for more than twenty percent of the school day with students who are removed from the general education setting.

(2) The statewide policy also must provide:

(a) the process that a local school board shall follow in developing an unencumbered time policy including, but not limited to, policy application, manner of application, and times of application;

(b) unencumbered time is defined as at least thirty minutes without any assigned duties or responsibilities;

(c) that unencumbered time may not be withheld or reduced unless it is reasonable and necessary due to extreme and unavoidable circumstances to ensure the safety and welfare of students and staff;

(d) that additional compensation may not be offered in place of unencumbered time, except as provided by Section 59-5-63(A)(2)(b) and as prescribed in the policy;

(e) penalties if a principal fails to comply with the local unencumbered time policy; and

(f) penalties if a local school board fails to comply with this section.

(B) The local school board shall adopt an unencumbered time policy at a regularly scheduled meeting within three months after the adoption of the statewide policy by the State Board of Education. The policy of a local school board must include, at a minimum, the policy of the State Board of Education but also may include additional provisions. If the State Board of Education revises the statewide policy, the local school board shall incorporate and adopt the revisions into the local unencumbered time policy at a regularly scheduled meeting within three months.

(C) The local school board shall submit its unencumbered time policy and any subsequent revisions to the Department of Education within thirty days of adoption."

Implementation deadline

SECTION 2. The provisions of this act must be completely implemented before July 1, 2023.

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 177

(R181, S969)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-1-325 SO AS TO PROVIDE EVERY PUBLIC SCHOOL SHALL DISPLAY DEPICTIONS OF THE RESPECTIVE FLAGS AND MOTTOS OF THE UNITED STATES AND SOUTH CAROLINA BEFORE JANUARY 1, 2023, TO PROVIDE RELATED REQUIREMENTS OF THE STATE BOARD OF EDUCATION AND PUBLIC SCHOOLS, AND TO MAKE THESE PROVISIONS APPLICABLE TO PRIVATE SCHOOLS THAT RECEIVE ANY PUBLIC FUNDING; BY ADDING SECTION 59-1-465 SO AS TO PROVIDE PUBLIC SCHOOL PRINCIPALS SHALL ALLOW YOUTH PATRIOTIC SOCIETY REPRESENTATIVES TO ADDRESS STUDENTS ON CERTAIN TOPICS DURING PATRIOT DAY, CONSTITUTION DAY, OR PATRIOTISM WEEK EVENTS, TO PROVIDE RELATED IMPLEMENTATION PROVISIONS, AND TO DEFINE RELATED TERMS; AND TO AMEND SECTION 53-3-150, RELATING TO PATRIOTISM WEEK OBSERVATIONS, SO AS TO MAKE SUCH OBSERVATIONS MANDATORY IN PUBLIC SCHOOL DISTRICTS AND TO INCLUDE MANDATORY OBSERVATIONS FOR PATRIOT DAY AND CONSTITUTION DAY, AMONG OTHER THINGS.

Whereas, July 30, 2016, marked the 60th anniversary of “In God We Trust” as the official motto of the United States; and

Whereas, in 2011, by resolution of the United States House of Representatives, with the concurrence of the United States Senate, the

United States Congress reaffirmed "In God We Trust" as the official motto of the United States and supported and encouraged the public display of the national motto in all public buildings, public schools, and other governmental institutions; and

Whereas, "In God We Trust" appears over the south entrance to the United States Senate Chamber and above the Speaker's rostrum in the Chamber of the United States House of Representatives; and

Whereas, the motto has been an integral part of the society of the United States since its founding and first appeared on U.S. coins in 1864; and

Whereas, "*Dum spiro spero*", which translates to "While I breathe, I hope" is perhaps the most well known of South Carolina's two mottos and appears on the State Seal that was adopted in 1776; and

Whereas, reflecting the character and beliefs of the citizens of South Carolina, "*Dum spiro spero*" illustrates the inherent spirit of South Carolinians to overcome obstacles and face each day with the courage and determination to do what is just in the face of adversity; and

Whereas, "*Animis opibusque parati*", which translates to "Prepared in Mind and Resources", is the other South Carolina state motto. It is especially fitting that this motto appear in state schools, as it reflects the central aim of South Carolina's education system. Now, therefore,

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

Patriotic depictions in schools

SECTION 1. Article 5, Chapter 1, Title 59 of the 1976 Code is amended by adding:

"Section 59-1-325. (A) No later than January 1, 2023, every public school, to include state agency schools and charter schools, shall display the following depictions in a prominent place:

(1) the official motto of the United States, 'In God We Trust';

(2) the official mottos of South Carolina, '*Dum spiro spero*' and '*Animis opibusque parati*', and their respective translations;

(3) an accurate representation of the United States flag; and

(4) an accurate representation of the South Carolina state flag.

The State Board of Education shall promulgate regulations specifying how the depictions shall be displayed.

(B) The head of each public school shall ensure that the depictions required in subsection (A) are displayed in the manner adopted by the State Board of Education and as directed by the State Superintendent of Education. Nothing in this section shall prohibit the solicitation or acceptance of funds donated to achieve its purpose.

(C) The provisions of this section also apply to any private school that receives any public funding."

Youth patriotic societies, public school event addresses

SECTION 2. Article 5, Chapter 1, Title 59 of the 1976 Code is amended by adding:

"Section 59-1-465. (A) As used in this section:

(1) 'Youth patriotic society' means a youth membership organization with an educational purpose aligned with state standards located in South Carolina and listed herein, intended to promote patriotism and kindred virtues among elementary, middle, and high school students:

(a) Big Brothers - Big Sisters of America;
(b) Boy Scouts of America;
(c) Boys and Girls Clubs of America;
(d) Future Farmers of America;
(e) Girl Scouts of the United States of America.

(2) 'Patriot Day' means the eleventh day of September as provided in Section 53-3-160.

(3) 'Constitution Day' means the seventeenth day of September, as designated by the United States Congress in 2005.

(4) 'Patriotism Week' means the annual Patriotism Week observation in the week that includes the eleventh day of November provided in Section 53-3-150.

(B) The principal of each elementary school, middle school, and high school shall allow representatives of youth patriotic societies, providing notice to the principal and approved pursuant to subsection (C), the opportunity to speak with students during the week of Patriot Day, the week of Constitution Day, or Patriotism Week events to inform the students of how their involvement in the youth patriotic society may further the student's educational interest and civic involvement to improve their schools, communities, and themselves. A youth patriotic society allowed to speak with students pursuant to this section may speak

during the school day to students for at least ten minutes. A school may observe Constitution Day and Patriot Day during a single event and is not required to:

(1) allocate more than thirty minutes during any one of the above-referenced weeks for use by youth patriotic societies under the provisions of this section annually, allocated equally among the requesting youth patriotic societies: or

(2) allow a youth patriotic society to speak pursuant to this section more than once each school year.

(C) A youth patriotic society shall provide thirty days written or verbal notice to the principal of the society's intent to address students pursuant to subsection (B). The principal shall provide verbal or written approval indicating the specific date and time for the society to address the students and the location where the address may occur. Only if no patriotic youth societies request the opportunity to address students during any of the above-referenced weeks shall a school be considered to have fulfilled the requirements of this section if it incorporates the curricula pursuant to Section 53-3-150(B)(2) into lesson plans for all students during the applicable week."

Patriot Day, Constitution Day, and Patriotism Week observations

SECTION 3. Section 53-3-150(B) of the 1976 Code is amended to read:

"(B) The State Superintendent of Education shall require school districts to:

(1) observe 'Patriot Day', 'Constitution Day', and 'Patriotism Week' by holding appropriate ceremonies, events, and assemblies on school grounds, including time allotted for youth patriotic society addresses to students as provided in Section 59-1-465; and

(2) develop appropriate curricula that focus on the purposes of 'Patriot Day', 'Constitution Day', and 'Patriotism Week'."

Time effective

SECTION 4 The provisions of this act take effect July 1, 2023.

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 178

(R182, S980)

AN ACT TO AMEND SECTION 50-5-2730, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE APPLICABILITY OF FEDERAL FISHING REGULATIONS IN THIS STATE, SO AS TO DESIGNATE CATCH LIMITS AND MINIMUM SIZES FOR RED SNAPPER.

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

Federal fishing regulations declared to be law of this State, exceptions

SECTION 1. Section 50-5-2730 of the 1976 Code, as last amended by Act 15 of 2021, is further amended to read:

"(A) Unless otherwise provided by law, any regulations promulgated by the federal government under the Fishery Conservation and Management Act (PL 94-265) or the Atlantic Tuna Conservation Act (PL 94-70) which establishes seasons, fishing periods, gear restrictions, sales restrictions, or bag, catch, size, or possession limits on fish are declared to be the law of this State and apply statewide including in state waters.

(B) This provision does not apply to:

(1) black sea bass (Centropristis striata) whose lawful catch limit is five fish per person per day or the same as the federal limit for black sea bass, whichever is higher. The lawful minimum size for black sea bass is thirteen inches total length and there is no closed season; or

(2) red snapper (Lutjanus campechanus) whose lawful catch limit is two fish per person per day. The lawful minimum size for red snapper is twenty inches total length and there is no closed season."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 179

(R183, S1059)

AN ACT TO AMEND SECTION 40-33-43, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE AUTHORIZED PROVISION OF MEDICATIONS BY UNLICENSED PERSONS IN CERTAIN FACILITIES, SO AS TO EXTEND THIS AUTHORIZATION TO INTERMEDIATE CARE FACILITIES FOR PERSONS WITH INTELLECTUAL DISABILITY AND NURSING HOMES, AND TO PROVIDE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES SHALL CREATE A RELATED MEDICAL TECHNICIAN CERTIFICATION PROGRAM AND MEDICATION TECHNICIAN REGISTRY.

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

Facilities added, Medication Technician Certification Program and Registry created

SECTION 1. Section 40-33-43 of the 1976 Code, as last amended by Act 19 of 2021, is further amended to read:

"Section 40-33-43. In intermediate care facilities for persons with intellectual disability as defined in Article 3, Chapter 7, Title 44, community residential care facilities as defined in Article 3, Chapter 7, Title 44, nursing homes as defined in Article 3, Chapter 7, Title 44, and correctional facilities, the provision of medications may be performed by selected unlicensed persons with documented medication training and skill competency evaluation. For nursing homes only, the Department of Health and Human Services shall develop a Medication Technician

Certification Program. The department shall develop program standards to include, but not be limited to, curriculum, training and competence, and testing certification requirements. The department shall create and maintain a Medication Technician Registry. The provision of medications by selected unlicensed persons is limited to oral and topical medications, and regularly scheduled insulin, and prescribed anaphylactic treatments under established medical protocol and does not include sliding scale insulin or other injectable medications. Licensed nurses may train and supervise selected unlicensed persons to provide medications and, after reviewing their competency evaluations, may approve selected unlicensed persons for the provision of medications."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 180

(R185, S1103)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-3-35 SO AS TO PROVIDE THE STATE DEPARTMENT OF EDUCATION SHALL PROVIDE CERTAIN FINGERPRINT AND DNA IDENTIFICATION KITS TO ALL PUBLIC SCHOOL DISTRICTS AND OPEN-ENROLLMENT CHARTER SCHOOLS, TO PROVIDE FOR THE DISTRIBUTION OF THE KITS AT THE REQUEST OF THE PARENT OR LEGAL CUSTODIAN OF ANY STUDENT OF SUCH SCHOOLS IN KINDERGARTEN THROUGH HIGH SCHOOL, TO PROVIDE FOR THE USE OF SUCH KITS BY PARENTS TO ASSIST LAW ENFORCEMENT IN LOCATING AND RETURNING MISSING OR TRAFFICKED CHILDREN, AND TO PROVIDE THE DEPARTMENT SHALL NOT EXPEND FUNDS TO PROCURE THE KITS UNLESS EXPRESSLY APPROPRIATED BY THE GENERAL ASSEMBLY.

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

Provision, distribution, and use of kits, funding contingency

SECTION 1. Chapter 3, Title 59 of the 1976 Code is amended by adding:

"Section 59-3-35. (A) The Department of Education shall provide to all school districts and open-enrollment charter schools inkless, in-home fingerprint and DNA identification kits to be distributed throughout the district or school on request to the parent or legal custodian of any kindergarten, elementary, middle, or high school student.

(B) A parent or legal custodian who receives a fingerprint and DNA identification kit may submit the kit to federal, state, tribal, or local law enforcement to help locate and return a missing or trafficked child.

(C) Unless expressly appropriated by the General Assembly in order to meet the provisions of this act, the department shall not expend funds to procure kits."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 181

(R186, S1117)

AN ACT TO AMEND ARTICLE 2 OF CHAPTER 41, TITLE 46, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA GRAIN PRODUCERS GUARANTY FUND, SO AS TO EXPAND THE FUND TO INCLUDE COTTON PRODUCERS, TO DEFINE THE TERMS "AGRICULTURAL COMMODITY" AND "AGRICULTURAL COMMODITY DEALER", TO REVISE THE DEFINITION OF THE TERM "FAIR MARKET VALUE" TO INCLUDE VALUE BASED ON

THE AVERAGE MARKET PRICE PAID TO PRODUCERS LICENSED BY THREE LICENSED COTTON DEALERS UNDER CERTAIN CIRCUMSTANCES, TO DELETE THE TERM "GRAIN DEALER" AND ITS DEFINITION, TO REVISE THE DEFINITION OF THE TERM "PRODUCER" TO INCLUDE PRODUCERS OF COTTON, TO SUBSTITUTE THE TERM "COMMODITY" FOR THE TERM "GRAIN" IN THE DEFINITION OF THE TERM "DATE OF LOSS", TO PROVIDE AN ASSESSMENT AMOUNT FOR A BALE OF COTTON, TO REVISE THE PROVISION RELATING TO WHOM DELIVERY MUST BE MADE FOR THE IMPOSITION OF ASSESSMENTS, TO REVISE THE PLACES WHERE THE ASSESSMENTS SHALL BE COLLECTED, TO REVISE WHERE ASSESSMENTS MUST BE REPORTED AND REMITTED TO THE DEPARTMENT OF AGRICULTURE, TO SUBSTITUTE THE TERM "AGRICULTURAL COMMODITY" FOR THE TERM "GRAIN", TO REVISE THE PERSONS FOR WHOM THE FUND IS ESTABLISHED TO BENEFIT, TO INCREASE THE AMOUNT THE FUND MUST ACCUMULATE IN ORDER TO SUSPEND ASSESSMENTS, TO REVISE THE PROCEDURE TO FILE AND SATISFY CLAIMS FOR LOSSES INCURRED FOR CERTAIN COMMODITIES, TO REVISE THE DATES WHEN ASSESSMENTS MUST BE REMITTED TO AND CERTAIN REPORTS FILED WITH THE DEPARTMENT, TO ESTABLISH THE SOUTH CAROLINA AGRICULTURAL COMMODITIES COMMISSION ADVISORY COMMISSION TO MAKE RECOMMENDATIONS TO THE DEPARTMENT REGARDING THE DUTIES OF THE DEPARTMENT IN ADMINISTERING THE GRAIN AND COTTON PRODUCERS GUARANTY FUND, AND TO PROVIDE FOR ITS MEMBERSHIP, POWERS, AND DUTIES; TO AMEND SECTION 46-41-60, RELATING TO SURETY BONDS OR EQUIVALENT SECURITY REQUIRED OF APPLICANTS FOR DEALER IN AGRICULTURAL PRODUCTS LICENSES, SO AS TO PROVIDE FOR SURETY BONDS OR THEIR EQUIVALENTS BASED ON A TIERED SYSTEM; AND TO AMEND SECTION 46-41-170, RELATING TO PENALTIES, SO AS TO MAKE CONFORMING CHANGES, TO PROVIDE THE INSURANCE RESERVE FUND OF THE STATE FISCAL ACCOUNTABILITY AUTHORITY IS AUTHORIZED TO LEND CERTAIN AMOUNTS OF MONEY TO THE DEPARTMENT FOR THE USE OF THE GRAIN AND COTTON PRODUCERS GUARANTY FUND FOR CERTAIN

PURPOSES, TO PROVIDE FOR THE REPAYMENT OF THE LOAN, AND TO PROVIDE FOR THE USE OF FUNDS NOT DERIVED FROM ASSESSMENTS TO REIMBURSE CLAIMS OR LOSSES.

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

South Carolina Grain and Cotton Producers Guaranty Fund

SECTION 1. Article 2, Chapter 41, Title 46 of the 1976 Code is amended to read:

"Article 2

South Carolina Grain and Cotton Producers Guaranty Fund

Section 46-41-200. There is created within the State Treasury a fund to be known as the 'South Carolina Grain and Cotton Producers Guaranty Fund' (fund).

Section 46-41-210. As used in this article:

(1) 'Agricultural commodity' or 'commodity' means cotton and all agricultural products commonly classed as grain, including corn, wheat, oats, soybeans, barley, and grain sorghum, produced within this State.

(2) 'Agricultural commodity dealer' or 'commodity dealer' means any person in this State engaged in buying, receiving, selling, exchanging, negotiating, processing for resale, or soliciting the sale, resale, exchange, or transfer of grain or cotton purchased from a producer or his agent or representative or received to be handled on a net return basis from the producer. An agricultural commodity dealer shall include cotton gins if the gin is engaged in the above-described activity.

(3) 'Department' means the South Carolina Department of Agriculture.

(4) 'Fair market value' means the value based on the average market price being paid to producers on a specified date by the three licensed grain or cotton dealers nearest the grain or cotton dealer involved in the loss.

(5) 'Grain' means any feed grains or oil seeds, except cotton seeds.

(6) 'Loss' means any monetary loss over and beyond the amount protected by the dealer's bond as a result of doing business with a dealer which includes, but is not limited to, bankruptcy, embezzlement, or fraud.

(7) 'Producer' means any producer of grain or cotton.

(8) 'Date of loss' means the date the commodity dealer filed a petition for bankruptcy; or, if bankruptcy is not declared, the date a check was returned for insufficient funds, or the date otherwise determined by the department.

Section 46-41-220. An assessment of one cent a bushel must be imposed on all soybeans, one-half cent a bushel on all other grain delivered by producers, and fifty cents per bale of cotton. The assessment for soybeans and grain shall be collected at the first point of sale. The assessment for cotton shall be collected at the time and place of ginning. The grain assessment must be reported and remitted to the department by the grain dealer as of the calendar quarter in which the grain was delivered to the grain dealer, except as provided by Section 46-41-240. The cotton assessment must be reported and remitted to the department by the cotton gin as of the calendar quarter in which the cotton was ginned, except as provided by Section 46-41-240. The department shall remit the assessment to the State Treasurer to be credited to the fund.

Section 46-41-230. (A) The State Treasurer shall administer the investment of the fund. The department shall administer the collection of assessments and investigate losses for which payment is requested. Unless the agricultural commodity dealer who allegedly occasioned the loss has filed for bankruptcy or is audited pursuant to other judicial proceedings, the department, in conjunction with the State Auditor's Office, shall conduct a financial audit of the agricultural commodity dealer to verify the loss before it may request payment from the fund. The fund must bear all expenses incurred in conducting the audit. After verification, the department shall request that payment for verified losses be made by the State Treasurer to the person incurring a loss. The fund must be established for the benefit of producers who suffer losses on agricultural commodities for which they have paid assessments on, except losses covered by the agricultural commodity dealer's surety bond. When the fund reaches twenty-five million dollars, the assessment ceases. If the twenty-five million dollars is attained prior to the end of a harvest season, the assessment continues until the end of that season. The assessment must be reinstituted as necessary to maintain a balance of twenty-five million dollars in the fund. The first one hundred thousand dollars collected in assessment must be paid into the general fund of the State. Any of these funds not appropriated for the employment of additional auditors for the Warehouse and Dealers and Handlers Division of the Department of Agriculture must be returned to the fund.

All income, interest, or otherwise, derived from this fund must be reinvested in the fund.

(B) When a loss is incurred for an agricultural commodity for which assessments have been paid within two years of the date of loss, the producer shall within ninety days present his claim, which must be under oath, to the department on a form supplied by the department. To verify his claim, the producer shall present any evidence of loss the department considers necessary. The price for each bushel or bale of the agricultural commodity must be established on the day of the loss and must be for the fair market value on that day at the location of loss. The price for each bushel or bale may not be higher than the contract price, if a price has been established. All persons filing claims under this section are bound by the value determined by the department.

(C) The department within thirty days from verification of loss shall request payment of one hundred percent of the approved claim. At no time may the fund be reduced to less than one hundred thousand dollars.

(D) If there is an insufficient amount of money in the fund to cover all claims, payments must be made on a pro rata basis up to one hundred percent of the total loss of each producer. Claims against the fund must be paid in the order in which they have been verified and approved.

(E) Upon approval of his claim by the department, the producer shall subrogate his interest, if any, to the department in a cause of action against any and all parties. An independent law firm may be hired and paid by the fund for the purpose of collecting losses subrogated to the department. Payments start when the fund exceeds one hundred thousand dollars.

Section 46-41-240. (A) The agricultural commodity dealer shall remit assessments and file with the department a report of the assessments on agricultural commodities that he received by the first day of January, April, July, and October following any calendar quarter in which the agricultural commodity dealer has received quantities of grain or cotton subject to assessments totaling fifty dollars or more. If the agricultural commodity dealer has received quantities of grain or cotton subject to assessments totaling less than fifty dollars in any calendar quarter, the assessments may be reported and remitted with the following calendar quarter's return. All assessments shall be remitted at least once every six months.

(B) In case any person subject to this section fails to make a report and remittance when required, the department shall determine the amount of the assessment according to its best judgment and information and that amount shall be prima facie correct. The person who failed to

make the report shall, within ten days after notice of the amount of the assessment is mailed to him, pay the assessment, together with a penalty of ten percent, or dispute the assessment and request a hearing to determine its amount and the penalty to be imposed. No payment shall be made until the department enters its order determining the amount of the payment. However, the payment shall be made within ten days' notice of the order. On failure to remit payment within ten days of the receipt of notice of the order, the department may suspend the dealer's license under the provisions of Section 46-41-130.

Section 46-41-250. (A) Notwithstanding any other provision of this chapter, any producer may elect not to participate in the fund for any calendar year by applying for an exemption with the department as provided in this section.

(B) The election consists of a written, notarized application upon a form designed and provided by the department. The application must be filed with the department before April first of the year for which the exemption is desired.

(C) Upon filing of the application, the department must issue the applicant an exemption certificate specifying the producer, commodity exempted, and period of exemption. The certificate, when presented to the grain dealer upon delivery of the grain, entitles the specified producer to an exemption from the dealer's and handler's assessment on the specified commodity.

(D) When an exemption is granted under this section, the grain dealer must retain a copy of the exemption certificate for a period of no less than two years. Any producer who elects not to participate in the fund is not eligible to be reimbursed for any loss for the commodity exempted for that calendar year.

Section 46-41-260. (A) There is established within the Department of Agriculture the South Carolina Agricultural Commodities Advisory Commission to make recommendations to the department regarding the duties of the department in administering the Grain and Cotton Producers Guaranty Fund.

(B) The advisory commission shall consist of ten members, one of whom shall be the Commissioner of Agriculture, ex officio, and nine of whom shall be appointed by the commissioner, upon the advice and consent of the Senate. The commissioner shall appoint a:

(1) warehouseman or cotton ginner;

(2) producer upon the recommendation of the South Carolina Corn and Soybean Association;

(3) producer upon the recommendation of the South Carolina Farm Bureau Federation;

(4) financier who is familiar with the financing of businesses that store or market the commodities that are regulated under this chapter upon the recommendation of a South Carolina financial institution with an agricultural background;

(5) commodity trader who executes future trades related to a hedging program for purchases or sales of commodities regulated under this chapter;

(6) owner or operator of an elevator that handles agricultural commodities;

(7) owner or operator of an inland elevator or barge-loading river facility or a licensed South Carolina grain dealer upon the recommendation of the South Carolina Palmetto Agribusiness Council;

(8) producer appointed upon the recommendation of the South Carolina Poultry Federation;

(9) cotton merchant appointed from the State at large; and

(10) cotton producer appointed upon the recommendation of the South Carolina Board of the Southern Cotton Growers, Inc.

(C) The commissioner shall serve as chairman of the commission.

(D) Except as provided herein, vacancies shall be filled in the same manner as original appointments for the unexpired portion of the term. When a vacancy occurs, the organization authorized to make recommendations to the commissioner for an appointment to the vacant position shall make its recommendation to the commissioner within sixty days after the vacancy occurs. The commissioner shall then appoint a new member to fill the vacancy no later than sixty days after receiving the recommendation. If the commissioner fails to appoint a new member within sixty days, the Governor may appoint the new member. Members appointed by the Governor shall enjoy all of the powers, duties, rights, and privileges as members appointed by the commissioner. An appointment made by the Governor pursuant to this section may not be made pursuant to the provisions contained in Section 1-3-210.

(E) The commission shall meet four times per calendar year but may meet more frequently upon the call of the chairman. Five members shall constitute a quorum for the transaction of official business. All official actions of the commission shall require the affirmative vote of five members of the commission. Appointed members of the commission shall be entitled to receive a per diem not in excess of forty dollars and to be reimbursed for mileage expenses in accordance with the same travel regulations applying to state employees."

Bond or equivalent security

SECTION 2. Section 46-41-60 of the 1976 Code is amended to read:

"Section 46-41-60. (A) Before any license shall be issued the applicant shall make and deliver to the commissioner a surety bond or equivalent security in an amount of either twenty-five thousand, fifty thousand, or one hundred thousand dollars as determined by the method set forth below, executed by a surety corporation authorized to transact business in the State or provided by equivalent security approved by the commissioner with the advice of the State Treasurer. The amount of the bond required is determined based upon ten percent of the applicant's annual business. If ten percent of annual business is twenty-five thousand dollars or less, the applicant must obtain a twenty-five thousand dollar bond. If ten percent of annual business is fifty thousand dollars or less, a fifty thousand dollar bond is required. If ten percent of annual business is more than fifty thousand dollars, a one hundred thousand dollar bond is required. The bond or equivalent security shall be upon a form prescribed or approved by the commissioner and shall be conditioned to secure the faithful accounting for any payment to producers, their agents or representatives, of the proceeds of all agricultural products handled or sold by such dealer.

(B) The amount of the bond or equivalent security shall, upon the order of the commissioner at any time, be increased, if in his discretion the commissioner finds that an increase is warranted by the volume of agricultural product being handled by the principal or maker of the bond or equivalent security. In the same manner, the amount of the bond or equivalent security may be decreased when a decrease in volume of products handled warrants such decrease in bond or equivalent security. The provisions contained in this section shall apply to any bond or equivalent security, regardless of the anniversary date of its issuance, expiration, or renewal.

(C) In order to effectuate the purposes of this section, the commissioner or his agents may require from any licensee verified statements of the volume of his business, and failure to furnish such statement or make and deliver a new or additional bond or equivalent security shall be cause for suspension of license. If, at a hearing after reasonable notice, the commissioner finds such failure to be wilful, the license may be revoked."

Penalty

SECTION 3. Section 46-41-170 of the 1976 Code is amended to read:

"Section 46-41-170. (A) Any dealer in agricultural products violating the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall for the first offense be fined not less than one thousand dollars or, in the case of individuals, the members of a partnership, and the responsible officers and agents of an association or corporation, imprisoned not exceeding six months, and for a second or subsequent offense shall, upon conviction, be fined not less than three thousand dollars or imprisoned not exceeding one year, or both in the discretion of the court.

(B) In addition to the remedies provided in this chapter and notwithstanding the existence of any adequate remedy at law, the commissioner is authorized to make application for injunction to a circuit court and the circuit court shall have jurisdiction upon hearing and for cause shown to grant a temporary or permanent injunction, or both, restraining any person from violating or continuing to violate any of the provisions of this chapter, or any rule or regulation, such injunction to be issued without bond.

(C) The commissioner may, by issuing his order, place any licensee who violates any provision of the chapter or any unlicensed person found to have been dealing in agricultural products on probation or levy a civil fine of not more than one thousand dollars, or both. All monies received as civil fines shall be remitted to the State Treasurer to be credited to the Grain and Cotton Producers Guaranty Fund established by Article 2 of this chapter. When the fund reaches six million dollars such civil fines shall be remitted to the general fund of the State. The licensee may appeal the levy of the civil fines to the circuit court of the county in which the alleged unlawful activity was performed."

Insurance Reserve Fund

SECTION 4. (A) The Insurance Reserve Fund of the State Fiscal Accountability Authority is authorized to lend an amount up to four million dollars on a one-time basis to the department for the use of the Grain and Cotton Producers Guaranty Fund herein established to pay claims approved by the department if the fund, through its assessments, is below four million dollars and has insufficient monies to pay the claims. The loan is to be repaid from monies from the guaranty fund within five years of the date of the loan in five annual installments with

interest at the rate provided in Section 34-31-20(A). In the event the department fails to make any loan payment to the Insurance Reserve Fund within the prescribed time, the payment must be paid from the state general fund. The participants in the loan shall execute a document approved by the State Treasurer severally guaranteeing the loan. The Insurance Reserve Fund shall prepare a written loan agreement which must be executed by the department prior to entering into the loan authorized by this section.

(B) Any federal funds or other funds not derived from assessments received by the department to reimburse claims or losses under this chapter must be paid into the fund and used for loan payments or loan principal reduction to the extent any monies are due under subsection (A) to the Insurance Reserve Fund or the state general fund. Each commodity producer severally guaranteeing this loan shall have his pro rata share of the debt obligation reduced accordingly based on the amount of the federal or other payment. If no monies are due to the Insurance Reserve Fund or to the state general fund under subsection (A), such funds shall be used for claim payments.

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 182

(R196, H3006)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-63-785 SO AS TO PROVIDE PUBLIC SCHOOLS, PUBLIC SCHOOL DISTRICTS, CHARTER SCHOOLS, AND CHARTER SCHOOL GOVERNING BODIES MAY NOT USE DEBT COLLECTION AGENCIES TO COLLECT OR ATTEMPT TO COLLECT OUTSTANDING DEBTS ON STUDENT SCHOOL LUNCH OR BREAKFAST ACCOUNTS, TO PROVIDE PUBLIC SCHOOLS, PUBLIC SCHOOL DISTRICTS, CHARTER SCHOOLS, AND

CHARTER SCHOOL GOVERNING BODIES MAY NOT ASSESS OR COLLECT ANY INTEREST, FEES, OR OTHER SUCH MONETARY PENALTIES FOR OUTSTANDING DEBTS FOR STUDENT SCHOOL LUNCH OR BREAKFAST ACCOUNTS, TO PROVIDE NECESSARY DEFINITIONS, AND TO MAKE THE PROVISIONS OF THIS ACT APPLICABLE TO DEBTS ON STUDENT LUNCH AND BREAKFAST ACCOUNTS OUTSTANDING ON THE EFFECTIVE DATE OF THIS ACT AND INCURRED AFTER THE EFFECTIVE DATE OF THIS ACT.

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

School meal debt collections, exceptions

SECTION 1. Article 7, Chapter 63, Title 59 of the 1976 Code is amended by adding:

"Section 59-63-785. (A) A public school or public school district, including a charter school or charter school governing body, may not:

(1) use a debt collection agency to collect or attempt to collect, directly or indirectly, debts due or assessed to be owed for outstanding debts on a school lunch or breakfast account of a student; or

(2) assess or collect any interest, fees, or other such monetary penalties for outstanding debts on student school lunch or breakfast accounts.

(B) For purposes of this section, 'debt collection agency' means any person or entity that collects or attempts to collect, directly or indirectly, debts due or asserted to be owed or due another. 'Debt collection agency' does not include the South Carolina Department of Revenue or the programs they administer or a public school, public school district, charter school, or charter school governing body."

Applicability

SECTION 2. The provisions of this act apply to debts on student lunch and breakfast accounts outstanding on the effective date of this act and incurred after the effective date of this act.

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 183

(R199, H3271)

AN ACT TO AMEND SECTIONS 15-49-10 AND 15-49-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PETITIONS FOR A CHANGE OF NAME, SO AS TO REQUIRE A PETITIONER TO HAVE RESIDED IN THE STATE OF SOUTH CAROLINA FOR AT LEAST SIX MONTHS TO BE ELIGIBLE TO APPLY FOR A NAME CHANGE, WITH EXCEPTIONS; AND FOR OTHER PURPOSES.

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

Applications for change of name

SECTION 1. Section 15-49-10(A) of the 1976 Code is amended to read:

"(A) A person who has been a resident of the State of South Carolina for at least six months and who desires to change his name may petition, in writing, a family court judge in the appropriate circuit, setting forth the reason for the change, his age, his place of residence and birth, and the name by which he desires to be known."

Petition requirements

SECTION 2. Section 15-49-20(A) of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

"( ) an affidavit signed by the petitioner which provides that the petitioner is currently a resident of the State of South Carolina and has

been a resident of the State for at least six months. The petitioner shall attach to the affidavit proof of residency in South Carolina of at least six months, which may be as documented on any form of proof of residency deemed acceptable by the South Carolina Department of Motor Vehicles when issuing a driver's license. To protect the petitioner's safety, the court may waive the six months' residency requirement if the petitioner provides evidence that:

(a) the petitioner is a victim of domestic violence, dating violence, stalking, harassment, sexual offenses, trafficking in persons, or other abuse; and

(b) the petitioner is currently in reasonable fear of the petitioner's safety.

Evidence shall include, but not be limited to:

(i) law enforcement, court, or other federal or state agency applications, records, or files;

(ii) documentation from an agency or nonprofit organization that provides specialized assistance or services to victims of domestic violence, dating violence, stalking, harassment, sexual offenses, trafficking in persons, or other abuse; or

(iii) documentation from a religious, medical, or other professional from whom the applicant has sought assistance in connection with the alleged victimization."

Sealed court records

SECTION 3. Section 15-49-20 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

"( ) Upon the petitioner's request, after granting the name change, the court shall seal the file if the court finds that the safety of the petitioner seeking the name change or the safety of the petitioner's child or ward warrants sealing the file. In all cases filed under this subsection, where the court orders that the file be sealed, any court record of the name change petition, proceeding, or order shall not be made public."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 184

(R201, H3340)

AN ACT TO AMEND SECTION 12-20-105, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO STATE LICENSE TAX CREDITS ALLOWED CERTAIN TAXPAYERS FOR CONTRIBUTIONS TO QUALIFYING INFRASTRUCTURE AND ECONOMIC DEVELOPMENT PROJECTS, SO AS TO INCREASE THE MAXIMUM ANNUAL CREDIT AMOUNT FROM FOUR HUNDRED THOUSAND TO SIX HUNDRED THOUSAND DOLLARS, TO PROVIDE ADDITIONAL ANNUAL CREDIT AMOUNTS OF FIFTY THOUSAND DOLLARS, ONE HUNDRED THOUSAND DOLLARS, AND ONE HUNDRED FIFTY THOUSAND DOLLARS, RESPECTIVELY, FOR QUALIFYING PROJECTS LOCATED IN COUNTIES CLASSIFIED FOR THE TARGETED JOBS TAX CREDIT AS TIER II, III, AND IV COUNTIES, AND TO PROVIDE ADDITIONAL ELIGIBILITY REQUIREMENTS FOR THESE INCREASED CREDIT AMOUNTS.

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

State license tax credits

SECTION 1. Section 12-20-105 of the 1976 Code is amended to read:

"Section 12-20-105. (A) Any company subject to a license tax under Section 12-20-100 may claim a credit against its license tax liability for amounts paid in cash to provide infrastructure for an eligible project. A company may enter into a multi-year commitment to provide cash for eligible infrastructure. Where a company has entered into an

agreement to pay in cash for infrastructure for an eligible project, and the eligible project is not constructed by the end of the tax year, the company may provide cash in that or a future year to another eligible project and retain the credit.

(B)(1) To be considered an eligible project for purposes of this section, the project must qualify for income tax credits under Chapter 6, Title 12, withholding tax credit under Chapter 10, Title 12, income tax credits under Chapter 14, Title 12, or fees in lieu of property taxes under either Chapter 12, Title 4, Chapter 29, Title 4, or Chapter 44, Title 12.

(2) If a project is located in an office, business, commercial, or industrial park, or combination of these, and is used exclusively for economic development and is owned or constructed by a county, political subdivision, or agency of this State when the qualifying improvements are paid for, the project does not have to meet the qualifications of item (1) to be considered an eligible project. As provided in subsection (C)(4), the county or political subdivision may sell all or a portion of the business or industrial park.

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

(C) For the purpose of this section, 'infrastructure' means improvements for water, wastewater, hydrogen fuel, sewer, gas, steam, electric energy, and communication services made to a building or land that are considered necessary, suitable, or useful to an eligible project. These improvements include, but are not limited to:

(1) improvements to both public or private water and sewer systems;

(2) improvements to both public or private electric, natural gas, and telecommunications systems including, but not limited to, ones owned or leased by an electric cooperative, electric utility, or electric supplier, as defined in Chapter 27, Title 58;

(3) fixed transportation facilities including highway, road, rail, water, and air;

(4) for a qualifying project under subsection (B)(2), infrastructure improvements include shell buildings, incubator buildings whose ownership is retained by the county, political subdivision, or agency of the State and the purchase of land for an office, business, commercial, or industrial park, or combination of these, used exclusively for economic development which is owned or constructed by a county,

political subdivision, or agency of this State. The county, political subdivision, or agency may sell the shell building or all or a portion of the park at any time after the company has paid in cash to provide the infrastructure for an eligible project;

(5) for a qualifying project pursuant to subsection (B)(2), infrastructure improvements also include due diligence expenditures relating to environmental conditions made by a county or political subdivision after it has acquired contractual rights to an industrial park. Due diligence expenditures include such items as Phase I and II studies and environmental or archeological studies required by state or federal statutes or guidelines or similar lender requirements. Contractual rights include options to purchase real property or other similar contractual rights acquired before the county or political subdivision files a deed to the property with the Register of Mesne Conveyances;

(6) for a qualifying project pursuant to subsection (B)(2), site preparation costs include, but are not limited to:

(a) clearing, grubbing, grading, and stormwater retention; and

(b) refurbishment of buildings that are owned or controlled by a county or municipality and are used exclusively for economic development purposes; and

(7) for a qualifying project pursuant to subsection (B)(2) cash payments to a county, political subdivision, or agency of this State for purposes of defraying public debt incurred to pay for infrastructure on the project are allowed.

(D) A company is not allowed the credit provided by this section for actual expenses it incurs in the construction and operation of any building or infrastructure it owns, leases, manages, or operates.

(E)(1) The maximum aggregate credit that may be claimed in any tax year by a single company is six hundred thousand dollars.

(2) Notwithstanding the annual credit limit provided pursuant to item (1), for a contribution for a qualifying project located in a county classified as a Tier II, III, or IV county pursuant to Section 12-6-3360(B), the maximum aggregate credit that may be claimed in a tax year by a taxpayer is increased by:

County Tier	Credit Amount Increase
Tier II County	Fifty thousand dollars
Tier III County	One hundred thousand dollars
Tier IV County	One hundred fifty thousand dollars.

(3) To be eligible for the increased credit amount provided in item (2), the total of the taxpayer's credit claim for the taxable year must be for a qualifying project located in a single Tier II, III, or IV county. If the single qualifying project extends across a county boundary, then for

purposes of determining eligibility and the amount of the applicable increased credit, the qualifying project is considered to be located in the county with the lowest credit amount unless at least eighty percent of the total costs associated with the project are attributable to that portion of the project located in the county with the higher allowable credit amount.

(F) The credits allowed by this section may not reduce the license tax liability of the company below zero. If the applicable credit originally earned during a taxable year exceeds the liability and is otherwise allowable under subsection (D), the amount of the excess may be carried forward to the next taxable year.

(G) For South Carolina income tax and license purposes, a company that claims the credit allowed by this section is ineligible to claim the credit allowed by Section 12-6-3420.

(H) By March first of each year, the Department of Revenue shall issue a report to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and the Secretary of the Department of Commerce outlining the history of the credit allowed pursuant to this section. The report shall include the amount of credit allowed pursuant to this section and the types of infrastructure provided to eligible projects.

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

Time effective

SECTION 2. Upon approval of the Governor, this act applies for credits first claimed for taxable years beginning after 2021.

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 185

(R202, H3591)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-26-35 SO AS TO IMPROVE THE MEANS FOR EVALUATING EDUCATOR PREPARATION PROGRAMS; AND BY ADDING SECTION 59-26-120 SO AS TO PROVIDE THE STATE DEPARTMENT OF EDUCATION SHALL PROVIDE CERTAIN EDUCATOR PREPARATION PROGRAMS WITH CERTAIN INFORMATION REGARDING GRADUATES OF THOSE PROGRAMS, TO PROVIDE EDUCATOR PREPARATION PROGRAMS MAY NOT SHARE IDENTIFIABLE EDUCATOR DATA WITH THIRD PARTIES WITHOUT WRITTEN CONSENT, AND TO PROVIDE THIS INFORMATION IS NOT SUBJECT TO THE FREEDOM OF INFORMATION ACT.

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

Revised evaluations process

SECTION 1. Chapter 26, Title 59 of the 1976 Code is amended by adding:

"Section 59-26-35. (A) The South Carolina Commission on Higher Education, with the assistance of the Department of Education, State Board of Education, the Center for Research on Teacher Education (SC-TEACHER), and the Revenue and Fiscal Affairs Office, shall form a commission to conduct a detailed assessment of the current data infrastructure, develop metrics, determine weightings, construct a unified data upload system, and construct public and private facing data reports including, but not limited to, annually publishing before November first an online report card known as the 'South Carolina Educator Preparation Report Card'. The report card must be made available on the State Department of Education and the Commission on Higher Education's websites. The commission shall develop a format that each educator preparation program must use on its website that shows all required information regarding its respective program. The report card shall evaluate the ability of educator preparation programs, including alternative programs, to prepare new teachers for success in South Carolina's classrooms, as well as describe the school and district

contexts in which completers work. The report card must include data on a variety of measures to provide an overall picture of how well each educator preparation program prepares effective educators and meets state goals including, but not limited to, the following:

(1) number of undergraduate and graduate completers;

(2) placement and one, three, and five year retention rates by districts and regions of the State;

(3) performance-based assessments of candidates;

(4) ability of program to recruit a strong, diverse cohort of candidates and prepare them to teach in the content areas of greatest need;

(5) quality of clinical experiences, including access to qualified and trained mentors, time in the field, and opportunities to apply knowledge and skills in the clinical setting;

(6) effectiveness of individuals who completed a provider's program and are employed in a public school classroom. The information must be differentiated by provider and, where applicable, across content areas; and

(7) graduate and employer satisfaction.

(B) Under consultation with the commission, SC-TEACHER shall develop metrics and instrumentation to evaluate the working conditions of educators, extent and quality of mentoring available to new educators, and universal graduate and employer satisfaction surveys.

(C) The State Department of Education, each educator preparation program, and each school district shall report all data to SC-TEACHER as requested by the State Board of Education to complete the evaluation."

Program graduates data

SECTION 2. Chapter 26, Title 59 of the 1976 Code is amended by adding:

"Section 59-26-120. (A) The State Department of Education annually before December first shall provide each college of education and state-approved educator preparation program with information regarding its graduates. Information must be provided to a college of education or educator preparation program regarding each of its individual educator graduates and must include, but is not limited to:

(1) linking teacher candidates from each program with valid, reliable, nationally normed performance assessments that are data and evidence based and can assess teaching effectiveness;

(2) results of ADEPT Evaluation by individual educator graduate;

(3) records of employee certification by individual educator graduate; and

(4) other information requested by the programs designed to enhance the ability of the college of education or educator preparation program to provide improved education services.

(B) A college of education or educator preparation program receiving individualized information regarding its graduates pursuant to subsection (A) shall:

(1) develop and use a unique system for identifying each individual educator graduate for whom it receives such individualized information;

(2) strictly maintain the confidentiality of all information that can be used to identify an individual educator graduate for whom it receives such information; and

(3) not share such information with a third party without the express written consent of the educator.

(C) Information provided to a college of education or educator preparation program pursuant to this section is not subject to the provisions of the Freedom of Information Act."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 186

(R204, H3606)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40-59-265 SO AS TO EXEMPT CERTAIN IMPROVEMENTS MADE TO RESIDENTIAL PROPERTY FROM BUILDING PERMIT REQUIREMENTS, AND TO EXEMPT PROPERTY OWNERS WHO MAKE SUCH IMPROVEMENTS FROM RESIDENTIAL BUILDERS COMMISSION LICENSURE REQUIREMENTS; AND TO AMEND SECTION 40-59-20, RELATING TO

DEFINITIONS CONCERNING THE RESIDENTIAL BUILDERS COMMISSION AND ITS LICENSEES, SO AS TO REVISE THE DEFINITION OF RESIDENTIAL SPECIALTY CONTRACTORS.

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

Exemptions from professional licensure

SECTION 1. Article 1, Chapter 59, Title 40 of the 1976 Code is amended by adding:

"Section 40-59-265. (A) This chapter, including Section 40-59-260, does not apply to an owner of residential property who improves the property when the improvements are for the following:

(1) building:

(a) one-story detached accessory structures, provided that the floor area does not exceed two hundred square feet;

(b) fences not over seven feet high;

(c) retaining walls that are not over four feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge;

(d) water tanks supported directly upon grade if the capacity does not exceed five thousand gallons and the ratio of height to diameter or width does not exceed two to one;

(e) sidewalks and driveways;

(f) painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;

(g) prefabricated swimming pools that are less than twenty-four inches deep;

(h) swings and other playground equipment;

(i) window awnings supported by an exterior wall that do not project more than fifty-four inches from the exterior wall and do not require additional support;

(j) decks not exceeding two hundred square feet in area, that are not more than thirty inches above grade at any point;

(2) electrical:

(a) listed cord-and-plug connected temporary decorative lighting;

(b) reinstallation of attachment plug receptacles but not the outlets;

(c) replacement of branch circuit overcurrent devices of the required capacity in the same location;

(d) electrical wiring, devices, appliances, apparatus or equipment operating at less than twenty-five volts and not capable of supplying more than fifty watts of energy;

(e) minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles;

(3) gas:

(a) portable heating, cooking or clothes drying appliances;

(b) replacement of any minor part that does not alter approval of equipment or make such equipment unsafe;

(c) portable-fuel-cell appliances that are not connected to a fixed-piping system and are not interconnected to a power grid;

(4) mechanical:

(a) portable heating appliances;

(b) portable ventilation appliances;

(c) portables cooling units;

(d) steam, hot- or chilled-water piping within any heating or cooling equipment regulated by the South Carolina Residential Building Code;

(e) replacement of any minor part that does not alter approval of equipment or make such equipment unsafe;

(f) portable evaporative coolers;

(g) self-contained refrigeration systems containing ten pounds or less of refrigerant or that are actuated by motors of one horsepower or less;

(h) portable-fuel-cell appliances that are not connected to a fixed-piping system and are not interconnected to a power grid;

(5) plumbing:

(a) the stopping of leaks in drains, water, soil, waste or vent pipe; provided, however, that if any concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work must be considered as new work and a permit must be obtained and inspection made as provided in the South Carolina Residential Building Code;

(b) the clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes, or fixtures.

(B) The improvements delineated in subsection (A) are exempt from building permit application requirements and an owner of residential

property who makes these improvements is not required to have a residential builder or residential specialty contractor's license or be subject to the penalties provided in this chapter."

Residential specialty contractors

SECTION 2. Section 40-59-20(7) of the 1976 Code is amended to read:

"(7) 'Residential specialty contractor' means an independent contractor who contracts with a licensed residential builder, general contractor, or individual property owner to do construction work, repairs, improvement, or reimprovement which requires special skills and involves the use of specialized construction trades or craft, when the undertakings exceed five hundred dollars and are not regulated by the provisions of Chapter 11. A residential specialty contractor is not authorized to construct additions to residential buildings or structures without supervision by a residential builder or other appropriately licensed person or entity. Residential specialty contracting includes the following areas of contracting and other areas as the commission may recognize by regulation:

(a) plumbers;
(b) electricians;
(c) heating and air conditioning installers and repairers;
(d) vinyl and aluminum siding installers;
(e) insulation installers;
(f) roofers;
(g) floor covering installers;
(h) masons;
(i) dry wall installers;
(j) carpenters;
(k) stucco installers;
(l) painters and wall paperers;
(m) solar panel installers.

Plumbers, electricians, and heating and air conditioning installers and repairers must be issued specialty contractor licenses after passing the required examination, if the other requirements of this article are met. Vinyl and aluminum siding installers, masons, dry wall installers, carpenters, stucco installers, painters and wall paperers, and solar panel installers must be issued specialty contractor registrations, if the other requirements of this article are met.

A residential specialty contractor is prohibited from undertaking work outside the scope of his license or registration, including employing,

hiring, and contracting or subcontracting with others to perform such work on his behalf.

The provisions of this chapter do not preclude a licensed residential builder from also obtaining licensure or registration as a residential specialty contractor in an area of contracting identified in statute or recognized by the commission. In addition, a residential builder, who is licensed by examination in this State, is authorized to perform work in any of the areas of residential specialty contracting without separately obtaining a residential specialty contractor license or registration."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 187

(R205, H3775)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-71-144 SO AS TO PROVIDE PATIENTS COVERED FOR STAGE FOUR ADVANCED METASTATIC CANCER TREATMENTS UNDER HEALTH BENEFIT PLANS ARE ENTITLED TO CERTAIN EXPEDITED EXTERNAL REVIEWS OF PLAN DENIALS OF CERTAIN DIAGNOSTIC IMAGING SERVICE CLAIMS OR PRIOR AUTHORIZATION REQUESTS BASED UPON ADVERSE MEDICAL NECESSITY DETERMINATIONS, AND TO DEFINE NECESSARY TERMS; AND TO PROVIDE FOR THE APPLICABILITY OF THE PROVISIONS OF THIS ACT TO HEALTH BENEFIT PLANS ISSUED, RENEWED, DELIVERED, OR ENTERED ON OR AFTER THE EFFECTIVE DATE OF THIS ACT.

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

Expedited external reviews of certain health benefit plan cancer diagnostic service denials

SECTION 1. Article 1, Chapter 71, Title 38 of the 1976 Code is amended by adding:

"Section 38-71-144. (A) For purposes of this section:

(1) 'Health benefit plan' means all individual and group health insurance policies and health maintenance organizations issued, delivered or renewed in this State, to include the State Health Plan, but otherwise not to include the administrative services performed on behalf of a self-funded plan subject to the Employee Retirement Income Security Act (ERISA) of 1974 or other plans exempted by Section 38-71-1920(9).

(2) 'Stage four advanced, metastatic cancer' means cancer that has spread from the primary or original site of the cancer to nearby tissues, lymph nodes, or other areas or parts of the body.

(3) 'Recognized diagnostic imaging service' means a diagnostic imaging service for the diagnosis and treatment of stage four advanced, metastatic cancer for which the National Comprehensive Cancer Network Clinical Practice Guidelines in Oncology provide a uniform consensus that the proposed use of the diagnostic imaging service is appropriate and is supported by peer-reviewed literature.

(B) If a health benefit plan that covers the treatment of stage four advanced, metastatic cancer denies a prior authorization request or a claim for a recognized diagnostic imaging service for a covered person's stage four advanced metastatic cancer based upon an adverse medical necessity determination, then the covered person shall have a right to an expedited external review in accordance with Section 38-71-1980."

Time effective, applicability

SECTION 2. This act takes effect upon approval by the Governor, and applies to health benefit plans issued, renewed, delivered, or entered into on or after the effective date of this act.

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 188

(R206, H3795)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "SIGN LANGUAGE INTERPRETERS ACT" BY ADDING CHAPTER 84 TO TITLE 40 SO AS TO REQUIRE MINIMUM COMPETENCY REQUIREMENTS FOR SIGN LANGUAGE INTERPRETERS USED BY CERTAIN GOVERNMENTAL AGENCIES AND HOSPITALS AND HEALTH CARE FACILITIES, TO PROVIDE EXCEPTIONS, TO PROVIDE NECESSARY DEFINITIONS, AND TO PROVIDE MORE RIGOROUS STANDARDS APPLY WHEN THEY CONFLICT WITH THE PROVISIONS OF THIS ACT; BY ADDING SECTION 59-33-120 SO AS TO PROVIDE FOR THE PROMULGATION OF REGULATIONS FOR THE APPROPRIATE CREDENTIALING OF SIGN LANGUAGE INTERPRETERS IN PUBLIC SCHOOLS AND SPECIAL SCHOOLS, AND TO REQUIRE INTERPRETERS FOR THE DEAF WORKING IN SCHOOLS AND SCHOOL DISTRICTS IN THIS STATE TO SUBMIT TO THE SAME BACKGROUND CHECKS AS EDUCATORS; AND TO MAKE THE PROVISIONS OF THIS ACT EFFECTIVE JANUARY 1, 2024.

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

Citation

SECTION 1. This act must be known and may be cited as the "Sign Language Interpreters Act".

Sign language interpreters in certain governmental entities and health care facilities

SECTION 2. Title 40 of the 1976 Code is amended by adding:

"CHAPTER 84

Sign Language Interpreters

Section 40-84-110. For the purposes of this chapter:
(1) 'Agency' means:

(a) the departments of state government enumerated in Section 1-30-10;

(b) the offices of all statewide constitutional officers;

(c) the Judicial Department;

(d) all public institutions of higher education;

(e) the Commission on Higher Education;

(f) police stations;

(g) county and state detention centers and correctional facilities; and

(h) any other board, commission, or council created by a statute of this State; but

(i) excludes school districts, school boards, charter schools, and special schools.

(2) 'Deaf person' means a person who cannot use his hearing for communication purposes.

(3) 'Interpreting' is the act of conveying meaning between people who use signed and spoken languages, conveying all essential elements of meaning and intent and where such process is offered in exchange for remuneration.

(4) 'Recognized certification' means a certification in sign language interpretation as approved by the South Carolina Association of the Deaf, the South Carolina Registry of Interpreters for the Deaf, or the National Registry of Interpreters for the Deaf.

(5) 'Sign Language' or 'American Sign Language' or 'ASL' means a visual-gestural language that incorporates facial grammatical markers, physical affect markers, spatial linguistic information, and fingerspelling, as well as signs made with the hands. ASL is a distinct language with its own grammar and syntax that is neither based on nor derived from a spoken language.

(6) 'South Carolina Association of the Deaf' or 'association' or 'SCAD' means the state chapter of the National Association of the Deaf acting as a consumer advocacy organization serving the deaf and hard-of-hearing population of South Carolina, as incorporated at the time of enactment, or any successor organization of it.

(7) 'South Carolina Registry of Interpreters for the Deaf' or 'SCRID' means the state affiliate chapter of the Registry of Interpreters for the Deaf, serving as an interpreter-advocacy and professional organization, as incorporated at the time of enactment, or its successor organization.

Section 40-84-120. The requirements of this chapter apply to all:

(1) agencies as defined by Section 40-84-110(1); and

(2) hospitals and health care facilities regulated by the Department of Health and Environmental Control under Title 44.

Section 40-84-130. (A) A person only may provide interpreting services for an agency or hospital if he holds a recognized certification as defined in Section 40-84-110(4).

(B) The provisions in this section do not apply to a person who is interpreting:

(1) in an emergency situation where the parties determine that the delay to obtain a certified interpreter is likely to cause injury or loss; or

(2) as part of a supervised internship or mentorship program if the individual is accompanied by an interpreter with recognized certification.

Section 40-84-140. To the extent that the provisions of this chapter conflict with other minimum competency standards for a sign language interpreter required for use by an entity identified in Section 40-84-120, the more rigorous standards must prevail."

Regulations, background checks

SECTION 3. Article 1, Chapter 33, Title 59 of the 1976 Code is amended by adding:

"Section 59-33-120. In consultation with relevant stakeholders including, but not limited to, the South Carolina Association of the Deaf and the South Carolina Registry of Interpreters for the Deaf, the State Board of Education shall develop and promulgate regulations for the appropriate credentialing of sign language interpreters in the public and special schools of this State. Interpreters for the deaf working in schools and school districts in this State must be required to submit the same background checks as educators pursuant to Section 59-25-115."

Time effective

SECTION 4. This act takes effect on January 1, 2024.

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 189

(R209, H3948)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 4-37-60 SO AS TO PROVIDE THAT A COUNTY THAT HAS IMPOSED A TAX PURSUANT TO CHAPTER 37, TITLE 4, ALSO MAY IMPOSE A CAPITAL PROJECTS SALES AND USE TAX; TO AMEND SECTION 4-37-40, RELATING TO THE LIMITATION ON THE SALES TAX RATE, SO AS TO MAKE A CONFORMING CHANGE; TO AMEND SECTION 4-10-310, RELATING TO THE IMPOSITION OF THE CAPITAL PROJECT SALES TAX, SO AS TO MAKE A CONFORMING CHANGE; AND BY ADDING SECTION 4-10-315 SO AS TO PROVIDE THAT A COUNTY THAT HAS IMPOSED ANOTHER SALES AND USE TAX ALSO MAY IMPOSE A TAX PURSUANT TO CHAPTER 37, TITLE 4.

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

Local sales taxes

SECTION 1. Chapter 37, Title 4 of the 1976 Code is amended by adding:

"Section 4-37-60. Notwithstanding Sections 4-10-310 and 4-37-40, or any other provision of law, a county which has imposed by ordinance a sales and use tax in an amount not to exceed one percent within its jurisdiction pursuant to this chapter may utilize the provisions of Article 3, Chapter 10, Title 4 to impose an additional sales and use tax in an amount not to exceed one percent within its jurisdiction."

Local sales taxes

SECTION 2. Section 4-37-40 of the 1976 Code is amended to read:

"Section 4-37-40. At no time may any portion of the county area be subject to more than one percent sales tax levied pursuant to this chapter or pursuant to any local legislation enacted by the General Assembly."

Local sales taxes

SECTION 3. Section 4-10-310 of the 1976 Code is amended to read:

"Section 4-10-310. Subject to the requirements of this article, the county governing body may impose a one percent sales and use tax by ordinance, subject to a referendum, within the county area for a specific purpose or purposes and for a limited amount of time. The revenues collected pursuant to this article may be used to defray debt service on bonds issued to pay for projects authorized in this article. However, at no time may any portion of the county area be subject to more than one percent sales tax levied pursuant to this article or pursuant to any local law enacted by the General Assembly. This limitation does not apply in a county area in which, as of July 1, 2012, a local sales and use tax was imposed pursuant to a local act of the General Assembly, the revenues of which are used to offset the costs of school construction, or other school purposes, or other government expenses, or for any combination of these uses."

Local sales taxes

SECTION 4. Article 3, Chapter 10, Title 4 of the 1976 Code is amended by adding:

"Section 4-10-315. Notwithstanding Section 4-10-310, Section 4-37-40, or any other provision of law, a county which has imposed by ordinance a sales and use tax in an amount not to exceed one percent within its jurisdiction pursuant to this chapter may utilize the provisions of Chapter 37, Title 4 to impose an additional sales and use tax in an amount not to exceed one percent within its jurisdiction."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 190

(R211, H4161)

AN ACT TO AMEND SECTION 12-21-2710, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TYPES OF GAMING MACHINES PROHIBITED BY LAW, SO AS TO PROVIDE THAT THE PROHIBITION DOES NOT APPLY TO CERTAIN ITEMS THAT ARE DESIGNATED FOR USE IN OUT-OF-STATE JURISDICTIONS BY A GAMING DEVICE MANUFACTURER; AND TO AMEND SECTION 16-19-50, RELATING TO THE KEEPING OF UNLAWFUL GAMING TABLES, SO AS TO PROVIDE THAT THE PROHIBITION DOES NOT APPLY TO CERTAIN ITEMS THAT ARE DESIGNATED FOR USE IN OUT-OF-STATE JURISDICTIONS BY A GAMING DEVICE MANUFACTURER.

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

Prohibition on gaming devices applicability

SECTION 1. Section 12-21-2710 of the 1976 Code is amended by adding an undesignated paragraph at the end to read:

"This section does not apply to the development, manufacture, processing, selling, possessing, provision of technical aid, or transporting of any printed materials, gaming equipment, devices, or other materials, software, or hardware used or designated for use in out-of-state jurisdictions by a gaming device manufacturer. A gaming device manufacturer is a manufacturing entity that is in good standing with the South Carolina Secretary of State's Office, is registered with the United States Department of Justice Gambling Device Registration Unit, is authorized to do business in the State of South Carolina, and has all appropriate business licensure and zoning authorization necessary to operate a manufacturing facility in the jurisdiction in which the manufacturing facility is located. Any transportation of gaming devices authorized in this section must comply with all applicable federal laws. This section may not be construed so as to prohibit communications between persons in this State and persons involved with such legal lotteries or gaming devices relative to such printed materials, equipment, devices, or other materials, software, or hardware."

Crime of keeping gaming devices applicability

SECTION 2. Section 16-19-50 of the 1976 Code is amended by adding an undesignated paragraph at the end to read:

"This section does not apply to the development, manufacture, processing, selling, possessing, provision of technical aid, or transporting of any printed materials, gaming equipment, devices, or other materials, software, or hardware used or designated for use in out-of-state jurisdictions by a gaming device manufacturer. A gaming device manufacturer is a manufacturing entity that is in good standing with the South Carolina Secretary of State's Office, is registered with the United States Department of Justice Gambling Device Registration Unit, is authorized to do business in the State of South Carolina, and has all appropriate business licensure and zoning authorization necessary to operate a manufacturing facility in the jurisdiction in which the manufacturing facility is located. Any transportation of gaming devices authorized in this section must comply with all applicable federal laws. This section may not be construed so as to prohibit communications between persons in this State and persons involved with such legal lotteries or gaming devices relative to such printed materials, equipment, devices, or other materials, software, or hardware."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 191

(R212, H4220)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-63-230 SO AS TO PROVIDE FOR MUTUAL RESCISSION OF INDIVIDUAL LIFE INSURANCE POLICIES; AND TO AMEND SECTION 38-63-220, RELATING TO REQUIRED INDIVIDUAL LIFE INSURANCE

POLICY PROVISIONS, SO AS TO ALLOW FOR THE MUTUAL DECISION TO TERMINATE OR RESCIND A POLICY OF INSURANCE.

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

Methods of rescission by insurer

SECTION 1. Article 3, Chapter 63, Title 38 of the 1976 Code is amended by adding:

"Section 38-63-230. (A) An insurer may rescind a life insurance policy within the two-year contestability period in Section 38-63-220(d) by:

(1) a mutual rescission agreement executed by all parties based on false statements included in the application; or

(2) proving a fraudulent or material misrepresentation by clear and convincing evidence in a court of competent jurisdiction.

(B) Mutual rescission of a policy may be accomplished by:

(1) if the owner is living, mailing a certified letter to the last known address on record of the insured or policy owner. If the owner is deceased, mailing a certified letter to the beneficiary and the deceased's estate, notifying the estate, insured, policy owner, or beneficiary, as appropriate, that the insurer is seeking a mutual rescission of the policy. The letter must state the policy is being rescinded for false statements included in the application and include the important notice language set forth in subsection (C). The letter must also specify which statements in the application were false along with a brief explanation of the facts supporting the determination that the statements were false;

(2) including a check reimbursing the insured, policy owner, or beneficiary the premium paid to the insurer with language stamped on the back of the check that reads: 'I understand that cashing or depositing this check voids the policy and no benefits will be payable under the policy and am agreeing to the rescission of this policy'; and

(3) signing and cashing or depositing the premium reimbursement check by the insured, policyowner, or beneficiary, which will be deemed an acceptance of the proposed mutual rescission of the policy.

(C) Any certified letter proposing the rescission of a life insurance policy during the contestability period must include the following language in 12-point bold face type:

‘IMPORTANT NOTICE:

You are the insured, owner, or beneficiary of an insurance policy the company proposes to rescind. This letter is notice the company seeks your consent to void and rescind the policy issued to you or that names you as a beneficiary based on false statements made in the application for insurance. If rescinded, the policy is void and no benefits will be payable under the policy. You do not have to agree to the rescission of this policy. If you do not agree, do not cash or deposit the enclosed check. Return it to the insurer or destroy it.

By cashing or depositing the enclosed premium reimbursement check, you are agreeing to rescind this policy. No benefits will be due or payable under the voided policy. If you do not agree to rescind this policy, the insurer has the right, in its sole discretion, to bring a court action to rescind the policy in accordance with South Carolina law.

You also have the right to bring an action in court if your policy is canceled or your claim for benefits is denied for material misrepresentation.

You may want to speak with an attorney about this notice. If you have any questions concerning this proposal, either you or your attorney may contact the insurer at the number listed in the letter.

Information regarding the specific misrepresentation that was made in your policy and a brief explanation of the insurer’s determination that the representation is false is included with this letter.’

(D) Insurance policies that are guaranteed issue or are not underwritten are not subject to mutual rescission.”

Required policy provisions

SECTION 2. Section 38-63-220(d) of the 1976 Code is amended to read:

“(d) a provision that the policy and any rider or supplemental benefits attached to the policy are incontestable as to the truth of the application for insurance and to the representations of the insured individual after they have been in force during the lifetime of the insured for a period of two years from their date of issue. Any rider or supplemental benefits subsequently attached to the policy are incontestable as to the truth of

the application for the rider or supplemental benefits and to the representations of the insured individual after they have been in force during the lifetime of the insured for a period of two years from their date of issue. If an insurer initiates a mutual rescission or institutes proceedings to vacate a policy on the ground of the falsity of the representations contained in the application for the policy, the proceedings or mutual rescission must commence within the time permitted in this subsection;"

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 192

(R216, H4600)

AN ACT TO AMEND SECTIONS 44-22-40 AND 44-22-140, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERSONS WHO MAY CONSENT ON BEHALF OF CERTAIN PATIENTS TO ELECTRO-CONVULSIVE THERAPY OR MAJOR MEDICAL TREATMENT, SO AS TO CONFORM THE ORDER OF PRIORITY OF SUCH PERSONS TO THE ORDER OF PRIORITY IN THE ADULT HEALTH CARE CONSENT ACT.

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

Consent to electro-convulsive therapy

SECTION 1. Section 44-22-40 of the 1976 Code is amended to read:

"Section 44-22-40. (A) A patient in need of electro-convulsive therapy or major medical treatment must be examined by a qualified physician to determine if the patient is able to consent to electro-convulsive therapy or major medical treatment. Where a patient

is determined unable to consent to surgery or electro-convulsive therapy or major medical therapy or treatment, decisions concerning the need for treatment may be made by the following persons in the following order of priority:

(1) a guardian appointed by the court pursuant to Article 5, Part 3 of the South Carolina Probate Code, if the decision is within the scope of the guardianship;

(2) an attorney-in-fact appointed by the patient in a durable power of attorney executed pursuant to Section 62-5-501, if the decision is within the scope of his authority;

(3) a spouse of the patient unless the spouse and the patient are separated pursuant to one of the following:

(a) entry of a pendente lite order in a divorce or separate maintenance action;

(b) formal signing of a written property or marital settlement agreement; or

(c) entry of a permanent order of separate maintenance and support or of a permanent order approving a property or marital settlement agreement between the parties;

(4) an adult child of the patient, or if the patient has more than one adult child, a majority of the adult children who are reasonably available for consultation;

(5) a parent of the patient;

(6) an adult sibling of the patient, or if the patient has more than one adult sibling, a majority of the adult siblings who are reasonably available for consultation;

(7) a grandparent of the patient, or if the patient has more than one grandparent, a majority of the grandparents who are reasonably available for consultation;

(8) any other adult relative by blood or marriage who reasonably is believed by the health care professional to have a close personal relationship with the patient, or if the patient has more than one other adult relative, a majority of those other adult relatives who are reasonably available for consultation;

(9) a person given authority to make health care decisions for the patient by another statutory provision;

(10) if, after good faith efforts, the hospital or other health care facility determines that the persons listed in items (1) through (9) are unavailable to consent on behalf of the patient, a person who has an established relationship with the patient, who is acting in good faith on behalf of the patient, and who can reliably convey the patient's wishes but who is not a paid caregiver or a provider of health care services to

the patient. For the purposes of this item, a person with an established relationship is an adult who has exhibited special care and concern for the patient, who is generally familiar with the patient's health care views and desires, and who is willing and able to become involved in the patient's health care decisions and to act in the patient's best interest. The person with an established relationship shall sign and date a notarized acknowledgement form, provided by the hospital or other health care facility in which the patient is located, for placement in the patient's records, setting forth the nature and length of the relationship and certifying that he meets such criteria. Along with the notarized acknowledgment form, the hospital or other health care facility shall include in the patient's medical record documentation of its effort to locate persons with higher priority under this statute as required by subsection (B).

(B) Documentation of efforts to locate a decision maker who is a person identified in subsection (A) must be recorded in the patient's medical record.

(C) If persons of equal priority disagree on whether certain health care should be provided to a patient who is unable to consent, an authorized person, a health care provider involved in the care of the patient, or another person interested in the welfare of the patient may petition the probate court for an order determining what care is to be provided or for appointment of a temporary or permanent guardian.

(D) Priority under this section must not be given to a person if a health care provider responsible for the care of a patient who is unable to consent determines that the person is not reasonably available, is not willing to make health care decisions for the patient, or is a patient unable to consent as defined in Section 44-22-10.

(E) An attending physician or other health care professional responsible for the care of a patient who is unable to consent may not give priority or authority under subsection (A)(4) through (10) to a person if the attending physician or health care professional has actual knowledge that, before becoming unable to consent, the patient did not want that person involved in decisions concerning his care.

(F) This section does not authorize a person to make health care decisions on behalf of a patient who is unable to consent if, in the opinion of the certifying physicians, the patient's inability to consent is temporary, and the attending physician or other health care professional responsible for the care of the patient determines that the delay occasioned by postponing treatment until the patient regains the ability to consent will not result in significant detriment to the patient's health.

(G) This section does not affect the application of the Adult Health Care Consent Act, Chapter 66, Title 44, to a patient in need of health care."

Authorization of treatment and medication

SECTION 2. Section 44-22-140(A) of the 1976 Code is amended to read:

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

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 193

(R218, H4608)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "SAVE WOMEN'S SPORTS ACT" BY ADDING SECTION 59-1-500 SO AS TO EXPRESS LEGISLATIVE INTENT AND MAKE CERTAIN FINDINGS, TO PROVIDE ASSUMPTIONS CONCERNING THE CORRECTNESS OF BIOLOGICAL GENDER STATEMENTS ON OFFICIAL BIRTH CERTIFICATES OF STUDENTS, TO REQUIRE GENDER-BASED OR COEDUCATIONAL DESIGNATION OF CERTAIN PUBLIC SCHOOL SPORTS TEAMS, TO PROVIDE SUCH SPORTS TEAMS DESIGNATED FOR MALES SHALL NOT BE OPEN TO STUDENTS OF THE FEMALE SEX UNLESS NO TEAM DESIGNATED FOR FEMALES IN THAT SPORT IS OFFERED AT THE SCHOOL IN WHICH THE STUDENT IS ENROLLED, TO PROVIDE SUCH SPORTS TEAMS DESIGNATED FOR FEMALES SHALL NOT BE OPEN TO STUDENTS OF THE MALE SEX, TO PROVIDE PRIVATE SCHOOLS OR PRIVATE INSTITUTIONS SPONSORING A SPORTS TEAM IN WHICH ITS STUDENTS OR TEAMS COMPETE AGAINST A PUBLIC SCHOOL OR INSTITUTION ALSO SHALL COMPLY WITH THESE PROVISIONS FOR THE APPLICABLE TEAM OR SPORT, AND TO PROVIDE REMEDIES FOR VIOLATIONS OF THE PROVISIONS OF THIS ACT; AND BY ADDING SECTION 59-63-72 SO AS TO PROVIDE PUBLIC SCHOOL DISTRICTS SUPPORTED BY STATE FUNDS SHALL NOT USE ANY FUNDS OR PERMIT ANY SCHOOL WITHIN THE DISTRICT TO USE ANY FUNDS TO JOIN, AFFILIATE WITH, PAY DUES OR FEES TO, OR IN ANY WAY FINANCIALLY SUPPORT ANY INTERSCHOLASTIC ATHLETIC ASSOCIATION, BODY, OR ENTITY UNLESS THE CONSTITUTION, RULES OR POLICIES OF THE ASSOCIATION, BODY, OR ENTITY RECOGNIZES, SANCTIONS, AND REGULATES INTERSCHOLASTIC COMPETITION OF WRESTLING TEAMS COMPOSED EXCLUSIVELY OF FEMALE STUDENTS.

Whereas, the General Assembly finds that participation in extracurricular sports is beneficial for children and their development; and

Whereas, it is in the state's best interest to ensure that fair opportunities are preserved for all children to compete in sports. Now, therefore,

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

Citation

SECTION 1. This act must be known and may be cited as the "Save Women's Sports Act".

Intent and findings

SECTION 2. (A) It is the intent of the General Assembly to maintain opportunities for female athletes to demonstrate their strength, skills, and athletic abilities, and to provide them with opportunities to obtain recognition and accolades, college scholarships, and numerous other long-term benefits that result from participating and competing in athletic endeavors.

(B) The General Assembly finds that:

(1) maintaining the fairness for women's athletic opportunities is an important state interest; and

(2) requiring the designation of separate sex specific athletic teams or sports is necessary to maintain fairness for women's athletic opportunities.

Gender-based and coeducational school sports teams, birth certificates, remedies

SECTION 3. Article 5, Chapter 1, Title 59 of the 1976 Code is amended by adding:

"Section 59-1-500. (A) For purposes of this section, a statement of a student's biological sex on the student's official birth certificate is considered to have correctly stated the student's biological sex at birth if the statement was filed at or near the time of the student's birth.

(B)(1) Interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by a public elementary or secondary school or public postsecondary institution must be expressly designated as one of the following based on the biological sex at birth of team members:

(a) males, men, or boys;

(b) females, women, or girls; or

(c) coed or mixed, including both males and females.

(2) Athletic teams or sports designated for males, men, or boys shall not be open to students of the female sex, unless no team designated for females in that sport is offered at the school in which the student is enrolled.

(3) Athletic teams or sports designated for females, women, or girls shall not be open to students of the male sex.

(4) A private school or a private institution sponsoring an athletic team or sport in which its students or teams compete against a public school or institution must also comply with this section for the applicable team or sport.

(C)(1) A student who is deprived of an athletic opportunity or suffers any direct or indirect harm as a result of a violation of this section may initiate a cause of action against the school or postsecondary institution as provided in subsection (C)(4).

(2) A student who is subject to retaliation or other adverse action by a school, postsecondary institution, or athletic association or organization as a result of reporting a violation of this section to an employee or representative of the school, institution, or athletic association or organization, or to any state or federal agency with oversight of schools or postsecondary institutions in this State, may initiate a cause of action against the school, postsecondary institution, or athletic association or organization as provided in subsection (C)(4).

(3) A school or postsecondary institution that suffers any direct or indirect harm as a result of a violation of this section may initiate a cause of action against the governmental entity, licensing or accrediting organization or athletic association or organization as provided in subsection (C)(4).

(4) An action arising under this section must be commenced within two years after the alleged injury and subject to the South Carolina Tort Claims Act, as provided in Section 15-78-10, et seq."

Interscholastic competition regulation, wrestling teams

SECTION 4. Article 1, Chapter 63, Title 59 of the 1976 Code is amended by adding:

"Section 59-63-72. A public school district supported by state funds shall not use any funds or permit any school within the district to use any funds to join, affiliate with, pay dues or fees to, or in any way financially support any interscholastic athletic association, body, or entity unless the constitution, rules or policies of the association, body, or entity

recognizes, sanctions, and regulates interscholastic competition of wrestling teams composed exclusively of female students."

Severability

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 upon approval by the Governor.

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 194

(R219, H4766)

AN ACT TO AMEND SECTION 13-1-2030, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE COORDINATING COUNCIL FOR WORKFORCE DEVELOPMENT, SO AS TO CHANGE MEMBERSHIP AND DUTIES; AND TO REPEAL SECTION 59-59-175 RELATING TO THE SOUTH CAROLINA EDUCATION AND ECONOMIC DEVELOPMENT COORDINATING COUNCIL.

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

Coordinating Council for Workforce Development

SECTION 1. Section 13-1-2030 of the 1976 Code is amended to read:

"Section 13-1-2030. (A) There is established the 'Coordinating Council for Workforce Development' which is created to engage in discussions, collaboration, and information sharing concerning the state's ability to prepare and train workers to meet current and future workforce needs. The coordinating council must be comprised of:

(1) the Secretary of the Department of Commerce or his designee;

(2) the State Superintendent of Education or his designee;

(3) the Executive Director of the State Board for Technical and Comprehensive Education or his designee;

(4) the Executive Director of the Department of Employment and Workforce or his designee;

(5) the Executive Director of the Commission on Higher Education or his designee;

(6) the president or provost of a research university who is selected by the presidents of the research universities;

(7) the president or provost of a four-year college or university who is selected by the presidents of the four-year universities;

(8) the president of a technical college who shall be appointed by the Chairman of the State Board for Technical and Comprehensive Education;

(9) the following members appointed by the State Superintendent of Education who have expertise regarding Chapter 59, Title 59, the South Carolina Education and Economic Development Act:

(a) a school district superintendent;

(b) a school counselor; and

(c) a career and technology education director;

(10) two representatives from the business community appointed by the Governor, who have professional expertise in economic development and workforce issues;

(11) a person appointed by the Chairman of the House Education and Public Works Committee and a person appointed by the House minority party leader; and

(12) a person appointed by the Chairman of the Senate Education Committee and a person appointed by the Senate minority party leader.

(B)(1) The coordinating council shall:

(a) facilitate and coordinate the development of a unified, statewide workforce plan that utilizes data and analysis to identify statewide workforce priorities and create measurable, time-sensitive

metrics in which all workforce pipeline stakeholders including, but not limited to, education and workforce boards, councils, and partner representatives, participate. The statewide workforce plan must ensure that federal and state requirements are met and agency constituents remain served. The plan also must establish standardized education and workforce terminology and definitions to be used across all agencies and sectors. The plan must identify at least two, but not more than four, goals to be accomplished in less than four years and update those goals every five years;

(b) advise appropriate agencies and governing boards to ensure the components of Chapter 59, Title 59, are implemented with fidelity to provide a better prepared workforce, student success in postsecondary education, and enhanced coordination between K-12, higher education, and employers. The council shall review accountability and performance measures for implementation of this article and make recommendations for the promulgation of regulations to carry out its provisions including, but not limited to, enforcement procedures, which may include monitoring and auditing functions, and addressing consequences for noncompliance;

(c) utilize data and analysis to develop a method for identifying and addressing long-term workforce needs and make evidence-based recommendations to the General Assembly;

(d) develop and implement procedures for sharing information and coordinating efforts among stakeholders to prepare the state's current and emerging workforce to meet the needs of the state's economy;

(e) make recommendations to the General Assembly concerning matters related to workforce development that exceed the council members' agencies' scope of authority to implement and legislation is required;

(f) recommend, to the General Assembly, programs intended to increase student access to and incentivize workforce training within state training programs or through programs offered by businesses through scholarships, grants, loans, tax credits, or other programs documented to be effective in addressing current and future workforce needs;

(g) conduct an ongoing inventory of existing workforce programs to identify duplications among and within the programs and identify ineffective programs. The council may make recommendations concerning the appropriate actions necessary to eliminate duplication, improvements to ineffective programs so that the programs can achieve the desired result, or the elimination of programs that no longer meet workforce needs; and

(h) submit an annual progress report to the Governor and the General Assembly, by September first of each fiscal year, concerning the actions taken by the council during the previous fiscal year, and any recommendations for legislation or agency action. The council may submit additional reports on an ongoing basis as deemed necessary by the council chairman.

(2) The coordinating council may create subcommittees or advisory groups comprised of community or state or local government stakeholders to assist the council in carrying out the council's duties as contained in item (1).

(C) The Secretary of the Department of Commerce is the coordinating council's chairman.

(D) The Department of Education, the Commission on Higher Education, the Department of Commerce, and the State Board for Technical and Comprehensive Education shall provide staff for the coordinating council."

Code Commissioner directive

SECTION 2. The Code Commissioner is directed to change or correct all references to the "Education and Economic Development Coordinating Council" to the "Coordinating Council for Workforce Development". References to the Education and Economic Development Coordinating Council in the 1976 Code or other provisions of law are considered to be and must be construed to mean the "Coordinating Council for Workforce Development".

Repeal

SECTION 3. Section 59-59-175 of the 1976 Code is repealed.

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

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No. 195

(R220, H4832)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-69-247 SO AS TO ESTABLISH MINIMUM NONFORFEITURE AMOUNTS FOR CONTRACTS ISSUED AFTER JUNE 30, 2022; BY ADDING SECTION 38-72-78 SO AS TO REQUIRE LONG-TERM CARE INSURERS TO PROVIDE NOTICE OF PROPOSED PREMIUM RATE INCREASES TO POLICYHOLDERS; TO AMEND SECTION 38-9-180, RELATING TO STANDARD VALUATION LAW, SO AS TO REMOVE A REQUIREMENT; TO AMEND SECTION 38-9-210, AS AMENDED, RELATING TO THE REDUCTION FROM LIABILITY FOR REINSURANCE, SO AS TO CORRECT THE NAME OF THE APPROPRIATE OFFICE OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS; TO AMEND SECTION 38-13-80, RELATING TO THE ANNUAL STATEMENT AS TO BUSINESS STANDING AND FINANCIAL CONDITION, SO AS TO PROVIDE THE TIME AND MANNER THAT THE STATEMENT OF BUSINESS STANDING AND FINANCIAL CONDITION MUST BE FILED; TO AMEND SECTION 38-13-85, RELATING TO THE FILING OF ANNUAL STATEMENTS, SO AS TO PROVIDE THE TIME AND MANNER THAT THE ANNUAL STATEMENTS ARE FILED; TO AMEND SECTION 38-57-150, AS AMENDED, RELATING TO PROHIBITED INDUCEMENTS, SO AS TO ALLOW AN EMPLOYEE, AFFILIATE, OR THIRD PARTY OF AN INSURER TO OFFER AN INSURED SERVICES RELATING TO THE LOSS CONTROL OF THE COVERED RISK; TO AMEND SECTION 38-73-240, RELATING TO RATE FILINGS, SO AS TO CLARIFY WHERE AN INSURER MAY FILE A MULTIPLIER; TO AMEND SECTION 38-73-910, AS AMENDED, RELATING TO THE APPLICATION OF THE SECTION, SO AS TO ESTABLISH THAT RATE, RULE, AND FORM FILINGS SUBMITTED BY A RATING ORGANIZATION ARE SUBJECT TO PRIOR APPROVAL OF THE DEPARTMENT OF INSURANCE; TO AMEND SECTION 38-79-200, AS AMENDED, RELATING TO RATE INCREASE OR ASSESSMENT AUTHORIZATION, SO AS TO INCLUDE A REFERENCE; TO AMEND SECTIONS 38-101-20, 38-101-30, 38-101-40, AND 38-101-110, ALL RELATING TO THE

ISSUANCE OF FLOOD INSURANCE POLICIES, ALL SO AS TO REQUIRE A PERIL OF FLOOD TO BE NAMED; TO AMEND SECTION 38-101-120, RELATING TO THE WRITTEN NOTICE OF CANCELLATION OR NONRENEWAL, SO AS TO CLARIFY THE REQUIRED NOTICE PERIOD; AND TO REPEAL CHAPTER 95 OF TITLE 38 RELATING TO THE INTERSTATE INSURANCE PRODUCT REGULATION COMPACT.

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

Minimum nonforfeiture amounts for contracts issued after June 30, 2022

SECTION 1. Article 5, Chapter 69, Title 38 of the 1976 Code is amended by adding:

"Section 38-69-247. (A) This section applies to contracts issued after June 30, 2022, and may be applied by an insurer, on a contract-form-by-contract-form basis, to a contract issued after June 30, 2022.

(B) The minimum values as specified in Sections 38-69-250, 38-69-260, 38-69-270, 38-69-280, and 38-69-300 of any paid-up annuity, cash surrender, or death benefits available under an annuity contract must be based upon minimum nonforfeiture amounts as defined in this section.

(C) The minimum nonforfeiture amount at any time at or before the commencement of an annuity payment is equal to an accumulation up to that time at a rate of interest as indicated in subsection (E) of the net considerations paid before that time, decreased by the sum of items of (1) through (4):

(1) any previous withdrawals from or partial surrenders of the contract accumulated at a rate of interest as indicated in subsection (E);

(2) an annual contract charge of fifty dollars, accumulated at a rate of interest as indicated in subsection (E);

(3) any premium tax paid by the company for the contract, accumulated at a rate of interest as indicated in subsection (E); and

(4) the amount of any indebtedness to the company on the contract, including interest due and accrued.

(D) The net considerations for a given contract year used to define the minimum nonforfeiture amount must be an amount equal to eighty-seven and one-half percent of the gross considerations credited to the contract during that contract year.

(E)(1) The interest rate used in determining minimum nonforfeiture amounts must be an annual rate of interest determined as the lesser of three percent a year and the following, which must be specified in the contract if the interest rate is reset:

(a) the five-year Constant Maturity Treasury Rate reported by the Federal Reserve as of a date, or average over a period, rounded to the nearest 1/20th of one percent, specified in the contract no longer than fifteen months before the contract issue date or redetermination date pursuant to subitem (d);

(b) reduced by one hundred twenty-five basis points;

(c) where the resulting interest rate is no less than 15 basis points (0.15%); and

(d) the interest rate must apply for an initial period and may be redetermined for additional periods.

(2) The redetermination date, basis, and period, if any, must be stated in the contract. The basis is the date or average over a specified period that produces the value of the five-year Constant Maturity Treasury Rate to be used at each redetermination date.

(F) During the period or term that a contract provides substantive participation in an equity indexed benefit, it may increase the reduction described in subsection (E)(1)(b) by up to an additional one hundred basis points to reflect the value of the equity index benefit. The present value at the contract issue date, and at each redetermination date after that, of the additional reduction must not exceed the market value of the benefit. The director, or his designee, may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. If a demonstration is not acceptable to the director, or his designee, he may disallow or limit the additional reduction.

(G) The director, or his designee, may adopt rules to implement the provisions of subsection (F) and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts that the director, or his designee, determines adjustments are justified."

Required notice for proposed premium rate increases

SECTION 2. Chapter 72, Title 38 of the 1976 Code is amended by adding:

"Section 38-72-78. (A) An insurer must notify a policyholder of a long-term care insurance policy issued in accordance with this chapter

of a proposed premium rate increase that affects policyholders no later than thirty days after the filing by the insurer of the premium rate increase with the Department of Insurance. An insurer must provide written notice by first class mail to the last known mailing address of all affected individual and group policyholders and others who are directly billed for group coverage. The notice must:

(1) show the proposed rate;

(2) state that the rate is subject to regulatory approval;

(3) direct policyholders to present their concerns or objections to the Department of Insurance; and

(4) include contact information for the Department of Insurance.

(B) An increase in premium rate may not be implemented until approved by the Department of Insurance pursuant to Section 38-72-75 or until the effective date of the premium rate increase, whichever is later."

Standard Valuation Law

SECTION 3. Section 38-9-180(S) of the 1976 Code is amended to read:

"(S) Reserved"

Reduction from liability for reinsurance

SECTION 4. Section 38-9-210 of the 1976 Code, as last amended by Act 165 of 2020, is further amended to read:

"Section 38-9-210. An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 38-9-200 must be allowed in an amount not exceeding the liabilities carried by the ceding insurer provided that the director, or his designee, may adopt by regulation pursuant to Section 38-9-200(N) specific additional requirements relating to or setting forth the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements, or the circumstances pursuant to which a credit may be reduced or eliminated.

The reduction must be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations, if the security is held in the United States subject to withdrawal solely by and under the exclusive control of the ceding

insurer or, for a trust, held in a qualified United States financial institution, defined in Section 38-9-220(B). This security may be in the form of:

(1) cash;

(2) securities listed by the National Association of Insurance Commissioners Investment Analysis Office, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office and qualifying as admitted assets as defined in Section 38-13-80;

(3) clean, irrevocable, unconditional letters of credit issued or confirmed by a qualified United States financial institution defined in Section 38-9-220(A) no later than December thirty-first of the year for which filing is being made and in the possession of, or in trust for, the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs; or

(4) other form of security acceptable to the director, or his designee."

Annual statement as to business standing and financial condition

SECTION 5. Section 38-13-80(A) of the 1976 Code is amended to read:

"(A) Every insurer must file annually with the department by March first and quarterly as required by this title, a statement showing the business standing and financial condition of the insurer on December thirty-first of the preceding year. The filing must be submitted in an electronic format acceptable to the National Association of Insurance Commissioners or in the form and detail the director, or his designee, prescribes. Upon timely written request by the chief managing agent or officer setting forth reasons why the statement cannot be filed within the time provided, the director, or his designee, may grant in writing an extension of filing time for not more than thirty days. This statement must conform substantially to the form of statement adopted by the National Association of Insurance Commissioners. Unless the director, or his designee, provides otherwise, the annual statement is to be prepared in accordance with the annual statement instructions and the Accounting Practices and Procedures Manual adopted by the National

Association of Insurance Commissioners. The annual statement must be verified by at least two of its principal officers, at least one of whom prepared or supervised the preparation of the annual statement."

Annual statement to be filed with National Association of Insurance Commissioners

SECTION 6. Section 38-13-85(a) of the 1976 Code is amended to read:

"(a) Every insurer who is authorized to write insurance in this State must file annually with the National Association of Insurance Commissioners by March first a copy of its annual statement convention blank and any quarterly statements required by this title along with any additional filings prescribed by the director, or his designee, for the preceding year in an electronic format acceptable to the National Association of Insurance Commissioners. The information filed with the National Association of Insurance Commissioners must be in the same format and scope as that required by the director, or his designee, and must include the signed jurat page and the actuarial certification. Any amendments and addenda to the annual statement filing subsequently filed with the director, or his designee, also must be filed with the National Association of Insurance Commissioners in an electronic format acceptable to the National Association of Insurance Commissioners. Foreign insurers domiciled in a state which has a law substantially similar to this subsection are considered in compliance with this subsection."

Inducements prohibited, exception

SECTION 7. Section 38-57-150(3) of the 1976 Code, as last amended by Act 6 of 2019, is further amended to read:

"(3) Nothing in this section may be construed to:

(a) permit an unfair method of competition or an unfair or deceptive act or practice; or

(b) prohibit an insurer, by or through employees, affiliates, or third-party representatives, from offering or giving an insured, for free or at a discounted price, services or other offerings that directly and reasonably relate to the loss control of the risks covered under the policy."

Rate filings where line declared competitive, Consumer Advocate review of certain filings

SECTION 8. Section 38-73-240(C) of the 1976 Code is amended to read:

"(C) An insurer may file its rates by either filing its final rates or by filing a multiplier and, if applicable, an expense-constant adjustment to be applied to prospective loss costs that have been filed by a rating organization on behalf of the insurer as permitted by this chapter."

Application of section and exceptions for rate level increases and decreases

SECTION 9. Section 38-73-910(A) of the 1976 Code, as last amended by Act 33 of 2021, is further amended to read:

"(A) This section applies to all types of property and casualty insurance coverage except as set forth in this section. Overall rate level increases or decreases for all property and casualty insurance coverages except for property insurance filings governed by Sections 38-73-220 and 38-73-260 and automobile insurance filings governed by Section 38-73-905 are subject to prior approval as set forth in this section. All rate, rule, and form filings, including loss-cost filings and other supplementary filings, submitted by a rating organization are subject to the prior approval of the department. Every filing must state the proposed effective date and must indicate the type of coverage to which it applies. The director must approve or disapprove these filings in accordance with the applicable provisions of this chapter."

Authorization for rate increase or assessment

SECTION 10. Section 38-79-200 of the 1976 Code, as last amended by Act 67 of 2019, is further amended to read:

"Section 38-79-200. The association is authorized to provide a rate increase, assessment as provided in Section 38-79-220 or a combination thereof on policyholders which is subject to the approval of the director, or his designee, to reduce the deficit and to maintain rate adequacy."

Definitions

SECTION 11. Section 38-101-20(3) of the 1976 Code, as added by Act 166 of 2020, is amended to read:

"(3) 'Private flood insurance' means personal lines or commercial lines flood insurance policies or endorsements providing coverage for the named peril of flood issued directly by insurers."

Issuance of policies

SECTION 12. Section 38-101-30 of the 1976 Code, as added by Act 166 of 2020, is amended to read:

"Section 38-101-30. An insurer may issue an insurance policy, contract, or endorsement providing commercial lines or personal lines coverage for the named peril of flood or excess coverage for the named peril of flood on any structure and on the contents of commercial or personal property contained therein, or to insure against indirect losses from the named peril of flood subject to the requirements of this chapter. Any reference to policy in this chapter also includes endorsements that provide private flood insurance coverage."

Private flood insurance policies

SECTION 13. Section 38-101-40(A)(1) of the 1976 Code, as added by Act 166 of 2020, is amended to read:

"(1) 'Standard flood insurance', which means a private flood insurance policy which covers only losses from the named peril of flood at least equivalent, when taken as a whole, to that provided under a standard flood insurance policy under the National Flood Insurance Program (NFIP) including deductibles, exclusions, and other terms and conditions offered by the insurer. The policy form also must include:

(a) information about the availability of flood insurance coverage under the NFIP;

(b) a mortgage interest clause substantially similar to the clause contained in a standard flood insurance policy under the NFIP;

(c) a provision requiring an insured to file suit no later than one year after the date of a written denial of all or part of a claim under the policy; and

(d) cancellation provisions that are as restrictive as the provisions contained in a standard flood insurance policy under the NFIP."

Certification of policy that equals or exceeds flood coverage offered by NFIP

SECTION 14. Section 38-101-110(A) of the 1976 Code, as added by Act 166 of 2020, is amended to read:

"(A) An admitted insurer offering flood insurance may certify that a policy, contract, or endorsement provides coverage for the named peril of flood which equals or exceeds the flood coverage offered by the NFIP. To be eligible for certification, the policy, contract, or endorsement must contain a provision stating that it meets the private flood insurance requirements specified in 42 U.S.C. Section 4012a(b) and may not contain provisions that, when taken as a whole, are not in compliance with 42 U.S.C. Section 4012a(b)."

Written notice of cancellation or nonrenewal

SECTION 15. Section 38-101-120 of the 1976 Code, as added by Act 166 of 2020, is amended to read:

"Section 38-101-120. (A) The insurer must give written notice ten days before cancellation due to nonpayment of premium or forty-five days before cancellation for a reason other than nonpayment of premium or nonrenewal of private flood insurance coverage to:

(1) the insured; and

(2) the federally supervised institution that made the designated loan secured by the property covered by the private flood insurance, or the servicer acting on its behalf, if any.

(B) The notice must:

(1) be filed with the director, or his designee, subject to the 'use and file' requirements as set forth in Section 38-101-60;

(2) state the date no less than ten days before cancellation due to nonpayment of premium or forty-five days for any cancellation for a reason other than nonpayment of premium or nonrenewal; and

(3) inform the insured of its right to request a review by the South Carolina Department of Insurance.

(C)(1) An insurer may cancel or refuse to issue or renew a private flood insurance policy, except for the reasons set forth below:

(a) age;

(b) sex;
(c) race;
(d) color;
(e) creed;
(f) national origin;
(g) ancestry;
(h) marital status;
(i) income level; or
(j) lawful occupation, including the military service of the person seeking the coverage.

(2) Nothing in this section prohibits an insurer from limiting the issuance of private flood insurance policies covered in this chapter only to persons engaging in or who have engaged in a particular profession or occupation, or who are members of a particular religious sect.

(3) Nothing in this section prohibits an insurer from refusing to issue private flood insurance policies due to the exposure of flood.

(4) Notwithstanding the provisions of item (1), an insurer only may cancel a standard flood insurance policy in accordance with 42 U.S.C. Section 4012a(b)."

Repeal

SECTION 16. Chapter 95, Title 38 of the 1976 Code is repealed.

Time effective

SECTION 17. This act takes effect upon approval by the Governor.

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 196

(R222, H4889)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40-79-215 SO AS TO PROHIBIT AN ALARM BUSINESS OR CONTRACTOR FROM BEING FINED FOR A FALSE ALARM NOT ATTRIBUTED TO IMPROPER INSTALLATION, DEFECTIVE EQUIPMENT, OR OPERATIONAL ERROR BY THE ALARM BUSINESS OR CONTRACTOR.

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

Exception to civil penalties for false alarms

SECTION 1. Chapter 79, Title 40 of the 1976 Code is amended by adding:

"Section 40-79-215. An alarm business or contractor as defined in this chapter, or an alarm business call center, must not be fined or assessed a penalty by a local government for false alarms which are not attributed to improper installation, defective equipment, or operational error by the alarm business contractor."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 197

(R223, H4983)

AN ACT TO AMEND SECTION 37-11-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR PURPOSES OF THE LICENSING AND REGULATION OF CONTINUING CARE RETIREMENT COMMUNITIES, SO AS TO DEFINE THE TERM "RESERVATION DEPOSIT"; TO AMEND SECTION 37-11-30, RELATING TO THE LICENSING OF CONTINUING CARE RETIREMENT COMMUNITIES, SO AS TO ADD THAT A CONTINUING CARE RETIREMENT COMMUNITY MUST NOT BE ADVERTISED OR COLLECT A RESERVATION DEPOSIT UNLESS THE APPROPRIATE LICENSE IS OBTAINED FIRST, AND TO ADD INFORMATION REQUIRED TO BE SET FORTH IN AN APPLICATION FOR A PRELIMINARY LICENSE; TO AMEND SECTION 37-11-35, RELATING TO CONTINUING CARE CONTRACT REQUIREMENTS, SO AS TO PROVIDE THE REQUIREMENTS ALSO APPLY TO RESERVATION AGREEMENTS, AND TO PROVIDE ADDITIONAL MINIMUM REQUIREMENTS FOR CONTRACTS AND AGREEMENTS; TO AMEND SECTION 37-11-40, RELATING TO A DETERMINATION BY THE DEPARTMENT OF CONSUMER AFFAIRS AS TO THE FINANCIAL RESPONSIBILITY OF AN APPLICANT FOR A CONTINUING CARE RETIREMENT COMMUNITY LICENSE, SO AS TO ALLOW THE DEPARTMENT TO CONSIDER A PROJECT FEASIBILITY DOCUMENT; TO AMEND SECTION 37-11-50, RELATING TO LICENSING ELIGIBILITY FOR CONTINUING CARE RETIREMENT COMMUNITIES, SO AS TO PROVIDE THAT THE DEPARTMENT SHALL ISSUE A PRELIMINARY LICENSE TO AN APPLICANT IF CERTAIN DETERMINATIONS ARE MADE; TO AMEND SECTION 37-11-90, RELATING TO CERTAIN ENTRANCE FEES REQUIRED TO BE PLACED IN AN ESCROW ACCOUNT, SO AS TO ALSO REQUIRE THAT RESERVATION DEPOSITS BE PLACED IN AN ESCROW ACCOUNT, AND TO PROVIDE FOR THE CONDITIONS OF RELEASE OF RESERVATION DEPOSITS HELD IN ESCROW; AND TO AMEND SECTION 37-11-135, RELATING TO EXEMPTIONS FROM THE REQUIREMENTS OF THIS CHAPTER, SO AS TO PROVIDE THAT A FACILITY THAT HAS OBTAINED A LETTER OF

NONAPPLICABILITY FROM THE DEPARTMENT MAY NOT HOLD ITSELF OUT TO BE A CONTINUING CARE RETIREMENT COMMUNITY.

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

Definition of "reservation deposit"

SECTION 1. Section 37-11-20 of the 1976 Code is amended by adding an appropriately numbered item to read:

"( ) 'Reservation deposit' means a portion of an entrance fee paid in advance of signing a continuing care contract."

Continuing care retirement community licensing

SECTION 2. Section 37-11-30 of the 1976 Code is amended to read:

"Section 37-11-30. (A) A continuing care retirement community must not be operated or advertised, and a reservation deposit or an entrance fee must not be collected unless the appropriate license is obtained first from the department as provided in this chapter and any regulation promulgated pursuant to it. Unless otherwise specified, all references to a license in this chapter include both a preliminary license and a final license. The department shall establish reasonable licensing fees not to exceed the cost of administering this chapter. Licenses issued under this chapter expire on August thirty-first of each year. Licenses may be issued only for the premises and persons named in the application and are not transferable or assignable.

(B) Applications for licenses must be in a form and under conditions as may be prescribed by the department and must set forth:

(1) the name and business address of the operator and a statement of whether the operator is a partnership, corporation, or other type of legal entity;

(2) the names and business addresses of the officers, directors, trustees, managing or general partners, any person having a five percent or greater equity or beneficial interest in the continuing care retirement community, and any person who will be managing the facility on a day-to-day basis, and a description of these persons' interests in or occupations with the operator. The following information on all persons named in response to this item is required:

(a) a description of the business experience of the person, if any, in the operation or management of similar facilities;

(b) the name and address of any professional service, firm, association, trust, partnership, or corporation in which this person has, or which has in this person, a five percent or greater interest and which is providing or in the future shall provide goods, leases, or services to the facility or to residents of the facility of an aggregate value determined by regulation within any year, including a description of the goods, leases, or services and their probable or anticipated cost to the facility, operator, or residents, or a statement that this cost presently cannot be estimated;

(c) a description of any matter in which the person:

(i) has been convicted of a felony or pleaded nolo contendere to a felony charge, or held liable or enjoined in a civil action by final judgment, if the felony or civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property; or

(ii) is subject to a currently effective injunctive or restrictive court order or within the past five years, had a state or federal license or permit suspended or revoked as a result of an action brought by a governmental agency or department;

(3) a statement as to the operator's affiliation with a religious, charitable, or other nonprofit organization, the extent of the affiliation, if any, the extent to which the affiliate organization is responsible for the financial and contractual obligations of the operator, and the provision of the Federal Internal Revenue Code, if any, under which the operator or affiliate is exempt from the payment of income tax;

(4) the location and description of the physical property of the facility, existing or proposed, and to the extent proposed, the estimated completion date, whether construction has begun, and the contingencies subject to which construction may be deferred;

(5) the services provided or proposed to be provided pursuant to contracts for continuing care at the facility, including the extent to which medical care is furnished, and a clear statement of which services are included for specified basic fees for continuing care and which services are made available at or by the facility at extra charge;

(6) a description of all fees required of residents, including the entrance fee and periodic charges, if any. The description must include:

(a) a statement of the fees charged if the resident marries while at the facility and a statement of the terms concerning the entry of a spouse to the facility and the consequences if the spouse does not meet the requirements for entry;

(b) the circumstances under which the resident is permitted to remain in the facility if he has financial difficulties;

(c) the terms and conditions under which a contract for continuing care at the facility may be canceled by the operator or by the resident, and the conditions, if any, under which all or a portion of the entrance fee is refunded if the contract is canceled by the operator or by the resident if the resident dies before or following occupancy of a living unit;

(d) the conditions under which a living unit occupied by a resident may be made available by the facility to a different or new resident;

(e) the manner by which the operator may adjust periodic charges or other recurring fees and the limitations on these adjustments, if any. If the facility is already in operation or if the operator or manager operates one or more similar continuing care locations within this State, tables must be included showing the frequency and average dollar amount of each increase in periodic charges, or other recurring fees at each facility or location for the previous five years, or for all of the years in operation if less than five years;

(7) the health and financial conditions required for a person to be accepted as a resident and to continue as a resident once accepted, including the effect of a change in the health or financial condition of a person between the date of entering a contract for continuing care and the date or initial occupancy of a living unit by that person;

(8) the provisions that have been made or will be made, if any, to provide reserve funding or security to enable the operator to perform its obligations fully under contracts to provide continuing care at the facility, including the establishment of escrow accounts, trusts, or reserve funds, together with the manner in which these funds will be invested and the names and experience of individuals in the direct employment of the operator who will make the investment decisions;

(9) certified financial statements of the operator, including a balance sheet as of the end of the most recent fiscal year and income statements for the three most recent fiscal years of the operator or for all of the years in existence if less than three years. If the operator's fiscal year ended more than one hundred twenty days before the date the application for a license is filed, interim financial statements as of a date not more than ninety days before the date of filing the application must be included but need not be certified;

(10) if the continuing care contract provides for services for the life of the person or for more than one year including mutually terminable contracts, a summary of a report of an actuary, updated every two years,

that estimates the capacity of the operator to meet its contractual obligation to the residents;

(11) if the facility has not begun operations, documentation by the operator that the proposed project is economically feasible, both immediately and long term, and can be accommodated in the patient charge structure without unreasonable increases;

(12) the estimated number of residents of the facility to be provided services by the operator pursuant to the contract for continuing care;

(13) a copy of the standard form of contract for continuing care used by the operator attached to each disclosure statement;

(14) other material information concerning the facility or the operator as the operator wishes to include.

(C) In addition to the information required in subsection (B)(1)-(8) and (11)-(14), an application for a preliminary license must set forth:

(1) a copy of the reservation agreement used to collect reservation deposits;

(2) a copy of the applicant's escrow agreement with a trust institution; and

(3) a representative sample of any advertisements used or to be used for the facility."

Continuing care retirement community contracts and agreements

SECTION 3. Section 37-11-35 of the 1976 Code is amended to read:

"Section 37-11-35. (A) A continuing care contract and a reservation agreement must be in writing and must meet minimum standards for readability established by the department. Standards must include, but are not limited to, standards on general organization of text, text readability, type size, type style, type spacing, and general appearance of the contract. The contracts and agreements shall, at a minimum, be:

(1) printed in one hundred percent black ink with the exception of the operator's name and business logo;

(2) printed on stock that is at least eleven inches high and seven and one quarter inches wide;

(3) in print no smaller than ten-point type; and

(4) written in language customarily used and understood by people in the conduct of their personal affairs.

(B)(1) A reservation agreement must be entered into prior to the receipt of a reservation deposit and shall, at a minimum, include:

(a) the location, name, and address of the facility or proposed facility;

(b) information pursuant to Section 37-11-30(B)(5)-(7);

(c) the amount of money received and any rate of interest anticipated to be collected;

(d) a statement that the full reservation deposit and any corresponding interest accrued will be applied to the entrance fee at the time of executing the continuing care contract;

(e) a statement that the prospective resident has a right to cancel the agreement at any time for a full refund;

(f) the method of cancelling, the address where the prospective resident should submit the request to cancel and timeline for distribution of funds, not to exceed ten calendar days;

(g) a statement that the reservation deposit will be held in an escrow account at a trust institution;

(h) the name and contact information for the trust institution where the reservation deposit will be held;

(i) a description of the living unit reserved;

(j) a statement of the continuing care services currently offered by the operator at the time of signing the agreement and the continuing care services proposed to be offered in the future; and

(k) a proposed construction schedule, if applicable, and expected date when the reserved living unit will be available for occupancy.

(2) An operator may not receive or agree to a reservation deposit in excess of ten percent of the entrance fee for the prospective resident's reserved living unit.

(3) Every quarter the operator shall provide to the department and prospective residents who entered into a reservation agreement an update on the progress of facility development and expected date when the facility or reserved unit will be available for occupancy. If any major events occur that will delay the schedule by more than four weeks, the operator shall provide an update to the department and all prospective residents who entered into a reservation agreement no later than ten business days after the operator knew or should have known about the delay.

(C)(1) A continuing care contract clearly must state what portion, if any, of the entrance fee is refundable and nonrefundable. A contract must include a statement that:

(a) the resident has a right to cancel the contract within thirty days after signing; and

(b) if a resident dies before occupying a living unit in the facility or, if on account of illness, injury, or incapacity, a resident would be

precluded from occupying a living unit in the facility under the terms of the contract for continuing care, the contract is automatically canceled.

(2) If the contract is canceled within thirty days, all money or property paid or transferred by the resident must be refunded fully, less those costs incurred by the community. If the living unit was available for occupancy, the community may charge a daily rate based on the usual monthly charge for that unit beginning on the eighth day after signing and ending on the day notice of cancellation is given to the community."

Financial responsibility determination

SECTION 4. Section 37-11-40 of the 1976 Code is amended to read:

"Section 37-11-40. (A) Within sixty days of the receipt of a completed application for a license, the department shall determine whether the continuing care retirement community is financially responsible and can meet its obligations to residents or prospective residents.

(B) In making this determination for a license, the department may consider the project feasibility document provided pursuant to Section 37-11-30(B)(11), which is deemed trade secret and must include at least the following:

(1) a statement of the purpose and need for the facility;

(2) a description of the proposed facility, including the location, size, number of units to be constructed, anticipated completion date, and the proposed construction program;

(3) an identification and evaluation of the primary market areas and assumptions as to the secondary market areas, as well as the proposed unit sales per month;

(4) projected revenues from all sources, including:

(a) anticipated entrance fees;

(b) monthly service fees;

(c) nursing care rates, if applicable; and

(d) the total amount of financing required;

(5) projected expenses, including:

(a) staffing requirements and salaries;

(b) property, plant, and equipment costs, including depreciation expense;

(c) interest expense;

(d) marketing expenses; and

(e) other operating expenses;

(6) current assets and liabilities of the applicant;

(7) expectations of the financial condition of the facility, including the projected cash flow and a projected balance sheet and an estimate of the funds anticipated to be necessary to cover start-up losses;

(8) the inflation factor, if any, assumed in the study for the proposed facility and how and where it is applied;

(9) financial forecasts or projections prepared in accordance with standards promulgated by the American Institute of Certified Public Accountants, or in accordance with standards for feasibility studies for continuing care retirement communities promulgated by the Actuarial Standards Board, and an independent evaluation and opinion by the consultant who prepared the study of the underlying assumptions used as the basis for the forecasts or projections in the study. The study shall take into account facility costs, marketing projections, resident fees and charges, competition, resident contract provisions, and other factors which affect the feasibility of the study;

(10) an opinion letter prepared by the person who prepared the study as to the financial feasibility of the facility;

(11) the name, address, and telephone number of the person who prepared the feasibility study and the experience of the person in preparing similar studies or otherwise consulting in the field of continuing care; and

(12) a detailed written statement regarding the specific provisions taken, or to be taken, to enable the applicant to perform its obligations fully under contracts to provide continuing care. The provisions may include surety bonds, financial reserves, letters of credit, adequacy of working capital and actual and projected occupancy rates, and other financial arrangements or assurances as permitted in this section.

(C) In making this determination for a final license, the department may consider, without limitation, the following in addition to the items listed in subsection (B):

(1) the financial soundness of the arrangements for board, lodging, or medical, nursing, or health-related services and the schedule of charges used in connection with them;

(2) the adequacy of working capital;

(3) if the continuing care contract provides for services for the life of the person or for more than one year including mutually terminable contracts, a surety bond, financial reserves, letter of credit, or other financial arrangement to guarantee the performance of contractual obligations;

(4) an agreement with providers for the provision of health care or health-related services."

Preliminary licenses

SECTION 5. Section 37-11-50 of the 1976 Code is amended to read:

"Section 37-11-50. (A) The department shall issue a preliminary license to a person filing an application pursuant to Section 37-11-30 if, upon payment of the application fee, it determines that:

(1) the feasibility study satisfies the requirements in Section 37-11-40(B) and demonstrates the project is feasible;

(2) the continuing care contracts and the operator's disclosure statement meet the requirements prescribed by this chapter;

(3) the facility's advertising and promotional materials are not deceptive, misleading, or likely to mislead;

(4) the facility has in effect its complaint system;

(5) the applicant has demonstrated the willingness and potential ability to provide health care or health-related services in a manner that assures availability and accessibility of adequate personnel and facilities, and in a manner that assures continuity of service;

(6) the escrow agreement and any reservation agreement state that all deposits will be held in escrow and released in accordance with Section 37-11-90.

(B) The department shall issue a license to a person filing an application pursuant to Section 37-11-30 if, upon payment of the application fee, the department is satisfied that:

(1) the persons responsible for the conduct of the affairs of the applicant are competent and trustworthy and possess good reputations;

(2) the continuing care retirement community is financially responsible and can meet its obligations to residents;

(3) the operator has demonstrated the willingness and potential ability to assure that the health care or health-related services will be provided in a manner to assure both availability and accessibility of adequate personnel and facilities and in a manner assuring availability, accessibility, and continuity of service;

(4) the operator has complied with all requirements of the Department of Health and Environmental Control concerning the furnishing of nursing, medical, or other health-related services."

Reservation Deposits

SECTION 6. Section 37-11-90 of the 1976 Code is amended to read:

"Section 37-11-90. (A) A continuing care retirement community is exempt from the provisions of this section if:

(1) it has been operating for at least five years;

(2) for the previous six months it has maintained at least the minimum occupancy rate estimated in its financial feasibility study to achieve a break-even cash flow operating level or seventy-five percent occupancy, whichever is less.

(B) If an entrance fee or reservation deposit is received by the operator before the date the resident is permitted to occupy a living unit in the facility, the total amount must be placed in an escrow account with a trust institution.

(C) Entrance fees may be released from escrow to the operator only as follows:

(1) If the entrance fee applies to a living unit that previously has been occupied in the facility, the entrance fee must be released to the operator when the operator provides written certification that the living unit is available for occupancy by the new resident.

(2) If the entrance fee applies to a living unit which previously has not been occupied by a resident, the nonrefundable portion, if any, of the entrance fee must be released to the operator when the operator provides written certification that the living unit is available for occupancy. The refundable portion, if any, of the entrance fee must be released to the operator when the operator provides certification to the escrow agent that the following has occurred:

(a) construction or purchase of the living unit has been completed, and an occupancy permit, if applicable, covering the living unit has been issued by the local government having authority to issue the permit;

(b) a commitment has been received by the operator for a permanent mortgage loan or other long-term financing, and conditions of the commitment before disbursement of funds have been satisfied substantially;

(c) aggregate entrance fees received or receivable by the operator pursuant to binding continuing care retirement community contracts, plus the anticipated proceeds of any first mortgage loan or other long-term financing commitment, are equal to not less than ninety percent of the aggregate cost of constructing or purchasing, equipping, and furnishing the facility plus not less than ninety percent of the funds estimated in the financial feasibility study required by Section 37-11-30 to be necessary to fund cash shortages during start-up and assure full performance of the obligations of the operator pursuant to continuing care retirement community contracts.

(D) A reservation deposit may be released only as follows:

(1) When a prospective resident who has entered into a reservation agreement and paid a reservation deposit later enters into a continuing care contract with the continuing care retirement community, the reservation agreement terminates and the reservation deposit shall be credited in full towards the entrance fee. Thereafter, the funds shall remain in escrow until the requirements of subsection (C) or (E)(3) are met.

(2) Reservation deposits may be refunded to the prospective resident at any time. The operator must provide the form to be used to request disbursement of funds from the trust institution to the prospective resident. The form must list the total disbursement amount and must certify that the prospective resident has sent written notice to the provider requesting a refund and that either:

(a) the prospective resident has rescinded his reservation agreement; or

(b) the reservation agreement has been terminated by the prospective resident or operator in accordance with its stated terms.

(E)(1) Upon receipt by the escrow agent of a request by the operator for the release of the escrow funds, the escrow agent shall approve release of the funds within five working days unless the escrow agent finds that the requirements of subsection (B) have not been met and notifies the operator of the basis for this finding. The request for release of the escrow funds must be accompanied by documentation the trust institution requires.

(2) If the operator fails to meet the requirements for release of funds held in this escrow account within a time period the escrow agent considers reasonable, the funds must be returned by the escrow agent to the persons who have made payment to the operator. The escrow agent shall notify the operator of the length of this time period when the operator requests release of the funds.

(3) An entrance fee held in escrow may be returned by the escrow agent to the person who made payment to the operator at any time upon receipt by the escrow agent of notice from the operator that this person is entitled to a refund of the entrance fee.

(4) The escrow agent shall be entitled to rely upon the written notices, instructions, and directions of the operator and shall have no liability for any action taken based upon such reliance. However, the escrow agent shall be liable for its own negligence or wilful misconduct."

Exempt facilities

SECTION 7. Section 37-11-135 of the 1976 Code is amended to read:

"Section 37-11-135. A facility that does not require payment of an entrance fee is exempt from the requirements of this chapter. In order to qualify for this exemption, a facility must obtain a letter of nonapplicability from the department. A facility that has obtained a letter of nonapplicability may not hold itself out to be a continuing care retirement community."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 198

(R224, H4986)

AN ACT TO AMEND SECTION 50-5-555, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TRAP PLACEMENT, SO AS TO PROHIBIT TRAPS IN THE WATERS OF THE GENERAL TRAWL ZONE WHEN THESE WATERS ARE OPEN TO TRAWLING FOR SHRIMP; AND TO AMEND SECTION 50-11-2540, RELATING TO TRAPPING SEASON OF FURBEARING ANIMALS, SO AS TO ALLOW FOR TRAPPING FURBEARING ANIMALS ON PRIVATE LAND FOR NONCOMMERCIAL PURPOSES AND TO ALLOW FOR THE YEAR ROUND TRAPPING OF BEAVERS ON PRIVATE LAND FOR NONCOMMERCIAL PURPOSES.

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

Trap placement

SECTION 1. Section 50-5-555 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

"( ) No trap may be in the waters of the General Trawling Zone as established by Section 50-5-705 when these waters are open to trawling for shrimp."

Trapping season for furbearing animals

SECTION 2. Section 50-11-2540 of the 1976 Code is amended to read:

"Section 50-11-2540. (A) It is lawful to trap furbearing animals for commercial purposes from December first of each year to March first of the succeeding year. It is lawful for an individual, or an individual's agent, to trap furbearing animals on the individual's private land for a noncommercial purpose with only a valid statewide hunting license during the established open hunting season. It is unlawful to trap any other times unless authorized by the department. It is lawful to take furbearing animals by other lawful means during the general open hunting seasons established therefor.

(B) It is lawful to trap coyotes from December first of each year to March first of the succeeding year. It is unlawful to trap coyotes at any other time unless authorized by the department. Notwithstanding the provisions of Section 50-11-1080, it is lawful to take coyotes by other lawful means at any time during the year.

(C) It is lawful for an individual, or an individual's agent, to trap beavers on the individual's private land for a noncommercial purpose with only a valid statewide hunting license year round."

Time effective

SECTION 3. This act takes effect sixty days after signature by the Governor.

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 199

(R225, H4999)

AN ACT TO AMEND SECTION 44-56-200 CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO HAZARDOUS WASTE CLEANUP, SO AS TO PROVIDE STANDARDS FOR CONDUCTING CERTAIN CLEANUP, REMOVAL, REMEDIATION, OR OTHER RESPONSES; TO PROVIDE SITE-SPECIFIC REMEDIATION STANDARDS; AND TO DEFINE NECESSARY TERMS.

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

Hazardous waste cleanup

SECTION 1. Section 44-56-200 of the 1976 Code is amended to read:

"Section 44-56-200. (A) For the purposes of this section:

(1) 'Medium' or 'media' includes the following portions of the environment:

(a) soil;

(b) surface water;

(c) sediments;

(d) ambient, noncontainerized air; and

(e) the saturated zone beneath surface soils commonly referred to as 'groundwater'.

(2) 'Owner' does not include:

(a) a unit of state or local government that acquired ownership or control involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government involuntarily acquired a title by virtue of its function as sovereign, including acquisitions made by a forfeited land commission pursuant to Chapter 59, Title 12. The exclusion provided pursuant to this item does not apply to any state or local government that voluntarily acquires a facility or has caused or contributed to the release or threatened release of a hazardous substance from the facility, and such a state or local government is subject to the provisions of this chapter in the same manner and to the same extent, both procedurally and substantively, as any nongovernmental entity; or

(b) a person otherwise liable who can establish by a preponderance of the evidence that the release or threat of release of a

hazardous substance and the damages resulting therefrom were caused solely by:

(i) an act of God;

(ii) an act of war; or

(iii) an act or omission by a third party, if the person establishes by a preponderance of the evidence that he exercised due care with respect to the hazardous substance concerned, taking into consideration the characteristics of the hazardous substance, in light of all relevant facts and circumstances and that he further took precautions against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from such acts or omissions. Third party does not include:

(A) an employee or agent of the person; or

(B) one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the person, except where the sole contractual arrangement arose from a published tariff and acceptance for carriage by a common carrier by rail.

(3) 'Remediation' has the same meaning provided by Public Law 96-510, 42 U.S.C. 9601, and may include a human health risk assessment process to estimate the nature and probability of adverse health effects in humans who may be exposed to chemicals in contaminated media.

(B) The Department of Health and Environmental Control is empowered to implement and enforce the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Public Law 96-510), and subsequent amendments to Public Law 96-510 as of the effective date of the amendments.

(C)(1) Subject to the provisions of Section 107 of Public Law 96-510 and its subsequent amendments which pursuant to this section are incorporated and adopted as the law of this State, the department is empowered to recover on behalf of the State all response costs expended from the Hazardous Waste Contingency Fund or from other sources, including specifically punitive damages in an amount at least equal to and not more than three times the amount of costs incurred by the State whether before or after the enactment of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, and its subsequent amendments.

(2) For purposes of this chapter, the provisions of the Superfund Recycling Equity Act, 42 U.S.C. Section 9627, shall apply.

(D) When conducting cleanup, removal, remediation, or any other response pursuant to this section, the Pollution Control Act, or regulations thereof, a person who proposes or is required to respond to

the release of a pollutant, contaminant, or hazardous substance at a contaminated facility site must comply with one of the following standards:

(1) the unrestricted use standards applicable to each affected medium;

(2) the background standard, if the background standard exceeds the unrestricted use standards;

(3) a site-specific remediation standard for any or all of the affected media that undergo review and approval by the department pursuant to subsection (E); or

(4) any combination of remediation standards for affected media described in this subsection.

(E) Site-specific remediation standards developed for each medium and authorized by this section shall include an evaluation of remediation standards based upon the present or currently planned future use of a site. Site-specific remediation standards shall be developed in accordance with the following:

(1) for surface water, the site-specific remediation standard shall be, or shall demonstrate compliance with, water quality standards adopted by the department;

(2) for a saturated zone or groundwater, the current and probable future use of the saturated zone or groundwater must first be identified, then site-specific sources of contaminants and potential receptors must be identified. Potential receptors must be protected, controlled, or eliminated, whether the receptors are located on or off the site where the source of the contamination is located;

(3) natural environmental conditions affecting the fate and transport of contaminants, such as natural attenuation, shall be determined by the appropriate scientific methods and shall be considered a site-specific remediation standard;

(4) permits for facilities located at sites covered by any of the programs or requirements established pursuant to regulation shall contain conditions to avoid exceedances of the applicable groundwater standards adopted by the department due to the continued operation of any onsite facility;

(5) for soil, the soil shall be remediated to levels that are no longer a continuing source of groundwater contamination in excess of the site-specific standards. Soil shall be remediated to unrestricted use standards on residential property with the following exceptions:

(a) for mixed-use developments where ground level uses are nonresidential and all potential exposure to contaminated soil has been

eliminated, the department may allow soil to remain on site in excess of unrestricted use standards; and

(b) if soil remediation is impractical because of preexisting structures or removal is impractical, then all areas of the real property where a person may come into contact with soil must be remediated to unrestricted use standards. All other areas of the real property engineering and institutional controls that are sufficient to protect public health, safety, and welfare and the environment must be implemented;

(6) if applicable, the potential for the human inhalation of contaminants from outdoor air and other site-specific indoor air exposure pathways shall be considered. Site-specific remediation standards also must protect against human exposure to contamination through the consumption of contaminated fish or wildlife and through the ingestion of contaminants in surface water or groundwater supplies;

(7) for known or suspected carcinogens, site-specific remediation standards shall be established at exposures that represent an excess lifetime cancer risk of one in one million. The site-specific remediation standard may depart from the one-in-one million risk level based on the criteria set out in 40 C.F.R. Section 300.430(e)(9). The cumulative excess lifetime cancer risk to an exposed individual shall not be greater than one in ten thousand based on the sum of carcinogenic risk posed by each contaminant present;

(8) for systemic toxicants, site-specific remediation standards shall represent levels to which the human population, including sensitive subgroups, may be exposed without any adverse health effects during a lifetime or part of a lifetime. Site-specific remediation standards for systemic toxicants shall incorporate an adequate margin of safety and shall take into account cases in which two or more systemic toxicants affect the same organ or organ system; and

(9) the site-specific remediation standards for each medium shall be adequate to avoid foreseeable adverse effects to other media or the environment that are inconsistent with the risk-based approach under this section."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 200

(R226, H5000)

AN ACT TO AMEND SECTION 44-63-140, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING IN PART TO THE RIGHT OF ADULT ADOPTED PERSONS TO ACCESS THEIR ORIGINAL BIRTH CERTIFICATES IN CERTAIN CIRCUMSTANCES, SO AS TO APPLY RETROACTIVELY; AND FOR OTHER PURPOSES.

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

Original birth certificates, adult adopted persons

SECTION 1. Section 44-63-140(1)(b), of the 1976 Code, as last amended by Act 241 of 2018, is further amended to read:

"(b)(i) The original birth certificate and the evidence of adoption are not subject to inspection, except upon order of a court of competent jurisdiction or as provided in this subitem.

(ii) A person eighteen years of age or older who was born in the State of South Carolina and who has had his original certificate of birth sealed due to an adoption may, upon written request to the state registrar, receive a copy of his original birth certificate and any evidence of the adoption held with the original record, regardless of the date on which the adoption was finalized, if:

(A) a biological parent has completed a form consenting to the release of the original birth certificate or has provided notarized written consent to the release of the original birth certificate; or

(B) the adoptee brings to the department a certification from the department or an office of vital records in another jurisdiction certifying that a biological parent is deceased.

This provision allows adoptees who have reached the age of eighteen to access a copy of their original birth certificate and accompanying evidence of adoption with the consent of a biological parent, or if a biological parent is deceased, and applies retroactively, regardless of the date on which the adoption was finalized.

(iii) The form referenced in subitem (b)(ii) also must allow for a biological parent to indicate contact preference and to consent to release of medical history pursuant to item (1)(c). The copy of the original birth certificate must be in a form that clearly indicates it is not a certified copy and that it may not be used for legal purposes. All procedures, fees, and waiting periods applicable to nonadopted citizens born in the State of South Carolina seeking copies of certificates of birth apply.

(iv) Whenever an adoptee who has reached the age of eighteen applies for a copy of his original birth certificate and accompanying evidence of adoption, the department shall redact from the copy all information as to any biological parent that has not given consent in accordance with this section, unless certified as deceased."

Time effective

SECTION 2. This act takes effect twelve months after approval by the Governor.

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 201

(R227, H5057)

AN ACT TO AMEND SECTION 12-6-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE APPLICATION OF THE INTERNAL REVENUE CODE TO STATE INCOME TAX LAWS, SO AS TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE TO THE YEAR 2021 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; AND TO PROVIDE THAT FOR TAX YEAR 2021, SOUTH CAROLINA ADOPTS CERTAIN FEDERAL EXCLUSIONS FROM GROSS INCOME.

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

Internal Revenue Code conformity

SECTION 1. Section 12-6-40(A)(1)(a) and (c) of the 1976 Code, as last amended by Act 87 of 2021, 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, 2021, 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, 2021, are extended, but otherwise not amended, by congressional enactment during 2022, 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."

American Rescue Plan, exclusions from gross income

SECTION 2. For tax year 2021, South Carolina adopts the federal exclusion from gross income for targeted Economic Injury Disaster Loan advances received from the Small Business Administration (SBA) and the federal exclusion from gross income for restaurant revitalization

grant amounts received from the SBA as provided in Sections 9672 and 9673 of the American Rescue Plan Act.

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 202

(R228, H5075)

AN ACT TO AMEND SECTION 12-6-3795, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA HOUSING TAX CREDIT, SO AS TO DEFINE TERMS AND LIMIT THE CREDIT; TO PROVIDE A ONE-TIME AUTHORIZATION OF SOUTH CAROLINA HOUSING TAX CREDITS FOR CERTAIN PROJECTS APPROVED BEFORE 2022; TO AMEND ARTICLE 3 OF CHAPTER 11, TITLE 1, RELATING TO THE ALLOCATION OF STATE CEILING ON ISSUANCE OF PRIVATE ACTIVITY BONDS, SO AS TO REQUIRE THE STATE FISCAL ACCOUNTABILITY AUTHORITY TO DEVELOP A STATE CEILING ALLOCATION PLAN ANNUALLY, TO SPECIFY REQUIREMENTS OF THE PLAN, AND TO PROVIDE A PROCESS FOR PERIODIC ALLOCATIONS OF THE STATE CEILING; AND TO REPEAL SECTION 1-11-370 RELATING TO INDEBTEDNESS INCLUDED WITHIN ANY LIMITS ON PRIVATE ACTIVITY BONDS.

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

South Carolina Housing Tax Credit

SECTION 1. A. Section 12-6-3795 of the 1976 Code, as added by Act 137 of 2020, is amended to read:

"Section 12-6-3795. (A) As used in this section:

(1) 'Eligibility statement' means a statement authorized and issued by the South Carolina State Housing and Finance Development Authority certifying that a given project qualifies for the South Carolina housing tax credit, including any preliminary determination thereof.

(2) 'Federal housing tax credit' means the federal tax credit as provided in Section 42 of the Internal Revenue Code of 1986, as amended.

(3) 'Median income' means those incomes that are determined by the federal Department of Housing and Urban Development guidelines and adjusted for family size.

(4) 'Project' means a housing project that has restricted rents that do not exceed thirty percent of income for at least forty percent of its units occupied by persons or families having incomes of sixty percent or less of the median income, or at least twenty percent of the units occupied by persons or families having incomes of fifty percent or less of the median income.

(5) 'Qualified project' means a qualified low-income building as that term is defined in Section 42 of the Internal Revenue Code of 1986, as amended, that is located in South Carolina and receives approval for tax credits from the South Carolina Housing and Finance Development Authority provided pursuant to this section.

(6) 'Taxpayer' means a sole proprietor, partnership, corporation of any classification, limited liability company, or association taxable as a business entity that is subject to South Carolina taxes pursuant to Section 12-6-510, Section 12-6-530, Chapter 11, Title 12, or Chapter 7, Title 38.

(7) 'Federal 9 percent tax credit' means the federal housing tax credit described in Section 42(b)(1)(B)(i) of the Internal Revenue Code.

(8) 'Federal 4 percent tax credit' means the federal housing tax credit described in Section 42(b)(1)(B)(ii) of the Internal Revenue Code.

(9) 'Credit period' has the meaning defined in Section 42(f)(1) of the Internal Revenue Code.

(10) 'State housing authority' means the South Carolina State Housing Finance and Development Authority.

(11) 'Department of Revenue' means the South Carolina Department of Revenue.

(B)(1) A state tax credit pursuant to this section may be claimed against income taxes imposed by Section 12-6-510 or 12-6-530, bank taxes imposed pursuant to Chapter 11, Title 12, corporate license fees imposed pursuant to Chapter 20, Title 12, and insurance premium and retaliatory taxes imposed pursuant to Chapter 7, Title 38, to be termed

the South Carolina housing tax credit, and is allowed with respect to each qualified project placed in service after January 1, 2020, and before December 31, 2030, in an amount not to exceed the federal housing tax credit allowed with respect to such qualified project, subject to the limitations of item (5). In computing a tax payable by a taxpayer pursuant to Section 38-7-90, the credit allowed pursuant to this section must be treated as a premium tax paid pursuant to Section 38-7-20.

(2)(a) If under Section 42 of the Internal Revenue Code of 1986, as amended, a portion of any federal housing tax credit taken on a project is required to be recaptured, the taxpayer claiming any South Carolina housing tax credit with respect to such project also is required to recapture a portion of any South Carolina housing tax credit authorized by this section. The state recapture amount is equal to the proportion of the South Carolina housing tax credit claimed by the taxpayer that equals the proportion the federal recapture amount bears to the original federal housing tax credit amount subject to recapture.

(b) In the event that recapture of any South Carolina housing tax credit is required, any return submitted to the Department of Revenue, as provided in this section, shall include the proportion of the South Carolina housing tax credit required to be recaptured, the identity of each taxpayer subject to the recapture, and the amount of South Carolina housing tax credit previously allocated to such taxpayer. Any recapture of the South Carolina housing tax credit is reported in the same manner as any recapture of the federal housing tax credit.

(3) The total amount of the South Carolina housing tax credit allowed by this section for a taxable year may not exceed the taxpayer's income tax liability. Any unused South Carolina housing tax credit may be carried forward to apply to the taxpayer's next five succeeding years' tax liability. The taxpayer may not apply the credit against any prior tax years' tax liability.

(4) The South Carolina housing tax credit and any recaptured tax credit, must be allocated among some or all of the partners, members, or shareholders of the entity owning the project in any manner agreed to by such persons, regardless of whether such persons are allocated or allowed any portion of the federal housing tax credit with respect to the project.

(5)(a) The South Carolina housing tax credit allowed for any project must supplement but not supplant the federal housing tax credit and must be limited to an amount necessary only to achieve financial feasibility of the project.

(b) The total amount of all South Carolina housing tax credits that may be allocated in any calendar year must not exceed twenty

million dollars, plus the total of all unallocated tax credits, if any, for any preceding years, and the total amount of any previously allocated tax credits that have been recaptured, revoked, canceled, or otherwise recovered but not otherwise reallocated.

(c) Of the dollar limitation prescribed in subitem (b), the total amount of South Carolina housing tax credits allocated to qualified projects utilizing the federal 9 percent tax credit must not exceed forty percent of the dollar limitation prescribed in subitem (b). Of the South Carolina housing tax credits allocated to qualified projects utilizing the federal 9 percent tax credit, no less than fifty percent of the South Carolina housing tax credits must be allocated to qualified projects located in an eligible rural area as designated by the United States Department of Agriculture, with the remainder allocated to (i) qualified projects serving older persons or persons with special needs, irrespective of rural eligibility criteria; (ii) qualified projects supporting workforce development as certified by the South Carolina Department of Commerce, irrespective of rural eligibility criteria; and (iii) other qualified projects, irrespective of rural eligibility criteria.

(d) Compliance with the dollar limitations of subitems (b) and (c) must be determined by the total amount of South Carolina housing tax credits allocated for one full year of the credit period applicable to each qualified project, and not the total amount of South Carolina housing tax credits allocated for the entire credit period applicable to each qualified project. Compliance with the dollar limitations of subitems (b) and (c) must be determined within each calendar year at the time the state housing authority makes a preliminary determination of any qualified project's eligibility for the South Carolina housing tax credit.

(e) In addition to the dollar limitation of subitem (b), allocation of any South Carolina housing tax credit to any qualified project utilizing the federal 4 percent tax credit is conditioned on among other things availability and allocation to the extent necessary for the qualified project of any state ceiling made pursuant to Article 3, Chapter 11, Title 1.

(C)(1) The state housing authority shall promulgate rules establishing criteria upon which the eligibility statements are issued which must include consideration of evidence of local support for the project. The eligibility statement must specify the amount of the South Carolina housing tax credit allowed, and must include: (i) the annual amount of South Carolina housing tax credit allocated to the qualified project for each year of credit the period; and (ii) the total amount of South Carolina

housing tax credit allocated to the qualified project for the entire credit period.

(2) The state housing authority may not issue an eligibility statement until the taxpayer provides a report to the state housing authority detailing how the South Carolina housing tax credit will benefit the tenants of the project, once placed in service, including without limitation, reduced rent, and why the South Carolina housing tax credit is essential to the financial feasibility of the project.

(3) The state housing authority must establish uniform criteria for allocating the South Carolina housing tax credit to eligible projects pursuant to a competitive process that promotes highest value and greatest public benefit. The state housing authority must establish the criteria required by this section as part of any qualified allocation plan adopted to administer the federal housing tax credit, which must include without limitation: (i) written notice by the state housing authority to the county and city within which any project is proposed to be located; (ii) following such notice, an opportunity for public comment on the proposed project at a public hearing conducted by the state housing authority no less than ten business days following notice of such public hearing, notification of which must be made by publication in a newspaper of general circulation in the county and city within which the proposed project is to be located; and (iii) an opportunity for the county and the city within which the project is proposed to be located to provide comment within no less than ten business days following such public hearing. The criteria established pursuant to this section, and any qualified allocation plan, are subject to the prior review and comment of the Joint Bond Review Committee.

(4) The state housing authority must furnish no later than January thirty-first of each year an annual report of South Carolina housing tax credits allocated pursuant to this section, which must include for the preceding calendar year the total amount of South Carolina housing tax credits allocated, and for each project, the project name and location, the amount of the South Carolina housing tax credits allocated to the project, project ownership, total number of units assisted, and the public benefit achieved by the project. The annual report must be furnished to the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, the Chairman of the House of Representatives Ways and Means Committee, the Joint Bond Review Committee, and the State Fiscal Accountability Authority.

(D) The Department of Revenue, in consultation with the state housing authority, may adopt rules and policies necessary to implement and administer the provisions of this section; provided, however, that the

state housing authority has the responsibility for: (i) allocation and administration of the South Carolina housing tax credit; and (ii) ensuring that the limits prescribed by subsection (B)(5)(b) and (c) are not exceeded.

(E) Notwithstanding any other provision of law, the provisions of this section and administration thereof are subject to the oversight, and review and comment as appropriate, of the Joint Bond Review Committee."

B. 1. Notwithstanding the limitations prescribed by Section 12-6-3795(B)(5)(b), (c), and (d) in SECTION 1. A., the General Assembly hereby provides a one-time authorization of South Carolina housing tax credits in an amount necessary but not exceeding one hundred million dollars for qualified projects approved before December 31, 2021, by the State Fiscal Accountability Authority or the South Carolina State Housing and Finance Development Authority, as applicable. Any allocations of South Carolina housing tax credits made pursuant to this provision are subject to the review and comment of the Joint Bond Review Committee. No later than thirty days following enactment hereof, the South Carolina State Housing and Finance Development Authority must identify and report to the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, the Chairman of the House of Representatives Ways and Means Committee, the Joint Bond Review Committee, and the State Fiscal Accountability Authority all qualified projects to which this one-time authorization of South Carolina housing tax credits is proposed to apply. The report must be made in such form and substance as may be directed by the Joint Bond Review Committee. Nothing in this provision grants any rights to, or in the processes used in the determination of, allocation of this one-time authorization of South Carolina housing tax credits. Decisions made pursuant to this provision are final and are not subject to judicial or administrative review.

2. This subsection B takes effect upon approval by the Governor.

C. This SECTION takes effect upon approval by the Governor and first applies to tax years beginning after 2021.

State ceiling allocation

SECTION 2. Article 3, Chapter 11, Title 1 of the 1976 Code is amended to read:

"Article 3

Allocation of State Ceiling on Issuance of Private Activity Bonds

Section 1-11-500. The state ceiling on the issuance of private activity bonds as defined in Section 146 of the Internal Revenue Code of 1986 established in the act must be certified annually by the Secretary of the State Fiscal Accountability Authority (the state authority) based upon the provisions of the act. The secretary of the state authority shall make this certification as soon as practicable after the estimates of the population of the State of South Carolina to be used in the calculation are published by the United States Bureau of the Census but in no event later than February first of each calendar year.

Section 1-11-510. (A) The private activity bond limit for all issuing authorities must be allocated by the state authority in response to authorized requests as described in Section 1-11-530 by the issuing authorities, or as otherwise provided in Section 1-11-520(G).

(B) The aggregate private activity bond limit amount for all South Carolina issuing authorities is allocated initially to the State for further allocation within the limits prescribed herein.

(C) Nothing in this article or the State Ceiling Allocation Plan adopted pursuant to this article grants any rights to, or in the processes used in the allocation or disposition of, state ceiling. Decisions made pursuant to this article are final and are not subject to judicial or administrative review.

Section 1-11-520. (A) No later than September thirtieth of the year preceding the calendar year to which the state ceiling applies, and subject to review and comment by the Joint Bond Review Committee, the state authority must publish a State Ceiling Allocation Plan that assigns percentages of the state ceiling to categories of any of the permitted purposes prescribed by the Internal Revenue Code. Without limitation, categories of permitted purposes may include industrial and economic development bonds; single-family housing bonds; multifamily housing bonds; student loan bonds; and any other bonds eligible for tax exemption as a private activity bond pursuant to the Internal Revenue Code. No initial assignment to any single category may exceed forty percent of the state ceiling, and no minimum assignment is required for any category.

(B) Further, the allocation plan must provide for a process of periodic allocations of the state ceiling within each category, which for any period

generally may not exceed an amount of the state ceiling allocated to that category equally divided among the number of periods in the year during which allocations are to be made; provided, however, that the state authority may, upon findings of exceptional and compelling circumstances, amend the annual allocation plan following review and comment by the committee.

(C) Notwithstanding the assigned percentages set forth in the allocation plan, the state authority may but need not reassign any state ceiling unused in prior periods as a supplement to and means to address demand for ceiling allocation in a subsequent period. Such reassignment may be made for any allocation category, notwithstanding its original assignment.

(D) Unless otherwise approved in writing by the state authority following justification and substantial findings of significance, no authorized request may receive an allocation of state ceiling applicable to that calendar year exceeding ten percent of the total state ceiling in the case of an industrial or economic development project, or five percent of the total state ceiling for any other allocation category.

(E) The allocation plan must establish competitive criteria for allocation of state ceiling to authorized requests. Competitive criteria may be unique to each category but must be uniform within each category and established to achieve highest value and greatest public benefit. Discussions of matters related to the periodic evaluation of authorized requests may be conducted in executive session. The state authority may utilize the services of the South Carolina Department of Commerce, the South Carolina State Housing Finance and Development Authority, any other state agency, and any other public or private resources to inform and provide services for the development of the allocation plan, including the evaluation and competitive criteria; and the periodic evaluation of authorized requests. The Department of Commerce and the State Housing Finance and Development Authority are directed to provide to the state authority such assistance as may be requested or required to accomplish the purposes of this article.

(F) Allocations of state ceiling to authorized requests must be made in accordance with the provisions of the allocation plan and policies and procedures adopted by the state authority.

(G) The state authority must determine the disposition of any remaining, unused state ceiling during the final period of the calendar year pursuant to a petition submitted in accordance with Section 1-11-530(D).

Section 1-11-530. (A) For private activity bonds proposed for issue by other than state government issuing authorities, an authorized request is a request included in a petition to the state authority that a specific amount of the state ceiling be allocated to the bonds for which the petition is filed. The petition must be accompanied by: (i) a copy of the Inducement Contract, Inducement Resolution, or other comparable preliminary approval entered into or adopted by the issuing authority, if any, relating to the bonds, and (ii) such other supporting documentation as the state authority may by policy prescribe.

(B) For private activity bonds proposed for issue by any state government issuing authority, an authorized request is a request included in a petition to the state authority that a specific amount of the state ceiling be allocated to the bonds for which the petition is filed. The petition must be accompanied by: (i) a bond resolution or comparable action by the issuing authority authorizing the issuance of the bonds, and (ii) such other supporting documentation as the state authority may by policy prescribe.

(C) Each authorized request must demonstrate that the allocation amount requested constitutes all of the private activity bond financing contemplated at the time for the project and any other facilities located at or used as a part of an integrated operation with the project.

(D) An issuing authority seeking an allocation of any remaining unused state ceiling for carry-forward designation must submit to the state authority a petition identifying the types of tax-exempt bonds to which the carry-forward designation will apply. The petition must be accompanied by such other supporting documentation as the state authority may by policy prescribe. Such allocations are not subjected to the provisions of Section 1-11-520(D), (E), and (F).

(E) Notwithstanding any other provision of this article, the state authority may disapprove, reduce, or defer any authorized request or petition for carryforward.

(F) The state authority must periodically furnish to the Joint Bond Review Committee a report of petitions received, along with their dispositions.

Section 1-11-540. Reserved.

Section 1-11-550. (A) An allocation of the state ceiling approved by the state authority is made formal initially by a certificate which allocates tentatively a specific amount of the state ceiling to the bonds for which the allocation is requested. This tentative allocation certificate must specify the state ceiling amount allocated, the issuing authority and the

project involved, and the time period during which the tentative allocation is valid. This certificate must remind the issuing authority that the tentative allocation is made final after the issuing authority chairman or other duly authorized official or agent of the issuing authority, before the issue is made, certifies the issue amount and the projected date of issue, as is required by subsection (B) of this section. It also may include other information considered relevant by the secretary of the state authority.

(B) The chairman or other authorized official or agent of an issuing authority issuing any private activity bond for which a portion of the state ceiling has been allocated tentatively shall execute and deliver to the secretary of the state authority an issue amount certificate setting forth the exact amount of bonds to be issued and the projected bond issue date which date must not be more than ten business days after the date of the issue amount certificate and it must be before the state ceiling allocation involved expires. The issue amount certificate may be an executed copy of the appropriate completed form to be submitted to the Internal Revenue Service on the issue or it may be in the form of a letter which certifies the exact amount of bonds to be issued and the projected date of the issue.

(C) In response to the issuing authority's issue amount certificate required by subsection (B) of this section, the secretary of the state authority is authorized to issue and, as may be necessary, to revise a certificate making final the ceiling allocation previously approved by the state authority on a tentative basis, if the secretary of the state authority determines that:

(1) the issuing authority's issue amount certificate specifies an amount not in excess of the approved tentative ceiling allocation amount;

(2) the issue amount certificate was received prior to the issue date projected and that the certificate is dated not more than ten days prior to the issue date projected; provided, however, that if an issue amount certificate is dated more than ten days prior to the date of issue of the bonds, such certificate shall be void, and a new request must be provided to the secretary of the state authority prior to issuance of the bonds;

(3) the issue date projected is within the time period approved previously for the tentative ceiling allocation; and

(4) the bonds when issued and combined with the total amount of bonds requiring a ceiling allocation included in issue amount certificates previously submitted to the state authority by issuing authorities do not exceed the state ceiling for the calendar year. Except under extraordinary circumstances, the secretary of the state authority shall issue this

certificate within two business days following the date the issue amount certificate is received.

(D) In accordance with Section 149(e)(2)(F) of the Internal Revenue Code, the secretary of the state authority is designated as the state official responsible for certifying, if applicable, that certain bonds meet the requirements of Section 146 of the Internal Revenue Code relating to the volume cap on private activity bonds.

(E) Any tentative or final state ceiling allocation granted by the state authority before the effective date of this act remains valid as an allocation of a portion of the volume cap for South Carolina provided under Section 146 of the Internal Revenue Code. The allocations expire in accordance with the law under which they were granted or extended and their validity may be extended or reinstated in accordance with the provisions of Sections 1-11-500 through 1-11-570.

Section 1-11-560. (A) Any state ceiling allocation approved by the state authority is valid only for the calendar year in which it is approved, unless eligible and approved for carry-forward election or unless specified differently in the certificates required by Section 1-11-550.

(B) Unless eligible and approved for carry-forward election or unless specified differently in certificates required by Section 1-11-550, each state ceiling allocation expires automatically if the bonds for which the allocation is made are not issued within ninety consecutive calendar days from the date the allocation is approved by the state authority.

(C) In response to a written request by the chairman or other duly authorized official or agent of an issuing authority, the state authority, acting during the period an approved allocation is valid, may but need not extend the period in which an allocation is valid in a single calendar year by thirty-one consecutive calendar days to a total of not more than one hundred twenty-one consecutive calendar days.

(D) In response to a written request by the chairman or other authorized official or agent of an issuing authority, the state authority may but need not reinstate for a period of not more than thirty-one consecutive calendar days in any one calendar year part or all of an allocation approved but not extended previously in accordance with subsection (C) of this section in that same calendar year which has expired. The reinstatement request must certify that the authorized request previously submitted is still true and correct or a new authorized request must be submitted.

(E) A tentative ceiling allocation is canceled automatically if the chairman or other authorized official or agent of the issuing authority fails to deliver the issue amount certificate required by Section 1-11-550

to the secretary of the state authority before the bonds for which the allocation is made are issued.

(F) The chairman or other authorized official or agent of an issuing authority shall advise the secretary of the state authority in writing as soon as is practicable after a decision is made not to issue bonds for which a portion of the state ceiling has been allocated. All notices of relinquishment of ceiling allocations must be entered promptly in the state authority's records by the secretary of the state authority.

(G) Ceiling allocations which are eligible and approved for carry-forward election are not subject to the validity limits of this section. The state authority shall join with the issuing authorities involved in carry-forward election statements to meet the requirements of the Internal Revenue Service.

Section 1-11-570. The state authority may adopt policies and procedures necessary to implement and administer the provisions of this article. All such policies and procedures, and any changes thereto, are subject to review and comment by the Joint Bond Review Committee.

Section 1-11-580. The State Fiscal Accountability Authority shall make quarterly payments on insurance contracts where the annual premium exceeds fifty thousand dollars. The board shall undertake necessary negotiations to implement this requirement. Where fees may be incurred for quarterly rather than annual payments, the State Fiscal Accountability Authority shall determine whether the investment income opportunity is greater or less than proposed fees and shall make the decision which best benefits South Carolina."

Repeal

SECTION 3. Section 1-11-370 of the 1976 Code is repealed.

Conflicting provisions

SECTION 4. The provisions of Article 3, Chapter 11, Title 1 of the 1976 Code relating to the allocation of state ceiling on issuance of private activity bonds, as amended in this act, shall control if there is any conflict with any other provision of law or regulation, specifically including Regulation 19-103.

Severability

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. The provisions of this act are effective for allocations of state ceiling beginning January 1, 2022, and thereafter. For the first year of implementation, the state authority may adopt such special procedures as may be necessary to effect the requirements of this act.

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 203

(R229, H5144)

AN ACT TO AMEND SECTION 12-37-220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO FURTHER SPECIFY THE APPLICATION OF THE EXEMPTION OF PROPERTY OF TELEPHONE COMPANIES AND RURAL TELEPHONE COOPERATIVES.

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

Findings

SECTION 1. The General Assembly finds:

(1) the rural telephone exemption found in Section 12-37-220(B)(10) of the 1976 Code provides an exemption from property taxation for property "used in providing rural telephone service";

(2) the General Assembly intends to clarify existing law by passage of this act to provide that the exemption for property "used in providing telephone service" applies to all property used for such purposes, regardless of technology or whether it also may be used for other purposes;

(3) there are various other existing exemptions in the 1976 Code where the General Assembly qualifies the term "use" or "used" by including "exclusively", "primarily", "solely", or "substantially", or where the General Assembly limits the exemption for "dual purpose" property by requiring an allocation; and

(4) the exemption found in Section 12-37-220(B)(10) has never been and is not qualified or limited in any manner.

Property tax exemption, rural telephone cooperatives

SECTION 2. Section 12-37-220(B)(10) of the 1976 Code is amended to read:

"(10)(a) notwithstanding any other provisions of law, the property of telephone companies and rural telephone cooperatives operating in this State used in providing rural telephone service, which was exempt from property taxation as of December 31, 1973, shall be exempt from such property taxation; provided, however, that the amount of property subject to ad valorem taxation of any such company or cooperative in any tax district shall not be less than the net amount to which the tax millage was applied for the year ending December 31, 1973. Any property in any tax district added after December 31, 1973, shall likewise be exempt from property taxation in the proportion that the exempt property of such company or cooperative as of December 31, 1973, in that tax district was to the total property of such company or cooperative as of December 31, 1973, in that tax district;

(b) property qualifying for the exemption authorized by subitem (a) includes property used in providing telephone service, as defined in

Section 33-46-20, in rural areas, including mixed-use property, without regard to:

(i) the extent to which such property is used in providing services in addition to telephone service in rural areas; and

(ii) the technology used including, but not limited to, the provision of broadband over a high-speed Internet connection that allows the customer to access basic voice grade local service from the voice provider of the customer's choice;"

Time effective

SECTION 3. This act takes effect upon approval by the Governor and applies to property tax years beginning after 2021.

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 204

(R234, H3144)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-150-365 SO AS TO ESTABLISH THE "SOUTH CAROLINA WORKFORCE INDUSTRY NEEDS SCHOLARSHIP (SCWINS)", TO PROVIDE THAT CERTAIN STUDENTS ATTENDING A TECHNICAL COLLEGE ARE ELIGIBLE FOR THE SCHOLARSHIP, AND TO PROVIDE ELIGIBILITY REQUIREMENTS.

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

South Carolina Workforce Industry Needs Scholarship

SECTION 1. Chapter 150, Title 59 of the 1976 Code is amended by adding:

"Section 59-150-365. (A)(1) A student who is pursuing a professional certificate, industry-recognized credential (IRC), diploma, or degree from a public South Carolina technical college, meeting the qualifying

criteria, shall receive a South Carolina Workforce Industry Needs Scholarship (SCWINS). The SCWINS scholarship is equal to the cost of tuition, fees, or expenses for required course-related materials after applying all other federal or state scholarships or grants, not to exceed five thousand dollars each year for no more than three years of instruction, including the student's freshman year, if the student is enrolled in an associate degree program, or no more than two years of instruction, including the student's freshman year, if enrolled in an IRC, diploma, or professional certificate program.

(2) A qualifying student must:

(a) be a South Carolina resident;

(b) be enrolled in a career education program that meets the eligibility guidelines promulgated by the State Board for Technical and Comprehensive Education (SBTCE); and

(c) meet one of the following criteria:

(i) be employed;

(ii) take a financial literacy course offered at the public technical college; or

(iii) complete one hundred hours of voluntary time contributing to a nonprofit or public service organization approved by the SBTCE.

(B) The SBTCE shall promulgate regulations to define what constitutes a career-eligible education program to include the process for determining eligible programs with regional or statewide workforce needs. Additionally, the SBTCE shall communicate and provide to the colleges an annual approved list of eligible programs and identification of those programs with regional or statewide workforce needs before disbursement of funds and no later than March thirty-first. SBTCE also shall communicate with high school guidance counselors regarding the list of eligible programs in a timely manner.

(C) Credit-seeking recipients of SCWINS shall maintain their scholarship eligibility by showing substantial progress on their coursework and maintaining a grade point average of 2.0 or better on a 4.0 grading scale.

(D) A student may not be eligible to receive the SCWINS scholarship for more than one certificate, IRC, diploma, or degree within any five-year period following the student's last scholarship disbursement unless the additional certificate, diploma, or degree constitutes progress in the same field of study.

(E) South Carolina public technical colleges shall allocate a minimum of five percent of their total SCWINS allocation towards dual-enrollment students eligible under this section.

(F) Priority for scholarship awards must be given to students seeking a degree, diploma, professional certificate, or industry-recognized credential (IRC) in an industry sector with regional or statewide workforce needs as identified yearly by SBTCE.

(G) If an eligible program is placed on suspension during the SBTCE's annual program evaluation process, that program no longer qualifies for SCWINS funds at that specific college. Students must be advised on how to complete their program by transferring to another technical college or serving as a transient student at another technical college to complete specified courses.

(H) The SBTCE shall provide an annual report by April fifteenth, to the Chairman of House Ways and Means Committee and the Chairman of the Senate Finance Committee detailing the use of funds received in the prior fiscal year. The report must include, at a minimum, a list of programs for each technical college that received funding, the amount spent on each program, the number of students that received scholarships, the average scholarship amount for each student, a list of credential categories completed by scholarship students, the average amount of money received by the scholarship student for each credential category, and job placement rates for scholarship students by credential category.

(I) The SBTCE and the South Carolina Department of Employment and Workforce shall collaborate to inform individuals who are receiving unemployment insurance about short-term training programs available at their local technical college through the SCWINS Program."

Time effective

SECTION 2. This act takes effect on July 1, 2022, and applies to the 2022-2023 School Year.

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

No. 205

(R178, S934)

AN ACT TO AMEND SECTION 6-9-63, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MEMBERSHIP OF THE SOUTH CAROLINA BUILDING CODES COUNCIL, SO AS TO REQUIRE THAT EACH MEMBER OF THE COUNCIL MUST BE A SOUTH CAROLINA RESIDENT, AND THAT THE MEMBER WHO IS AN ARCHITECT LICENSED IN SOUTH CAROLINA MUST BE SELECTED FROM A LIST OF QUALIFIED CANDIDATES SUBMITTED TO THE GOVERNOR BY THE SOUTH CAROLINA CHAPTER OF THE AMERICAN INSTITUTE OF ARCHITECTS.

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

South Carolina Building Codes Council, membership

SECTION 1. Section 6-9-63(A) of the 1976 Code is amended to read:

"(A) Each member of the council must be appointed by the Governor for a term of four years and until a successor is appointed and qualifies. Each member of the council must be a resident of this State. The council consists of sixteen members composed of:

(1) an architect licensed in South Carolina from a list of qualified candidates submitted to the Governor by the South Carolina Chapter of the American Institute of Architects;

(2) an engineer licensed in South Carolina from a list of qualified candidates submitted to the Governor by the South Carolina Council of Engineering and Surveying Societies;

(3) a residential home builder licensed in South Carolina from a list of qualified candidates submitted to the Governor by the Home Builders Association of South Carolina;

(4) a general contractor licensed in South Carolina from a list of qualified candidates submitted to the Governor by the Association of General Contractors;

(5) a representative of the modular building industry from a list of qualified candidates submitted to the Governor by the Manufactured Housing Institute of South Carolina;

(6) a code enforcement officer registered in South Carolina;

(7) a fire marshal or fire chief designated by the State Fire Marshal;

(8) a municipal administrator, manager, or elected official;

(9) a county administrator, manager, or elected official;

(10) a representative designated by the State Engineer of the Department of Administration;

(11) a representative of the general public who is not in the practice of home or commercial safety inspection, construction, or building, and who does not have any financial interest in these professions, and who does not have any immediate family member in these professions;

(12) a disabled person;

(13) a representative of the property and casualty insurance industry;

(14) a representative of the electrical industry who is either an engineer licensed in South Carolina or a master electrician from a list of qualified candidates submitted to the Governor by the Mechanical Contractors Association of South Carolina;

(15) a representative of the mechanical or gas industry who is either an engineer licensed in South Carolina or a master mechanic from a list of qualified candidates submitted to the Governor by the Mechanical Contractors Association of South Carolina; and

(16) a representative of the plumbing industry who is either an engineer registered in South Carolina or a master plumber from a list of qualified candidates submitted to the Governor by the Mechanical Contractors Association of South Carolina."

Time effective

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

Ratified the 12th day of May, 2022.

Approved the 18th day of May, 2022.

No. 206

(R197, H3166)

AN ACT TO AMEND CHAPTER 33, TITLE 44, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SICKLE CELL DISEASE, SO AS TO ENACT THE "RENA GRANT SICKLE CELL DISEASE VOLUNTARY PATIENT REGISTRY ACT"; TO REQUIRE THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO DEVELOP AND MAINTAIN A SICKLE CELL DISEASE VOLUNTARY PATIENT REGISTRY IN WHICH PATIENTS DIAGNOSED WITH SICKLE CELL DISEASE MAY REGISTER; TO ESTABLISH REQUIREMENTS FOR A PHYSICIAN TO SUBMIT THE NAME AND OTHER IDENTIFYING INFORMATION OF A PATIENT DIAGNOSED WITH SICKLE CELL DISEASE TO THE REGISTRY; TO PROHIBIT RELEASE OF INFORMATION CONTAINED IN THE REGISTRY, WITH EXCEPTIONS; TO ALLOW ACCESS TO INFORMATION IN THE REGISTRY BY, AMONG OTHERS, TREATING PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS TO VERIFY PATIENT REGISTRATION AND HEALTH CARE RESEARCHERS; TO ALLOW A PATIENT TO REVOKE A REGISTRATION; AND FOR OTHER PURPOSES.

Whereas, sickle cell disease is prevalent in South Carolina, but there is limited data collected or analyzed related to the incidence of the disease, available services to treat patients and ensure access to suitable care, the disease trajectory and available treatment options, and the impact of the disease on patients and their families; and

Whereas, despite the prevalence of the disease in South Carolina, the majority of primary care and emergency department physicians and other health care practitioners have not received education about sickle cell disease management, particularly for adult patients; and

Whereas, the lack of health care practitioner knowledge of and education about the symptoms, treatment, and management of sickle cell disease has resulted in inappropriate care of patients, including the failure to prescribe medication to manage pain during sickle cell disease crises; and

Whereas, a sickle cell disease patient registry through which physicians may register patients diagnosed with sickle cell disease upon a patient's request would help coordinate and improve access to care, especially for patients who seek acute care, and improve the services provided to help patients manage the symptoms of the disease; and

Whereas, a sickle cell disease patient registry also would facilitate the collection of data about the incidence and nature of sickle cell disease in the State, which could be used to educate primary, specialty, and emergency care physicians and other health care practitioners to promote the coordination of appropriate services for patients suffering from the disease. Now, therefore,

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

Citation

SECTION 1. This act may be known and cited as the "Rena Grant Sickle Cell Disease Voluntary Patient Registry Act".

Sickle Cell Disease Voluntary Patient Registry

SECTION 2. Chapter 33, Title 44 of the 1976 Code is amended to read:

"CHAPTER 33

Sickle Cell Disease

Article 1

General Provisions

Section 44-33-10. The Department of Health and Environmental Control is hereby authorized to initiate a sickle cell education and prevention program based entirely upon voluntary cooperation of the individuals involved. The program shall provide:

(1) laboratory testing of citizens in the reproductive ages to determine the presence of the sickle cell gene;

(2) counselling for persons identified as carriers of the sickle cell gene, for the purpose of educating these persons about the risk of a child of the person inheriting sickle cell disease;

(3) referral of persons with sickle cell disease, as necessary, so that they may obtain proper medical care and treatment, to include pain management; and

(4) basic education to the general public about sickle cell disease, so as to eradicate the stigma attached to the disease.

Article 3

Sickle Cell Disease Voluntary Patient Registry

Section 44-33-310. The South Carolina Department of Health and Environmental Control shall develop and maintain the Sickle Cell Disease Voluntary Patient Registry for residents of the State who have been diagnosed with sickle cell disease. The purpose of the registry is to:

(1) enable individuals diagnosed with sickle cell disease to register so that physicians and other health care practitioners providing care to the patient may confirm whether the individual has been diagnosed with sickle cell disease; and

(2) collect and study data on the incidence and nature of sickle cell disease in the State to improve patient care and access to services.

Section 44-33-320. (A) If a physician diagnoses a patient with sickle cell disease, the physician shall notify the patient of the Sickle Cell Disease Voluntary Patient Registry and the right to register as a person having sickle cell disease. The physician shall provide the patient, or the patient's parent or caregiver if the patient is a minor or is incapacitated, a form on which to request registration. Upon receipt of a patient registration request, the physician shall register the patient.

(B) To register a patient, the physician shall submit electronically on a form developed by the department the name, mailing address, and date of birth of the patient. If the patient is a minor or is incapacitated, the physician also shall submit the name and mailing address of the patient's parent or caregiver.

(C) By submitting the form to the registry, the physician is affirming that the patient has a diagnosis of sickle cell disease and that the diagnosis was made by the physician or that the physician has reviewed the patient's medical records which reflect a past diagnosis of sickle cell disease by another physician.

(D) The department may issue a waiver to a physician who is unable to submit the information by electronic means and permit registration by paper form or other means if all information required pursuant to subsection (B) is submitted in this alternative format.

Section 44-33-330. (A) The information submitted to the department to register a patient with the Sickle Cell Disease Voluntary Patient Registry is confidential and not subject to public disclosure under the Freedom of Information Act or any other provision of law, except as provided in subsection (C).

(B) The department shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed, except as provided for in subsection (C).

(C) The department may provide a copy of the registration to:

(1) a physician or other health care practitioner licensed and in good standing in South Carolina or another state who is treating a patient and who requests the information after certifying that the patient, or the patient's parent or caregiver if the patient is a minor or is incapacitated, has indicated that the patient has submitted a registration and would like the physician or other health care practitioner to verify the registration;

(2) a patient, or the patient's parent or caregiver if the patient is a minor or is incapacitated, who requests the patient's own sickle cell patient registry registration information in accordance with procedures established by the department;

(3) personnel of the department for purposes of administration and implementation of this article; and

(4) qualified health care researchers and other personnel for the purpose of bona fide research or education to promote the purposes of this article; however, data elements that would reasonably identify a specific patient, physician, or other health care practitioner, must be deleted or redacted from such information before disclosure. Further, release of the information only may be made pursuant to a written agreement between qualified personnel and the department in order to ensure compliance with this item.

Section 44-33-340. The information maintained in the Sickle Cell Disease Voluntary Patient Registry may not be released to or used by an entity responsible for the licensure, regulation, or discipline of physicians or other health care practitioners for any purpose.

Section 44-33-350. A patient, or the patient's parent or caregiver if the patient is a minor or is incapacitated, may revoke the registration at any time by notifying the department in accordance with procedures established by the department.

Section 44-33-360. A physician or other health care practitioner is prohibited from accessing the registry if a patient, or the patient's parent or caregiver if the patient is a minor or is incapacitated, has not requested the physician or other health care practitioner to verify the patient's registration.

Section 44-33-370. A patient is obligated to update contact information that is maintained in the registry after initial registration by a physician in accordance with procedures established by the department.

Section 44-33-380. The department shall promulgate regulations and develop procedures and guidelines to implement the provisions of this article."

Time effective

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

Ratified the 18th day of May, 2022.

Approved the 23rd day of May, 2022.

No. 207

(R235, S236)

AN ACT TO AMEND SECTION 7-7-1000, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO POOLING PRECINCTS IN MUNICIPAL ELECTIONS, SO AS TO PROVIDE, AMONG OTHER THINGS, THAT FOR PURPOSES OF MUNICIPAL PRIMARY ELECTIONS, ANY PRECINCT CONTAINING THREE THOUSAND OR MORE VOTERS SHALL HAVE ITS OWN POLLING PLACE, THAT THE TOTAL NUMBER OF REGISTERED VOTERS IN THE MUNICIPAL POOLED PRECINCTS MAY NOT EXCEED THREE THOUSAND, AND THAT POOLED MUNICIPAL POLLING PLACES MUST NOT BE MORE THAN THREE MILES FROM THE NEAREST PART OF ANY POOLED PRECINCT.

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

Pooling precincts in municipal elections

SECTION 1. Section 7-7-1000 of the 1976 Code is amended to read:

"Section 7-7-1000. (A) For purposes of municipal general elections only, a municipality may pool one or more precincts with other precincts and have one voting place for all of these pooled precincts upon the following conditions:

(1) Any precinct which contains five hundred or more registered voters within the municipality must have its own voting place.

(2) The total number of registered voters within the municipality in each group of pooled precincts cannot exceed one thousand five hundred.

(3) The voting place of any precinct pooled with others cannot be more than three miles from the nearest part of any pooled precinct.

(4) The notice requirements of Section 7-7-15 must be complied with and in addition to this requirement, the location of voting places for all precincts including those pooled must be published in a newspaper of general circulation in the municipality on the day of the election. If the newspaper is not published daily, then on the date of publication nearest and prior to the date of election.

(5) Whenever precincts are pooled in a municipal general election, the voter registration lists, poll lists, and ballots for each precinct represented must be used by the managers of election. Results of the election must also be reported and certified by individual precinct.

(B) For purposes of municipal primary elections only, a municipality may pool one or more precincts with other precincts and have one voting place for all of these pooled precincts upon the following conditions:

(1) Any precinct which contains three thousand or more registered voters within the municipality must have its own voting place.

(2) The total number of registered voters within the municipality in each group of pooled precincts cannot exceed three thousand.

(3) The voting place of any precinct pooled with others cannot be more than three miles from the nearest part of any pooled precinct.

(4) The notice requirements of Section 7-7-15 must be complied with and in addition to this requirement, the location of voting places for all precincts including those pooled must be published in a newspaper of general circulation in the municipality on the day of the election. If the newspaper is not published daily, then on the date of publication nearest and prior to the date of election.

(5) Whenever precincts are pooled in a municipal primary election, the voter registration lists, poll lists, and ballots for each precinct represented must be used by the managers of election. Results of the election must also be reported and certified by individual precinct."

Time effective

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

Ratified the 18th day of May, 2022.

Approved the 23rd day of May, 2022.

No. 208

(R236, S506)

AN ACT TO AMEND SECTION 44-1-143, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REQUIREMENTS FOR HOME-BASED FOOD PRODUCTION OPERATIONS, SO AS TO EXPAND THE TYPES OF NONPOTENTIALLY HAZARDOUS FOODS THAT MAY BE SOLD TO INCLUDE ALL NONPOTENTIALLY HAZARDOUS FOODS, TO ALLOW FOR DIRECT SALES TO RETAIL STORES, TO ALLOW FOR ONLINE AND MAIL ORDER DIRECT-TO-CONSUMER SALES, AND TO ALLOW HOME-BASED FOOD PRODUCTION OPERATORS TO PROVIDE ON THEIR LABELS AN IDENTIFICATION NUMBER PROVIDED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, AT THE OPERATOR'S REQUEST, IN LIEU OF THEIR ADDRESSES.

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

Home-based food production

SECTION 1. Section 44-1-143 of the 1976 Code is amended to read:

"Section 44-1-143. (A) For the purposes of this section:

(1) 'Home-based food production operation' means an individual, operating out of the individual's dwelling, who prepares, processes, packages, stores, and distributes nonpotentially hazardous foods for sale directly to a person, including online and by mail order, or to retail stores, including grocery stores. 'Home-based food production operation' does not include preparing, processing, packaging, storing, or distributing aluminum canned goods or charcuterie boards.

(2) 'Nonpotentially hazardous foods' are foods that are not potentially hazardous.

(3) 'Person' means an individual consumer.

(4) 'Potentially hazardous foods' includes:

(a) an animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts; cut melons; cut leafy greens; cut tomatoes or mixtures of cut tomatoes not modified to prevent microorganism growth or toxin formation; garlic-in-oil mixtures not modified to prevent microorganism growth or toxin formation;

(b) certain foods that are designated as Product Assessment Required (PA) because of the interaction of the pH and Aw values in these foods. Below is a table indicating the interaction of pH and Aw for control of spores in food heat-treated to destroy vegetative cells and subsequently packaged:

Aw values		pH values		
		4.6 or less	>4.6-5.6	>5.6
(1)	<0.92	non-PHF	non-PHF	non-PHF
(2)	>0.92-0.95	non-PHF	non-PHF	PHF
(3)	>0.95	non-PHF	PHF	PHF

Foods in item (2) with a pH value greater than 5.6 and foods in item (3) with a pH value greater than 4.6 are considered potentially hazardous unless a product assessment is conducted pursuant to the 2009 Federal Drug Administration Food Code.

(B) The operator of the home-based food production operation must take all reasonable steps to protect food items intended for sale from contamination while preparing, processing, packaging, storing, and distributing the items including, but not limited to:

(1) maintaining direct supervision of any person, other than the operator, engaged in the processing, preparing, packaging, or handling of food intended for sale;

(2) prohibiting all animals, including pets, from entering the area in the dwelling in which the home-based food production operation is located while food items are being prepared, processed, or packaged and

prohibiting these animals from having access to or coming in contact with stored food items and food items being assembled for distribution;

(3) prohibiting all domestic activities in the kitchen while the home-based food production operation is processing, preparing, packaging, or handling food intended for sale;

(4) prohibiting any person who is infected with a communicable disease that can be transmitted by food, who is a carrier of organisms that can cause a communicable disease that can be transmitted by food, who has an infected wound, or who has an acute respiratory infection from processing, preparing, packaging, or handling food intended for sale by the home-based food production operation; and

(5) ensuring that all people engaged in processing, preparing, packaging, or handling food intended for sale by the home-based food production operation are knowledgeable of and follow safe food handling practices.

(C) Each home-based food production operation shall maintain a clean and sanitary facility to produce nonpotentially hazardous foods including, but not limited to:

(1) department-approved water supply;

(2) a separate storage place for ingredients used in foods intended for sale;

(3) a properly functioning refrigeration unit;

(4) adequate facilities, including a sink with an adequate hot water supply to meet the demand for the cleaning and sanitization of all utensils and equipment;

(5) adequate facilities for the storage of utensils and equipment;

(6) adequate hand washing facilities separate from the utensil and equipment cleaning facilities;

(7) a properly functioning toilet facility;

(8) no evidence of insect or rodent activity; and

(9) department-approved sewage disposal, either onsite treatment or publicly provided.

(D) All food items packaged at the operation for sale must be properly labeled. The label must comply with federal laws and regulations and must include:

(1) the name and address of the home-based food production operation. If a home-based food production operator does not want to include his address on the label, then the department shall provide an identification number to the operator, upon the operator’s request, that can be used on the label instead;

(2) the name of the product being sold;

(3) the ingredients used to make the product in descending order of predominance by weight; and

(4) a conspicuous statement printed in all capital letters and in a color that provides a clear contrast to the background that reads: 'PROCESSED AND PREPARED BY A HOME-BASED FOOD PRODUCTION OPERATION THAT IS NOT SUBJECT TO SOUTH CAROLINA'S FOOD SAFETY REGULATIONS.'

(E) Home-based food operations only may sell, or offer to sell, food items directly to a person, including online and by mail order, or to retail stores, including grocery stores. Food produced from a home-based food production operation shall be considered to be from an approved source, as required of a retail food establishment pursuant to Regulation 61.25. Any retail stores, including grocery stores, that sell or offer to sell home-based food products must post clearly visible signage indicating that home-based food products are not subject to commercial food regulations.

(F) A home-based food production operation is not a retail food establishment and is not subject to regulation by the department pursuant to Regulation 61.25.

(G) The provisions of this section do not apply to an operation with net earnings of less than fifteen hundred dollars annually but that would otherwise meet the definition of a home-based food operation provided in subsection (A)(1).

(H) [Deleted]

(I) The provisions of this section apply in the absence of a local ordinance to the contrary."

Time effective

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

Ratified the 18th day of May, 2022.

Approved the 23rd day of May, 2022.

No. 209

(R237, S533)

A JOINT RESOLUTION TO PROHIBIT THE USE OF SECTION 14(c) OF THE FAIR LABOR STANDARDS ACT OF 1938 TO PAY SUBMINIMUM WAGES TO INDIVIDUALS WITH DISABILITIES; TO PROVIDE DEFINITIONS; AND TO ENACT THE "EMPLOYMENT FIRST INITIATIVE ACT", SO AS TO DEFINE TERMS, ENCOURAGE STATE AGENCIES AND POLITICAL SUBDIVISIONS TO ENCOURAGE COMPETITIVE EMPLOYMENT FOR INDIVIDUALS WITH DISABILITIES, TO CREATE THE SOUTH CAROLINA EMPLOYMENT FIRST OVERSIGHT COMMISSION, AND TO OUTLINE ITS DUTIES AND OBLIGATIONS.

Whereas, Section 14(c) of the Fair Labor Standards Act of 1938 authorizes employers, after receiving a certificate from the United States Department of Labor's Wage and Hour Division, to pay special minimum wages that are less than the federal minimum wage to workers who have disabilities, for the work being performed; and

Whereas, Section 14(c)(1) defines a "worker with a disability" as an individual whose earning or productive capacity is impaired by age, physical or mental deficiency, or injury; and

Whereas, in 2020, more than two thousand nine hundred South Carolinians with disabilities were employed in settings in which they could be paid a subminimum wage; and

Whereas, South Carolina continues to have one of the highest unemployment rates for persons with disabilities in the country. Now, therefore,

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

Employers, community rehabilitation programs, and hospital patient care workers at regional centers

SECTION 1. Employers, community rehabilitation programs, and hospital patient care workers at regional centers shall not use Section 14(c) of the Fair Labor Standards Act of 1938 to pay disabled employees

a subminimum wage. No individual with a disability may be paid less than the federal minimum wage.

Department of Disabilities and Special Needs

SECTION 2. Beginning on January 1, 2023, and annually thereafter, the Department of Disabilities and Special Needs shall submit a report to the General Assembly concerning the payment of a subminimum wage in South Carolina. The report shall:

(1) identify all providers in this State that maintain a Section 14(c) certificate;

(2) identify which of those providers pay a subminimum wage;

(3) identify which of those providers used to pay a subminimum wage but have stopped that practice;

(4) identify which of those providers that stopped paying a subminimum wage did so due to an increase in the federal minimum wage; and

(5) provide data regarding the success in obtaining minimum wage employment of individuals with severe intellectual disabilities as compared to individuals with mild or moderate intellectual disabilities.

Definitions

SECTION 3. (A) For the purposes of this SECTION:

(1) "Competitive employment" means employment in a competitive labor market that is performed on a full- or part-time basis in an integrated setting and for which an individual is compensated at or above the minimum wage but not less than the customary wage and level of benefits paid by the employer for comparable work performed by an individual without a disability.

(2) "Disability" means a physical or mental impairment that substantially limits one or more of an individual's major life activities, or a record of a physical or mental impairment, of being regarded as impaired, or of any condition that would be considered a disability under the Americans with Disabilities Act.

(3) "Integrated setting" means an employment setting in which individuals with disabilities interact with individuals without disabilities, with the exception of those who are providing services to employees with disabilities, to the same extent that individuals without disabilities in comparable positions interact with other persons.

(4) "Task force" means the South Carolina Task Force on Eliminating the Subminimum Wage.

(B) The South Carolina Task Force on Eliminating the Subminimum Wage shall be comprised of the following:

(1) one member from Disability Rights South Carolina;

(2) one member from the South Carolina Developmental Disabilities Council;

(3) one member from Able SC;

(4) one member from the South Carolina University Center for Excellence in Developmental Disabilities;

(5) two members who are currently authorized to pay a subminimum wage appointed by the Director of the South Carolina Department of Disabilities and Special Needs;

(6) two members who are current or former employees with a disability who are or were paid a subminimum wage appointed by the Director of the South Carolina Department of Disabilities and Special Needs;

(7) the Director of the South Carolina Department of Employment and Workforce, or his designee;

(8) the Director of the South Carolina Department of Health and Human Services, or his designee;

(9) the Director of the South Carolina Department of Disabilities and Special Needs, or his designee;

(10) the Director of the South Carolina Vocational Rehabilitation Department, or his designee; and

(11) the Director of the South Carolina Commission for the Blind, or his designee.

(C) The task force shall be responsible for the following duties:

(1) developing a plan to phase out the use of the subminimum wage by August 1, 2024;

(2) identifying and developing protections for disabled subminimum wage employees to maintain competitive employment while phasing out the use of the subminimum wage;

(3) identifying and collaborating with employees, employers, organizations, agencies, and stakeholders impacted by the phase out of the subminimum wage on how to implement the plan and create sustainable, competitive work opportunities for employees with disabilities;

(4) proposing a plan to establish and evaluate benchmarks for measuring progress for each year of the phase out;

(5) proposing a plan to monitor and track the outcomes of employees with disabilities;

(6) identifying initiatives, investment, training, and services designed to improve wages, reduce unemployment rates, and provide support and sustainable work opportunities for persons with disabilities;

(7) identifying and making recommendations for sustainable support, funding, and resources for eliminating the subminimum wage, including the cost of implementing and providing ongoing employment services, training, and support for employees with disabilities and the cost of paying a minimum wage or more to employees with disabilities in integrated settings;

(8) ensuring that the plan protects the rights of persons with disabilities and follows Americans with Disabilities Act protections for employees and prospective employees with disabilities; and

(9) reporting on or before August first of each year to the Governor and the General Assembly on the benchmarks and results of the outcomes described in the above duties until the subminimum wage has been phased out, at which time the task force is dissolved.

(D) The task force may utilize the staff of the South Carolina Senate and House of Representatives for clerical or related assistance, as approved and designated by the President of the Senate and the Speaker of the House of Representatives, as appropriate. The task force members may not receive compensation and are not entitled to receive mileage, subsistence, or per diem as provided by law for members of boards and commissions.

Employment First Initiative Act

SECTION 4.A. Title 41 of the 1976 Code is amended by adding:

"CHAPTER 5

Employment First Initiative Act

Section 41-5-110. This chapter must be known and may be cited as the 'Employment First Initiative Act'.

Section 41-5-120. As used in this chapter:

(1) 'Competitive integrated employment' means work in the competitive labor market that is:

(a) performed on a full-time or part-time basis in an integrated setting; and

(b) for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of

benefits paid by the employer for the same or similar work performed by individuals without disabilities.

(2) 'Integrated setting' means, with respect to an employment outcome, a setting typically found in the community in which employed individuals with disabilities interact with individuals without disabilities, other than individuals who are providing services to employees with disabilities, to the same extent that individuals without disabilities in comparable positions interact with other people.

Section 41-5-130. All state agencies and political subdivisions of this State are encouraged to consider adopting a policy that encourages competitive integrated employment for individuals with disabilities.

Section 41-5-140. All state agencies are encouraged to:

(1) coordinate efforts and collaborate within and among themselves to ensure that state programs, policies, procedures, and funding support the competitive and integrated employment of individuals with disabilities;

(2) share data and information across systems in order to track progress toward full implementation of this chapter, whenever feasible, and in accordance with all applicable state and federal confidentiality laws; and

(3) adopt rules and promulgate regulations to implement the provisions of this chapter.

Section 41-5-150. (A) There is hereby established the 'South Carolina Employment First Oversight Commission' consisting of nine members appointed by the Governor, five of whom must have a disability or have substantial knowledge of disability issues, and four of whom must be from the business community.

(B) The Governor shall designate one member to convene and organize the first meeting of the commission. During this meeting, the commission shall elect a chairperson and a vice chairperson from among its members.

(C) All actions of the commission must be taken by a majority of the members of the commission present and voting.

(D) Members of the commission may not receive compensation, mileage, subsistence, or per diem for their service to the commission.

Section 41-5-160. Within six months after the first meeting required in Section 41-5-150(B), the commission shall establish evidence-based measurable goals and objectives to encourage implementation of this

chapter. The commission shall track the measurable progress of state agencies in implementing this chapter. All state agencies are encouraged to assist the commission in carrying out its duties by fully cooperating with each other and the commission, and by providing data and information in accordance with all applicable state and federal confidentiality laws.

Section 41-5-170. The commission annually shall, before January first, issue a report to the Governor and members of the General Assembly which details progress toward the goals and objectives of the commission and progress toward the full implementation of this chapter. The report also shall identify barriers to achieving the outcomes and effective strategies and policies that can help realize the employment first initiative. All state agencies are encouraged to cooperate with the commission on the creation and dissemination of the annual report.

Section 41-5-180. The commission may seek the guidance and expertise of all stakeholders, including individuals with disabilities, organizations that advocate on behalf of individuals with disabilities, providers of services to individuals with disabilities, local government, and business associations."

B. This SECTION takes effect upon approval by the Governor.

Time effective

SECTION 5. This joint resolution takes effect upon approval by the Governor.

Ratified the 18th day of May, 2022.

Approved the 23rd day of May, 2022.

No. 210

(R238, S628)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "PHARMACY ACCESS ACT", BY ADDING SECTIONS 40-43-210, 40-43-230, 40-43-240,

40-43-250, 40-43-260, AND 40-43-270 SO AS TO ALLOW PHARMACIES TO ADMINISTER AND DISPENSE CERTAIN HORMONAL CONTRACEPTION TO PATIENTS PURSUANT TO A STANDING ORDER AND IN ACCORDANCE WITH A WRITTEN JOINT PROTOCOL ISSUED BY THE BOARD OF MEDICAL EXAMINERS AND BOARD OF PHARMACY, TO BE ISSUED WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THE ACT; TO SET FORTH CERTAIN REQUIREMENTS FOR THE WRITTEN JOINT PROTOCOL; TO REQUIRE PHARMACISTS TO OBTAIN A SCREENING SELF-ASSESSMENT FROM A PATIENT BEFORE ADMINISTERING OR DISPENSING HORMONAL CONTRACEPTION; TO PROVIDE CERTAIN LIMITATIONS FROM LIABILITY AND PROFESSIONAL DISCIPLINE FOR PRESCRIBERS AND PHARMACISTS; TO DEFINE TERMS; AND FOR OTHER PURPOSES; BY ADDING SECTION 44-6-115 SO AS TO REQUIRE THE MEDICAID PROGRAM TO COVER PHARMACEUTICAL SERVICES THAT INCLUDE ACCESS TO HORMONAL CONTRACEPTION; AND BY ADDING SECTION 40-43-195 SO AS TO PROVIDE FOR THE PERMITTING OF CENTRAL FILL PHARMACIES TO FILL PRESCRIPTION DRUG ORDERS AT THE REQUEST OF AN ORIGINATING PHARMACY; TO DEFINE TERMS; TO ESTABLISH CERTAIN REQUIREMENTS REGARDING THE USE AND OPERATION OF CENTRAL FILL PHARMACIES; TO REQUIRE CERTAIN RECORD KEEPING; AND FOR OTHER PURPOSES.

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

Citation

SECTION 1. This act shall be referred to as the "Pharmacy Access Act".

Pharmacy Access Act

SECTION 2. Chapter 43, Title 40 of the 1976 Code is amended by adding:

"Section 40-43-210. As used in this chapter:

(1) 'Administer' has the same meaning as in Section 40-43-30.

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

(3) 'Dispense' has the same meaning as in Section 40-43-30.

(4) 'Injectable hormonal contraceptive' means a drug composed of a hormone or a combination of hormones that is approved by the United States Food and Drug Administration to prevent pregnancy and that a practitioner administers to a patient by injection. 'Injectable hormonal contraceptive' does not include any drug intended to terminate a pregnancy.

(5) 'Patient counseling' has the same meaning as in Section 40-43-30.

(6) 'Pharmacist' has the same meaning as in Section 40-43-30.

(7) 'Practitioner' has the same meaning as in Section 40-47-20.

(8) 'Prescriber' means a physician licensed pursuant to Chapter 47, Title 40; an advanced practice registered nurse licensed pursuant to Chapter 33, Title 40 and prescribing in accordance with the requirements of that chapter; or a physician assistant licensed pursuant to Article 7, Chapter 47, Title 40 and prescribing in accordance with the requirements of that article.

(9) 'Self-administered hormonal contraceptive' means a drug composed of a hormone or a combination of hormones that is approved by the United States Food and Drug Administration to prevent pregnancy and that the patient to whom the drug is prescribed may administer to himself. 'Self-administered hormonal contraceptive' includes an oral hormonal contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch. 'Self-administered hormonal contraceptive' does not include any drug intended to terminate a pregnancy.

Section 40-43-230. (A) A person licensed under the South Carolina Pharmacy Practice Act who is acting in good faith and exercising reasonable care as a pharmacist and who is employed by a hospital or a pharmacy that is permitted by this State may dispense a self-administered hormonal contraceptive or administer an injectable hormonal contraceptive pursuant to a standing order by a prescriber to a patient who is:

(1) eighteen years of age or older; or

(2) under eighteen years of age if the person has evidence of a previous prescription from a practitioner for a self-administered hormonal contraceptive or an injectable hormonal contraceptive.

(B) Nothing in this section requires a pharmacist to dispense a self-administered hormonal contraceptive or administer an injectable

hormonal contraceptive. Nothing in this article shall be construed to amend a pharmacist's duties to dispense or otherwise provide contraception prescribed by another provider.

Section 40-43-240. (A) The Board of Medical Examiners and the Board of Pharmacy must issue a written joint protocol to authorize a pharmacist to dispense a self-administered hormonal contraceptive or administer an injectable hormonal contraceptive without a patient-specific written order.

(B) The written joint protocol must address, at a minimum, the following requirements:

(1) education or training requirements that the Board of Medical Examiners and the Board of Pharmacy determine to be necessary for a pharmacist to dispense a self-administered hormonal contraceptive or administer an injectable hormonal contraceptive;

(2) information that a pharmacist must provide to a patient prior to dispensing a self-administered hormonal contraceptive or administering an injectable hormonal contraceptive and confirmation that the required information was provided to the patient;

(3) documentation regarding the dispensing of a self-administered hormonal contraceptive or the administering of an injectable hormonal contraceptive;

(4) notification to a patient's designated practitioner that a self-administered hormonal contraceptive was dispensed to the patient or that an injectable hormonal contraceptive was administered to the patient;

(5) evaluation and review of the dispensing and administration practices used by pharmacists authorized to dispense a self-administered hormonal contraceptive or administer an injectable hormonal contraceptive; and

(6) any additional provisions that the Board of Medical Examiners and the Board of Pharmacy determine to be necessary or appropriate for inclusion in the protocol, including any reporting requirements.

(C) For each new patient requesting contraception and at least every twelve months for each returning patient, the written joint protocol must require a pharmacist dispensing or administering contraceptives pursuant to this chapter to:

(1) obtain a completed self-screening risk assessment;

(2) utilize a standardized procedure as established by the Board of Medical Examiners and the Board of Pharmacy to perform a patient assessment;

(3) dispense, if clinically appropriate, a self-administered hormonal contraceptive or administer an injectable hormonal contraceptive, or refer the patient to a practitioner;

(4) provide the patient with a visit summary;

(5) advise the patient to consult with a practitioner;

(6) refer any patient who may be subject to abuse to the appropriate social services agency; and

(7) ensure that the pharmacy provides appropriate space to prevent the spread of infection and ensure confidentiality.

(D) The Board of Medical Examiners and the Board of Pharmacy may appoint an advisory committee of health care professionals licensed in this State to advise and assist in the development of the joint protocol for their consideration.

Section 40-43-250. (A) Prior to dispensing self-administered hormonal contraceptives or administering injectable hormonal contraceptives pursuant to Section 40-43-240, a pharmacist must have completed a certificate program that has been accredited by the American Council for Pharmacy Education or a similar health authority or professional body approved by the Board of Pharmacy and the Board of Medical Examiners, as specified in the joint protocol, that is program-specific to self-administered hormonal contraceptives or injectable hormonal contraceptives, that includes the application of the United States Medical Eligibility Criteria for Contraceptive Use, and that includes other Centers for Disease Control and Prevention guidance on contraception. To maintain eligibility, a pharmacist must complete at least one hour of continuing education per year that is offered by an entity approved by the Board of Medical Examiners and the Board of Pharmacy.

(B) An equivalent, curriculum-based training program completed on or after January 2021 in an accredited South Carolina pharmacy school satisfies the initial education requirement.

Section 40-43-260. (A) A pharmacist who dispenses a self-administered hormonal contraceptive or administers an injectable hormonal contraceptive pursuant to this chapter shall:

(1) obtain a completed self-screening risk assessment questionnaire that has been approved by the department, in collaboration with the Board of Pharmacy and the Board of Medical Examiners, from the patient before dispensing the self-administered hormonal contraceptive or administering the injectable hormonal contraceptive. If the results of the assessment indicate that it is unsafe to dispense a

self-administered hormonal contraceptive or administer an injectable hormonal contraceptive to a patient, then the pharmacist may not dispense a self-administered hormonal contraceptive or administer an injectable hormonal contraceptive to the patient, shall refer the patient to a practitioner, and may not continue to dispense a self-administered hormonal contraceptive or administer an injectable hormonal contraceptive to the patient for more than twenty-four months after the date of the initial prescription without evidence that the patient has consulted with a practitioner during the preceding twenty-four months; and

(2) provide the patient with written information regarding:

(a) the importance of seeing the patient's practitioner annually to obtain recommended tests and screening;

(b) the effectiveness and availability of long-acting reversible contraceptives as an alternative to self-administered hormonal contraceptives or injectable hormonal contraceptives;

(c) a copy of the record of the encounter with the patient that includes the patient's completed assessment questionnaire pursuant to item (1);

(d) a description of the contraceptive dispensed or administered, or the basis for not dispensing or administering a contraceptive;

(e) the South Carolina Medicaid program and how to apply for Medicaid benefits; and

(f) the effectiveness of abstinence in preventing pregnancy and contracting a sexually transmitted infection or disease. The materials shall include the following: Abstinence is the choice not to have sex. This method is one hundred percent effective in preventing pregnancy and infection as long as all sexual contact is avoided, including vaginal, oral, and anal sex.

(B) If a pharmacist dispenses a self-administered hormonal contraceptive or administers an injectable hormonal contraceptive to a patient, then the pharmacist shall, at a minimum, provide patient counseling to the patient regarding:

(1) the appropriate administration and storage of a self-administered hormonal contraceptive, if appropriate;

(2) any potential side effects and risks of a self-administered hormonal contraceptive or injectable hormonal contraceptive;

(3) the need for backup contraception;

(4) when to seek emergency medical attention; and

(5) the risk of contracting a sexually transmitted infection or disease, along with ways to reduce the risk of contraction.

Section 40-43-270. (A) A prescriber who issues a standing prescription drug order in accordance with Section 40-43-260 is not liable for any civil damages for acts or omissions resulting from the dispensing of a self-administered hormonal contraceptive or the administering of an injectable hormonal contraceptive under this chapter.

(B) A pharmacist who dispenses a self-administered hormonal contraceptive or administers an injectable hormonal contraceptive in accordance with the provisions of this article is not as a result of an act or omission subject to civil or criminal liability or to professional disciplinary action."

Covered Medicaid pharmacy services

SECTION 3. Article 1, Chapter 6, Title 44 of the 1976 Code is amended by adding:

"Section 44-6-115. (A) Pharmacy services are a benefit under South Carolina Medicaid, subject to approval by the federal Centers for Medicare and Medicaid Services. The department shall establish a fee schedule for the list of pharmacy services.

(B)(1) The following services are covered pharmacy services that may be provided to a Medicaid beneficiary:

(a) dispensing self-administered hormonal contraceptives, as outlined and authorized in Section 40-43-230; and

(b) administering injectable hormonal contraceptives, as outlined and authorized in Section 40-43-230.

(2) Covered pharmacy services shall be subject to department protocols and utilization controls.

(C) A pharmacist shall be enrolled as an ordering, referring, and dispensing provider under the Medicaid program prior to rendering a pharmacist service that is submitted by a Medicaid pharmacy provider for reimbursement pursuant to this section.

(D) The director of the department shall seek any necessary federal approvals to implement this section. This section shall not be implemented until the necessary federal approvals are obtained and shall be implemented only to the extent that federal financial participation is available.

(E) This section does not restrict or prohibit any services currently provided by pharmacists as authorized by law including, but not limited to, this chapter or the Medicaid state plan."

Written joint protocol

SECTION 4. The Board of Medical Examiners and the Board of Pharmacy must issue a written joint protocol pursuant to Section 40-43-240 not later than six months after the passage of this act.

Central fill pharmacies

SECTION 5. A.Chapter 43, Title 40 of the 1976 Code is amended by adding:

"Section 40-43-195. (A) For purposes of this section:

(1) 'Central fill' means the filling of a prescription drug order by one central fill pharmacy permitted by this State at the request of an originating pharmacy permitted by this State.

(2) 'Central fill pharmacy' means a permitted pharmacy facility that, upon the request of an originating pharmacy, fills a prescription drug order and returns the filled prescription to the originating pharmacy for delivery to the patient or patient's agent. A central fill pharmacy that returns filled prescriptions to an originating pharmacy must not be required to obtain a wholesaler/distributor permit.

(3) 'Originating pharmacy' means a pharmacy permitted by and located in this State that, upon receipt of a prescription drug order from a patient, requests a central fill pharmacy to fill the order and upon receipt of the filled prescription drug order, delivers the prescription to the patient or patient's agent.

(B)(1) An originating pharmacy permitted by this State may outsource a prescription drug order filling to a central fill pharmacy permitted by this State if the pharmacies:

(a) have the same owner or have entered into a written contract or agreement that outlines the services to be provided and the responsibilities and accountabilities of each pharmacy in compliance with federal and state laws and regulations;

(b) share a common electronic file or have appropriate technology to allow access to sufficient information necessary or required to dispense or process a prescription drug order;

(c) ensure all state and federal laws regarding patient confidentiality, network security, and use of shared databases are followed; and

(d) maintain the prescription information in a readily retrievable manner.

(2) The pharmacist-in-charge of a central fill pharmacy shall ensure that:

(a) the pharmacy maintains and uses adequate storage or shipment containers and shipping processes to ensure drug stability and potency. These shipping processes must include the use of appropriate packaging material or devices, or both, to ensure that the drug is maintained at an appropriate temperature range to maintain the integrity of the medication throughout the delivery process; and

(b) the filled prescriptions are shipped in containers that are sealed in a manner that would show evidence of having been opened or tampered with.

(3) To the extent that a central fill pharmacy dispenses controlled substances, the central fill pharmacy must obtain a registration from the Department of Health and Environmental Control, Bureau of Drug Control. Controlled substance prescriptions filled by a central fill pharmacy must comply with both state and federal statutes and regulations.

(4) To the extent a pharmacy is acting as a central fill pharmacy, it may not:

(a) fill prescriptions for controlled substances listed in Schedule II;

(b) fill prescriptions provided directly by a patient or an individual practitioner;

(c) mail or otherwise deliver a prescription directly to a patient or an individual practitioner; or

(d) provide or dispense cannabis products not approved by the Federal Drug Administration.

(C)(1) An originating pharmacy that outsources prescription filling to a central fill pharmacy must, prior to outsourcing the prescription:

(a) notify patients that their prescription may be filled by another pharmacy; and

(b) provide the name of that pharmacy or notify the patient if the pharmacy is part of a network of pharmacies under common ownership and that any of the network pharmacies may fill the prescription.

(2) Patient notification may be provided through a one-time written notice to the patient or through use of a sign in the pharmacy.

(D)(1) A central fill pharmacy must provide written information regarding the prescription with the filled prescription and a toll-free phone number for patient questions. The following statement must be provided with the prescription before delivery to the patient:

'Written information about this prescription has been provided for you. Please read this information before you take the medication. If you have questions concerning this prescription, a pharmacist is available during normal business hours to answer these questions'.

(2) A pharmacist at the originating pharmacy shall offer the patient or the patient's agent information about the prescription drug or device in accordance with Section 40-43-86(L).

(3) This subsection does not apply to patients in facilities including, but not limited to, hospitals or nursing homes, where drugs are administered to patients by a person authorized to do so by law.

(E) The central fill pharmacy must:

(1) place on the prescription label:

(a) the name and address or name and pharmacy license number of the pharmacy filling the prescription;

(b) the name and address of the originating pharmacy which receives the filled prescription for delivery to the patient or the patient's agent; and

(c) in some manner indicate which pharmacy filled the prescription (e.g., 'Filled by ABC Pharmacy for XYZ Pharmacy'); and

(2) comply with all other labeling requirements of federal and state law including, but not limited to, Section 40-43-86.

(F) A central fill policy and procedure manual must be maintained at both pharmacies and must be available for inspection. The originating and central fill pharmacies are required to maintain only those portions of the policy and procedure manual that relate to that pharmacy's operations. The manual must at minimum contain:

(1) An outline of the responsibilities of the central fill pharmacy and the originating pharmacy including, but not limited to:

(a) patient notification of central fill processing;

(b) confidentiality and integrity of patient information procedures;

(c) drug utilization review;

(d) record keeping and logs, including a list of the names, addresses, phone numbers, and license or registration numbers of the pharmacies, pharmacists, and pharmacy technicians at the central fill pharmacy and at the originating pharmacy;

(e) counseling responsibilities;

(f) procedures for return of prescriptions not delivered to a patient and procedures for invoicing medication transfers;

(g) policies for operating a continuous quality improvement program for pharmacy services designed to objectively and systematically monitor and evaluate the quality and appropriateness of

patient care, pursue opportunities to improve patient care, and resolve identified problems;

(h) safe delivery of prescriptions to patients;

(i) processes to ensure stability and potency of medication;

(j) requirements for storage and shipment of prescription medication; and

(k) procedures for conducting an annual review of written policies and procedures and for documentation of this review.

(2) Other responsibilities regarding proper handling of a prescription and delivery to a patient or a patient's agent pursuant to this chapter and the Department of Health and Environmental Control, controlled substances laws and regulations.

(G)(1) Records may be maintained in an alternative data retention system including, but not limited to, a data processing system or direct imaging system, if:

(a) the records maintained in the alternative system contain all of the information required on the manual record; and

(b) the data processing system is capable of producing a hard copy of the record upon the request of the board, its representative, or other authorized local, state, or federal law enforcement or regulatory agency.

(2) Each pharmacy must maintain records in accordance with the provisions of Section 40-43-86 and must be able to produce records as requested by the board.

(3) The originating pharmacy records must include the date the request for filling was transmitted to the central fill pharmacy.

(4) The central fill pharmacy records must include:

(a) the date the filled prescription was mailed by the central fill pharmacy; and

(b) the name and address to which the filled prescription was shipped.

(H)(1) A central fill pharmacy must complete a central fill pharmacy permit application provided by the board, following the procedures as specified in Section 40-43-83, and also provide the following information:

(a) evidence that the applicant holds a pharmacy license, registration, or permit issued by the state in which the pharmacy is located;

(b) the name of the owner, permit holder, and pharmacist-in-charge of the pharmacy for service of process;

(c) evidence of the applicant's ability to provide to the board a record of a prescription drug order dispensed by the applicant to a

resident of this State not later than seventy-two hours after the time the board requests the record;

(d) an affidavit by the pharmacist-in-charge which states that the pharmacist has read and understands the laws and regulations relating to a central fill pharmacy in this State; and

(e) pay the required fee as set by the board through regulation.

(2) A central fill pharmacy must comply with all provisions of this chapter.

(I) Nothing in this section may be construed to circumvent any requirement of Section 40-43-86 of the South Carolina Pharmacy Practice Act.

(J) A central fill pharmacy may not contact a patient for whom it has provided central fill services on behalf of an originating pharmacy for the purpose of soliciting or requesting to refill a prescription, or to fill a new prescription, for a period of five years after the originating pharmacy has stopped using the services of the central fill pharmacy."

B. This SECTION takes effect upon approval by the Governor.

Time effective

SECTION 6. Except as otherwise specifically provided, this act takes effect upon the issuance of a written joint protocol pursuant to SECTION 4 of this act.

Ratified the 18th day of May, 2022.

Approved the 23rd day of May, 2022.

No. 211

(R239, S1011)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "SOUTH CAROLINA PARKINSON'S DISEASE RESEARCH COLLECTION ACT" BY ADDING SECTION 44-7-3240 SO AS TO PROVIDE FOR THE COLLECTION OF DATA ON THE INCIDENCE OF PARKINSON'S DISEASE BY THE MEDICAL UNIVERSITY OF SOUTH CAROLINA AND TO ALLOW FOR DIAGNOSED

PATIENTS TO PARTICIPATE VOLUNTARILY IN DATA COLLECTION; TO PROVIDE FOR THE CREATION OF A PARKINSON'S DISEASE ADVISORY BOARD AND TO PROVIDE FOR THE BOARD'S ROLES AND RESPONSIBILITIES; TO DEFINE TERMS; TO ESTABLISH REQUIREMENTS PERTAINING TO CONFIDENTIALITY AND DISSEMINATION OF COLLECTED INFORMATION AND RECORD KEEPING; TO REQUIRE REPORTING OF DATA BY HEALTH CARE FACILITIES AND PROVIDERS; TO ALLOW THE MEDICAL UNIVERSITY OF SOUTH CAROLINA TO ENTER INTO AGREEMENTS TO FURTHER THE PROGRAM; AND FOR OTHER PURPOSES; AND BY ADDING SECTION 44-130-75 SO AS TO ALLOW FOR DISTRIBUTION OF OPIOID ANTIDOTES BY HOSPITALS.

Whereas, Parkinson's disease is a chronic neurodegenerative disease that gradually worsens over time. It occurs when brain cells that make dopamine, a chemical that coordinates movement, stop working or die. There is no treatment to slow, stop, or reverse its progression, nor is there a cure; and

Whereas, there are one million people in the United State living with Parkinson's disease and that number is expected to rise to 1.6 million by 2037 with a cost increase to $79 billion; and

Whereas, it is estimated that more than 110,000 military veterans, live with Parkinson's and costs an estimated $58 billion each year in medical and nonmedical expenses, half of which is paid by the federal government; and

Whereas, the combined direct and indirect costs of Parkinson's, including treatment and lost income, is estimated to be nearly $52 billion per year in the United States alone. Medications alone cost an average of $2,500 a year and therapeutic surgery can cost upwards of $100,000 per person; and

Whereas, the importance of states to collect critical research data is the first step to better understand who develops Parkinson's and why; and

Whereas, the Medical University of South Carolina agrees to participate in this important research and supports passage of this legislation; and

Whereas, this legislation will expand our understanding of Parkinson's disease to ultimately improve the lives of those affected, determine incidence and prevalence of Parkinson's disease more accurately by state, and improve our understanding of the link between Parkinson's and military service since a larger portion of the veteran's community has Parkinson's disease compared to the general population. Now, therefore,

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

Citation

SECTION 1. This act may be cited and known as the "South Carolina Parkinson's Disease Research Collection Act".

South Carolina Parkinson's disease research collection

SECTION 2. Article 25, Chapter 7, Title 44 of the 1976 Code is amended by adding:

"Section 44-7-3240. (A)(1) The Medical University of South Carolina shall collect data on the incidence of Parkinson's disease in South Carolina and other epidemiological data as defined in this section.

(2) For the purposes of this section:

(a) 'Parkinson's disease' means a chronic and progressive neurologic disorder resulting from deficiency of the neurotransmitter dopamine as the consequence of specific degenerative changes in the area of the brain called the basal ganglia. It is characterized by tremor at rest, slow movements, muscle rigidity, stooped posture, and unsteady or shuffling gait.

(b) 'Parkinsonism' means one or more related conditions that cause a combination of the movement abnormalities seen in Parkinson's disease, such as tremor at rest, slow movement, muscle rigidity, impaired speech or muscle stiffness, which often overlap with and can evolve from what appears to be Parkinson's disease. Examples of parkinsonism of particular interest include, but are not exclusive to, the following: Multiple System Atrophy (MSA), Dementia with Lewy Bodies (DLB), Corticobasal Degeneration (CBD), and Progressive Supranuclear Palsy (PSP).

(3) The database and system of collection and dissemination of information must be under the direction of the Chief Executive Officer

of MUSC, who may enter into contracts, grants, or other agreements as are necessary for the collection of the data.

(B)(1) Every patient diagnosed with Parkinson's disease or a related parkinsonism must be notified about the database and the opportunity to participate as provided in this subsection, but no patient may be forced to participate.

(2) A physician who diagnoses a patient with Parkinson's disease or related parkinsonism, as advised by the advisory committee established pursuant to item (3), shall notify the patient orally and in writing about the database and the opportunity to participate by allowing for the collection of information and patient data on Parkinson's disease. If a patient does not wish to participate, the physician shall certify in writing that the patient has been notified of the opportunity, and has been provided information about the operation of the database and afforded the opportunity to ask questions, but has declined.

(3) MUSC shall establish a Parkinson's Disease Database Advisory Committee to assist in the development and implementation of the database; determine what data must be collected; and generally, advise MUSC. Membership of the committee must include at least one general neurologist, one movement disorder specialist, one primary care physician, one physician who practices clinical informatics, Parkinson's patients, public health staff, population health researchers familiar with such databases, Parkinson's disease researchers, and anyone else MUSC deems necessary.

(C) MUSC shall establish a system for the collection and dissemination of information determining the incidence and prevalence of Parkinson's disease and related parkinsonism, as advised by the advisory committee. MUSC shall designate Parkinson's disease and related parkinsonism as advised by the advisory committee as diseases required to be reported in the State or any part of the State. All cases of Parkinson's disease diagnosed or treated in South Carolina must be reported to MUSC. However, the mere incidence of a patient with Parkinson's is the sole required information for this database for any patient who chooses not to participate. For the subset of patients who choose not to participate, no further data may be reported to the database. MUSC may create, review, and revise a list of data points required as part of mandated Parkinson's disease reporting pursuant to this section. This list must include, but not be limited to, necessary triggering diagnostic conditions, consistent with the latest International Statistical Classification of Diseases and Related Health Problems, and resulting case data including, but not limited to, diagnosis, medical treatment,

treatment, and survival. MUSC may implement and administer this subsection through a bulletin or similar instruction.

(D) MUSC shall provide notification of the mandatory reporting of Parkinson's disease and parkinsonism on its website and also shall provide that information to associations representing physicians and hospitals and directly to the Board of Medical Examiners at least one hundred eighty days prior to requiring information be reported.

(E) A hospital, facility, physician, surgeon, physician assistant, nurse practitioner, or other health care provider deemed necessary by MUSC diagnosing Parkinson's disease or parkinsonism patients shall report each case of Parkinson's disease and parkinsonism to MUSC in a format prescribed by MUSC. MUSC is authorized to enter into data sharing contracts with data reporting entities and their associated electronic medical record systems vendors to securely and confidentially receive information related to Parkinson's disease testing, diagnosis, and treatment.

(F) MUSC may enter into agreements to furnish data collected in this database to other states' Parkinson's disease registries, federal Parkinson's disease control agencies, local health officers, or health researchers for the study of Parkinson's disease. Before confidential information is disclosed to those agencies, officers, researchers, or out-of-state registries, the requesting entity shall agree in writing to maintain the confidentiality of the information, and in the case of researchers, also shall do both of the following:

(1) obtain approval of the respective committee for the protection of human subjects established in accordance with 45 C.F.R. 46.101; and

(2) provide documentation to MUSC that demonstrates to MUSC's satisfaction that the entity has established the procedures and ability to maintain the confidentiality of the information.

(G) Except as otherwise provided in this section, all information collected pursuant to this section is confidential. For purposes of this section, this information must be referred to as confidential information. To ensure privacy, MUSC shall promulgate a coding system that removes any identifying information about the patient.

(H) Notwithstanding another provision of law, a disclosure authorized by this section may include only the information necessary for the stated purpose of the requested disclosure, used for the approved purpose, and not be further disclosed.

(I) Provided the security of confidentiality has been documented, the furnishing of confidential information to MUSC or its authorized representative in accordance with this section does not expose any person, agency, or entity furnishing information to liability, and may not

be considered a waiver of any privilege or a violation of a confidential relationship.

(J) MUSC shall maintain an accurate record of all persons who are given access to confidential information. The record must include:

(1) the name of the person authorizing access;

(2) name, title, address, and organizational affiliation of persons given access;

(3) dates of access; and

(4) the specific purpose for which information is to be used. The record of access must be open to public inspection during normal operating hours of MUSC.

(K)(1) Notwithstanding another provision of law, the confidential information may not be disclosed, is not discoverable, and may not be compelled to be produced in any civil, criminal, administrative, or other proceeding. The confidential information is not admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

(2) This subsection does not prohibit the publication by MUSC of reports and statistical compilations that do not in any way identify individual cases or individual sources of information.

(3) Notwithstanding the restrictions in this subsection, the individual to whom the information pertains has access to his own information.

(L) This section does not preempt the authority of facilities or individuals providing diagnostic or treatment services to patients with Parkinson's disease to maintain their own facility-based Parkinson's disease databases or registries.

(M) MUSC is responsible for any costs incurred in implementing the provisions of this section."

Opiod antidote distribution

SECTION 3. A.Chapter 130, Title 44 of the 1976 Code is amended by adding:

"Section 44-130-75. (A) A hospital, by and through a health care provider employed by the hospital, may distribute an opioid antidote to:

(1) a person at risk of experiencing an opiate-related overdose; or

(2) a caregiver of a person at risk of experiencing an opiate-related overdose.

(B) A hospital that distributes an opioid antidote in accordance with the provisions of this section is not, as a result of an act or omission,

subject to civil or criminal liability. A health care provider employed by a hospital that distributes an opioid antidote for the hospital in accordance with the provisions of this section is not, as a result of an act or omission, subject to civil or criminal liability or subject to disciplinary action by the health care provider's licensing board."

B. This SECTION takes effect upon approval by the Governor.

Time effective

SECTION 4. This act takes effect twelve months after approval by the Governor.

Ratified the 18th day of May, 2022.

Approved the 23rd day of May, 2022.

No. 212

(R240, S1025)

AN ACT TO AMEND SECTION 44-63-80, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CERTIFIED COPIES OF BIRTH CERTIFICATES, SO AS TO EXPAND THE DEFINITION OF LEGAL REPRESENTATIVE AND TO ALTER THE PROCESS FOR OBTAINING BIRTH CERTIFICATES.

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

Original birth certificates, certified copies

SECTION 1. Section 44-63-80 of the 1976 Code is amended to read:

"Section 44-63-80. (A) Except as otherwise provided, certified copies of the original birth certificate or any new or amendatory certificate, exclusive of that portion containing confidential information, must be issued only by the state registrar and only to the registrant, if of legal age, his parent or guardian, or other legal representative, and upon request to the Department of Social Services or its designee for the purpose of establishing paternity or establishing, modifying, or

enforcing a child support obligation. The registrar shall include a copy of the pamphlet 'South Carolina Family Respect', as provided in Section 20-1-720, when it mails or sends the certified copy of the birth certificate. However, the certified copy of the birth certificate may not disclose the name of the father in any illegitimate birth unless the name of the father is entered on the certificate pursuant to Section 44-63-163 or Section 44-63-165.

(B) For purposes of this section and obtaining a birth certificate, the term 'other legal representative' shall include:

(1) a person or agency that has current legal custody of a registrant by any currently effective order of a court of competent jurisdiction, including a temporary order;

(2) the Department of Social Services for any individual or registrant in foster care or its legal custody;

(3) a caregiver, including a kinship caregiver, providing care to a child pursuant to any currently effective order of a court of competent jurisdiction, including a temporary order;

(4) an attorney representing the registrant or, if the parent is listed on the registrant's birth certificate, the registrant's parent;

(5) subject to the department's verification process, on behalf of a homeless child or youth served by them:

(a) a director or designee of a South Carolina governmental agency or a nonprofit organization registered with the South Carolina Secretary of State's Office that receives public or private funding to provide services to the homeless; and

(b) a South Carolina school district's McKinney-Vento liaison for homeless children or youth.

(C) The Department of Social Services may obtain a birth certificate by requesting the certificate in writing pursuant to the terms of a written agreement that shall be entered into between the Department of Health and Environmental Control and the Department of Social Services, and no copies of court orders or other third-party records shall be required when the Department of Social Services requests a birth certificate pursuant to the written agreement.

(D) When one hundred years have elapsed after the date of birth, these records must be made available in photographic or other suitable format for public viewing."

Time effective

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

Ratified the 18th day of May, 2022.

Approved the 23rd day of May, 2022.

No. 213

(R241, S1031)

AN ACT TO AMEND SECTION 30-5-5, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE OFFICE OF REGISTER OF DEEDS, SO AS TO PROVIDE QUALIFICATIONS FOR ELIGIBILITY TO SERVE OR CONTINUE TO SERVE AS A REGISTER OF DEEDS, AND TO PROVIDE QUO WARRANTO ACTIONS MAY BE BROUGHT TO DETERMINE THE ELIGIBILITY OF A PERSON TO SEEK OR CONTINUE TO SERVE AS A REGISTER OF DEEDS; TO AMEND SECTION 30-5-90, RELATING TO THE TIME WITHIN WHICH A REGISTER OF DEEDS SHALL RECORD CERTAIN INSTRUMENTS, SO AS TO PROVIDE SUCH A REGISTER OF DEEDS SHALL FILE SUCH INSTRUMENTS WITHIN THIRTY DAYS AFTER ITS LODGMENT; TO PROVIDE CERTAIN PROVISIONS OF THIS ACT DO NOT APPLY TO PERSONS WHO HOLD THE OFFICE OF REGISTER OF DEEDS ON THE EFFECTIVE DATE OF THIS ACT AND DURING HIS TENURE IN OFFICE; AND TO PROVIDE AFFIRMATIVE DEFENSE TO QUO WARRANTO ACTIONS BROUGHT PURSUANT TO THIS ACT.

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

Qualifications for eligibility to serve, quo warranto actions to determine eligibility

SECTION 1. Chapter 5, Title 30 of the 1976 Code is amended by adding:

"Section 30-5-5. (A) In order to be eligible to serve or continue to serve as the register of deeds, a person must:

(1) be a citizen of the United States and of this State;

(2) be a qualified elector of the applicable county;

(3) have:

(a) a four-year bachelor's degree from an accredited post-secondary institution; or

(b) at least four years' experience:

(i) in the fields of law, real estate, or accounting; or

(ii) as an employee in a register of deeds office in this State; or

(iii) as a register of deeds in this State; and

(c) for an appointed register of deeds, a person must comply with any county requirements not conflicting with the qualifications in this section and the Constitution of South Carolina; and

(4) not have a pattern of failing to properly record in the time and manner prescribed in Section 30-5-90.

(B) A quo warranto action may be brought in accordance with Section 15-63-60 to determine a person's eligibility to seek the position of register of deeds or continue to serve as register of deeds."

Recording time requirements

SECTION 2. Section 30-5-90 of the 1976 Code is amended to read:

"Section 30-5-90. The register of deeds is required to record in the order of the times at which they may be brought to his office, all marriage settlements and all conveyances and mortgages, renunciations of dower and other writings concerning the titles to lands situate in his county which may be lodged with him to be recorded if the execution of any such writing shall be proved by affidavit of a subscribing witness, or otherwise, as herein provided. Every such writing shall be recorded within thirty days after its lodgment and the recording shall bear even date with the lodgment. On every such writing shall be endorsed a certificate, to be signed by the register or his deputy, specifying the time when and book and page where it was recorded."

Exemptions for persons currently in office

SECTION 3. Section 30-5-5(A)(3)(a) and (b), as added by this act, do not apply to a person who holds the office of register of deeds on the effective date of this act and during his tenure in office.

Affirmative defense to quo warranto actions

SECTION 4. If a quo warranto action is brought in accordance with Section 15-63-60 alleging (a) a register of deeds has a pattern of failing to record in the time and manner prescribed in Section 30-5-90, and (b) the pattern of failing to record occurred only prior to the effective date of this act, then the register of deeds may assert as an affirmative defense to the action that, on the date the action is filed and for thirty consecutive days thereafter, no properly delivered and executed document remains unrecorded in the office for more than thirty days after its receipt.

Time effective

SECTION 5. This act takes effect thirty days after approval by the Governor.

Ratified the 18th day of May, 2022.

Approved the 23rd day of May, 2022.

No. 214

(R242, S1045)

AN ACT TO AMEND SECTION 58-23-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REGULATIONS FOR TRANSPORTATION BY MOTOR VEHICLES FOR COMPENSATION, SO AS TO PROVIDE FOR THE TRANSPORTATION OF HAZARDOUS WASTE FOR DISPOSAL OR HOUSEHOLD GOODS AND EXCEPTIONS; TO AMEND SECTION 58-23-25, RELATING TO THE PUBLIC SERVICE COMMISSION'S MOTOR CARRIER REGULATORY AUTHORITY, SO AS TO PROVIDE FOR THE STATUTORY CONSTRUCTION OF THE CHAPTER RELATED TO THE LIMITATION OF CERTAIN AUTHORITY VESTED WITH PUBLIC SERVICE COMMISSION'S MOTOR CARRIER REGULATORY AUTHORITY; TO AMEND SECTION 58-23-30, RELATING TO THE DEFINITION OF "FOR COMPENSATION", SO AS TO PROPERLY DEFINE TRANSPORTATION VEHICLES; TO AMEND SECTION

58-23-40, RELATING TO CERTIFICATE AND FEE REQUIREMENTS, SO AS TO PROPERLY DEFINE TRANSPORTATION VEHICLES; TO AMEND SECTION 58-23-60, RELATING TO AREAS IN WHICH THIS CHAPTER IS NOT APPLICABLE TO BUSINESSES, SO AS TO INCLUDE VEHICLES OPERATED BY A MUNICIPALITY; TO AMEND SECTIONS 58-23-210, 58-23-220, 58-23-230, 58-23-240, 58-23-250, 58-23-260, 58-23-270, AND 58-23-290, ALL RELATING TO CLASSES OF CERTIFICATES, ALL SO AS TO PROVIDE THE MANNER IN WHICH THE OFFICE OF REGULATORY STAFF ISSUES CLASS CERTIFICATES; TO AMEND SECTION 58-23-560, RELATING TO LICENSE FEES FOR CERTIFICATE HOLDERS, SO AS TO PROVIDE ELIGIBILITY REGULATIONS FOR CERTIFICATE HOLDERS; TO AMEND SECTION 58-23-590, RELATING TO CARRIERS OF HOUSEHOLD GOODS AND HAZARDOUS WASTE FOR DISPOSAL, SO AS TO PROVIDE THE POWERS OF THE COMMISSION; TO AMEND SECTION 58-23-600, RELATING TO TIME FOR PAYMENT OF FEES, SO AS TO PROVIDE REGULATIONS FOR FEES REQUIRED OF CERTIFICATE HOLDERS; TO AMEND SECTION 58-23-910, RELATING TO INSURANCE AND BOND, SO AS TO PROVIDE INSURANCE REQUIREMENTS; TO AMEND SECTION 58-23-930, RELATING TO EXCEPTIONS FOR THE REQUIREMENT OF INSURANCE, SO AS TO REMOVE REFERENCES TO THE INTERSTATE COMMERCE COMMISSION; TO AMEND SECTIONS 58-23-1010, 58-23-1020, 58-23-1080, AND 58-23-1090, RELATING TO RIGHTS AND DUTIES GENERALLY, SO AS TO PROVIDE FOR REGULATIONS FOR FEES, LICENSES, AND OTHER MARKERS; TO AMEND SECTION 58-4-60, RELATING TO EXPENSES BORNE BY REGULATED UTILITIES, SO AS TO REFERENCE THE PROVISIONS IN THE CODE GENERATING FEES THAT ARE TO BE USED TO PAY FOR THE EXPENSES OF THE TRANSPORTATION DEPARTMENT OF THE OFFICE OF REGULATORY STAFF; TO AMEND SECTION 4-11-290, RELATING TO THE DISSOLUTION OF SPECIAL PURPOSE DISTRICTS, SO AS TO PROVIDE FOR THE DISSOLUTION OF A HOSPITAL DISTRICT THAT HAS AN AFFILIATED ORGANIZATION EXEMPT FROM TAX UNDER SECTION 501(C)(3) OR (4); TO REPEAL SECTIONS 58-23-300, 58-23-330, 58-23-530, 58-23-540, 58-23-550, AND 58-23-1060; AND TO

REQUIRE THE PUBLIC SERVICE COMMISSION TO MAKE INFORMATION READILY AVAILABLE TO THE PUBLIC.

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

Transportation by motor vehicle for compensation regulated

SECTION 1. Section 58-23-20 of the 1976 Code is amended to read:

"Section 58-23-20. No corporation or person, his lessees, trustees, or receivers may operate a motor vehicle for the transportation of persons, hazardous waste for disposal, or household goods for compensation on an improved public highway in this State except in accordance with the provisions of this chapter, except where the use of a motor vehicle is incidental only to the operation, and any such operation is subject to control, supervision, and regulation by the commission in the manner provided by this chapter. The commission may not fix or approve the rates, fares, or charges for Class A, B, C, D, E, or F certificates."

Public Service Commission's motor carrier regulatory authority

SECTION 2. Section 58-23-25 of the 1976 Code is amended to read:

"Section 58-23-25. Nothing in this chapter, unless specifically provided, may be construed as granting authority to the Public Service Commission to regulate, approve, fix, or charge a fee on a matter of rates, prices, changes, routes, or services of a motor vehicle carrier of property, including private carriers, except certificate carriers of household goods or hazardous wastes for disposal."

"For compensation" defined

SECTION 3. Section 58-23-30 of the 1976 Code is amended to read:

"Section 58-23-30. 'For compensation' as used in Section 58-23-20 means a payment in money or property for transportation of persons, hazardous waste for disposal, or household goods by motor vehicle over public highways within the State of South Carolina."

Certificate and fee requirements

SECTION 4. Section 58-23-40 of the 1976 Code is amended to read:

"Section 58-23-40. A motor vehicle carrier shall obtain a certificate from the Office of Regulatory Staff, pursuant to the provisions of Article 3 of this chapter and pay the license fee required pursuant to Article 5 of this chapter before the motor vehicle carrier may: (1) transport persons, hazardous waste for disposal, or household goods for compensation on any improved public highway in this State; or (2) advertise as an operator for the transportation of persons, hazardous waste for disposal, or household goods for compensation on any improved public highway in this State."

Chapter not applicable to business within certain areas

SECTION 5. Section 58-23-60(5) of the 1976 Code is amended to read:

"(5) used by a county or municipality to transport passengers or property."

Application for a certificate

SECTION 6. Section 58-23-210 of the 1976 Code is amended to read:

"Section 58-23-210. (A) An applicant applying for a certificate or applying to amend a certificate to operate as a motor vehicle common carrier must submit a written application to the commission on a form provided by the commission. The commission must post information regarding an application to apply for a certificate or amend a certificate for fifteen days immediately following receipt of the application. Any person who may be affected by the issuance or amendment of the requested certificate or amendment may file a written objection with the commission within fourteen days after the commission posts the notice regarding the application.

(B)(1) If no objection to an application is filed pursuant to subsection (A), the commission may meet to determine if the applicant is fit, willing, and able to perform the proposed service, upon a showing based upon criteria established by the commission. If the commission issues a directive approving the application, the Office of Regulatory Staff may then issue the certificate. The directive of the commission shall serve as the commission's order thirty days after issuance.

(2) If an objection is filed with the commission, the commission must hold a hearing to determine if the applicant is fit, willing, and able to perform the proposed service. The commission must publish a notice

of hearing for an application for a certificate on the commission's website for not less than thirty days before the date of the hearing.

(C) If an application is denied, another application may not be made until at least six months have elapsed since the date of the denial."

Class A certificates

SECTION 7. Section 58-23-220 of the 1976 Code is amended to read:

"Section 58-23-220. The Office of Regulatory Staff, upon directive of the commission, may issue a certificate A in the following cases:

(1) to an applicant to operate in territory already served by any certificate holder under this chapter or any common carrier when such territory is not already being reasonably served by some other certificate holder or common carrier, provided such applicant proposes to operate on a fixed schedule and to comply with the other provisions contained in Articles 1 to 11 of this chapter and the rules and regulations which may be made by the commission respecting holders of this class of certificates; and

(2) to an applicant for a certificate to operate upon a regular schedule in a territory not already served by the holder of a certificate A, when such territory is not being reasonably served by a certificate holder under this chapter or a common carrier; provided, that when a certificate A is issued to an applicant over territory which is being served at the time such certificate is granted by the holder of a certificate B, the right of the applicant to operate under certificate A shall not begin until the expiration of the then license year of the holder of the certificate B and the holder of a certificate B shall be preferred in granting a certificate A over the route unless it would not be in the interest of the public service.

In either case the existence of a railroad or other motor vehicle carrier in the territory sought to be served by the applicant shall not be considered by the commission as good cause for refusing the application."

Class B certificates

SECTION 8. Section 58-23-230 of the 1976 Code is amended to read:

"Section 58-23-230. The Office of Regulatory Staff, upon directive of the commission, may issue a certificate B when the applicant does not propose to operate regularly upon a fixed schedule or route but will operate in instances when by his solicitation or otherwise he has

procured passengers to be transported over the route or routes designated in his application."

Class C certificates

SECTION 9. Section 58-23-240 of the 1976 Code is amended to read:

"Section 58-23-240. The Office of Regulatory Staff, upon directive of the commission, may issue a certificate C to any applicant who does not propose in any way to solicit the transportation of persons over improved public highways outside of the corporate limits of any city or town or to operate upon a regular schedule, but who is privately employed for a specific trip and who will not solicit or receive patronage along the route. But those operators may solicit passengers (a) for destination within the corporate limits of any city or town wherein such passengers are solicited, (b) within a radius of two miles of the corporate limits of the city or town in which they are licensed to do business, and (c) upon such highways as are not served by a holder of an A or B certificate."

Class D certificates

SECTION 10. Section 58-23-250 of the 1976 Code is amended to read:

"Section 58-23-250. The Office of Regulatory Staff, upon directive of the commission, may issue a certificate D for property-carrying vehicles which will operate upon regular routes and schedules over such highways."

Class E certificates

SECTION 11. Section 58-23-260 of the 1976 Code is amended to read:

"Section 58-23-260. The Office of Regulatory Staff, upon directive of the commission, may issue a certificate E for the property-carrying vehicles which will not operate upon any particular route or schedule."

Class F certificates

SECTION 12. Section 58-23-270 of the 1976 Code is amended to read:

"Section 58-23-270. The Office of Regulatory Staff, upon directive of the commission, may issue a certificate F to any person or corporation who proposes to engage in the business commonly known as contract hauling of freight or property when such applicant does not propose to operate upon a regular schedule or over a regular route or to solicit or receive patronage along the route."

Partial A, B, and D certificates

SECTION 13. Section 58-23-290 of the 1976 Code is amended to read:

"Section 58-23-290. In ordering the issuance of a certificate A, B, or D the commission may direct the issuance of a certificate for partial exercise only of the privileges sought, but without alteration of the license charges fixed thereon."

License fees for certificate A, B, or C

SECTION 14. Section 58-23-560 of the 1976 Code is amended to read:

"Section 58-23-560. A holder of a certificate A, B, or C must annually before January first of each year pay to the Office of Regulatory Staff a fee of fifty dollars per vehicle."

Carriers of household goods and hazardous waste disposal; Transportation Division

SECTION 15. Section 58-23-590 of the 1976 Code is amended to read:

"Section 58-23-590. (A) The commission may promulgate regulations that establish enforcement procedures and powers to govern the operations of carriers of household goods and hazardous waste for disposal.

(B) The Office of Regulatory Staff is authorized to establish a Transportation Division to carry out its responsibilities and may assess the carriers of household goods and hazardous waste for disposal fees necessary to fund this office and to carry out its responsibilities.

(C) The Office of Regulatory Staff is authorized to employ necessary personnel to administer and enforce the provisions of this chapter as they apply to carriers of household goods and hazardous waste for disposal. A carrier operating in violation of a provision of Articles 1 through 12 of this chapter is guilty of a misdemeanor and, upon conviction, must pay penalties provided in Section 58-23-80. A fine of one thousand dollars is imposed on the violators of the certification and registration requirements. Seventy-five percent of this fine must be remitted to the Office of Regulatory Staff to be used for the operation of the Transportation Division. Magistrates have jurisdiction over contested violations of this section and are prohibited from suspending or reducing the penalties."

Time of payment of fees

SECTION 16. Section 58-23-600 of the 1976 Code is amended to read:

"Section 58-23-600. A holder of a certificate D, E, or F must annually pay to the Office of Regulatory Staff fees pursuant to Section 58-4-60."

Insurance, bond, or certificate of self-insurance required for certificate holders

SECTION 17. Section 58-23-910 of the 1976 Code is amended to read:

"Section 58-23-910. Prior to the issuance of the certificate, the motor carrier shall procure and file with the Office of Regulatory Staff either liability and property damage insurance, a surety bond with some casualty or surety company authorized to do business in this State, or a certificate of self-insurance as provided by Section 56-9-60 on all motor vehicles to be used in the service in that amount as the commission may determine, insuring or indemnifying passengers or cargo and the public receiving personal injury by reason of any act of negligence and for damage to property of any person other than the assured. The policy, bond, or certificate of self-insurance must contain those conditions,

provisions, and limitations as the commission may prescribe and must be kept in full force and effect and failure to do so is cause for the revocation of the certificate."

Insurance not required of owners of certain motor vehicles subject to Surface Transportation Board

SECTION 18. Section 58-23-930 of the 1976 Code is amended to read:

"Section 58-23-930. No owner of a motor vehicle using such vehicle as part of a terminal service in connection with the business of transporting goods by rail shall be required to carry liability or property damage insurance on such motor vehicle if such business of such owner is under the jurisdiction of the federal Surface Transportation Board and if the Surface Transportation Board has required and does require such owner to set up insurance reserves covering liability resulting from the conduct of such business, including liability arising out of and in connection with the operation of such motor vehicle and if such insurance reserves have been and are actually so set up.

The owner of such a motor vehicle shall attach inside of the cab of such vehicle in a conspicuous place a certificate signed by such owner, or his duly authorized representative, setting forth that the business of such owner is under the jurisdiction of the federal Surface Transportation Board and that such board has required and does require such owner to set up insurance reserves."

General powers of commission

SECTION 19. Section 58-23-1010 of the 1976 Code is amended to read:

"Section 58-23-1010. (A) The commission shall regulate every motor carrier in this State and fix or approve the classifications and regulations pertaining to each motor carrier, except as provided in Section 58-23-20.

(B) As to holders of a certificate E, the carrier shall file a maximum rate schedule with the commission. The commission must post the maximum rate schedule filing within one business day of receipt. The new maximum rate schedule shall go into effect one business day following the commission's posting of the new schedule. Holders of certificate E shall have the flexibility for adjustment of the rates below

the maximum rate levels without commission approval. The commission shall publish the maximum rate schedule on its website."

Certain routes or schedules shall not be changed without permit from commission

SECTION 20. Section 58-23-1020 of the 1976 Code is amended to read:

"Section 58-23-1020. No motor vehicle carrier holding a certificate A, B, or D shall change the route or schedule of his motor vehicle during any year for which a license has been issued without procuring an order of the commission before the route is changed."

Special plates or markers for carriers

SECTION 21. Section 58-23-1080 of the 1976 Code is amended to read:

"Section 58-23-1080. The Office of Regulatory Staff, upon the presentation of a certificate authorizing the motor vehicle carrier to operate and upon payment of the proper license, may furnish the motor vehicle carrier with a distinguishing plate or marker."

Special markers for reserve or substitute passenger vehicles

SECTION 22. Section 58-23-1090 of the 1976 Code is amended to read:

"Section 58-23-1090. When any reserve or substitute vehicle maintained by a motor carrier holding a certificate D, or a certificate A or a certificate B for passenger vehicles, to be used only in emergencies, is in use it may be designated by a special marker to be furnished by the Office of Regulatory Staff."

Expenses of the Transportation Department of the Office of Regulatory Staff

SECTION 23. Section 58-4-60(B)(1) of the 1976 Code is amended to read:

"(1) The expenses of the Transportation Department of the Office of Regulatory Staff, with the exception of the expenses incurred in its railway jurisdiction, must be borne by the revenues from license fees derived pursuant to Article 5, Chapter 23, Title 58, assessments to the Transportation Network Companies pursuant to Sections 58-23-1690 and 58-23-1700, and assessments to the carriers of household goods and hazardous waste for disposal carriers. The expenses of the railway section of the Office of Regulatory Staff must be borne by the railroad companies subject to the commission's jurisdiction according to their gross income from operations in this State."

Repeal

SECTION 24. Sections 58-23-300, 58-23-330, 58-23-530, 58-23-540, 58-23-550, and 58-23-1060 are repealed.

Availability of information by the Public Service Commission

SECTION 25. The Public Service Commission must make information readily available so that the general public can easily access information regarding the requirements in Articles 3 and 9 in Chapter 23, Title 58. This includes, but is not limited to, the commission posting on its website information regarding the following: list of certified companies, maximum rates, insurance, and complaint resolution.

Dissolution of special purposes districts

SECTION 26. A.Section 4-11-290(J) of the 1976 Code is amended to read:

"(J) In the event the district being dissolved has title to real or personal assets, those assets shall be disposed of as provided in this subsection.

(1) To the extent that the district is authorized by the act creating or establishing the district to provide services and one or more of those services are as of the date of dissolution provided by another political subdivision of the State of South Carolina, the Secretary of State:

(a) must convey to such political subdivision:

(i) any and all assets of the district necessary, useful, or otherwise related to the provision of the service or services by the political subdivision; and

(ii) any assets then being used by the political subdivision to provide the service or services to the political subdivision; and

(b) must execute and deliver any deeds, bills of sale, or other evidence of conveyance of the property as may be required by law to make the asset conveyance effective.

(2) In the event that a political subdivision has assumed indebtedness of the district being dissolved as provided in subsection (B)(3), all assets securing such indebtedness must be conveyed to the political subdivision in accordance with this subsection. The Secretary of State is authorized to convey by his signature title to any and all assets as provided in this subsection, and his signature on any deed, bill of sale, or other instrument of conveyance shall be effective and binding for that purpose.

(3) Notwithstanding another provision of law, in the event the district being dissolved is a hospital district that has an affiliated organization exempt from tax under Section 501(c)(3) or (4) of the Internal Revenue Code of 1986, then the district may transfer its assets to its affiliated organization.

(4) All other assets of the district shall escheat to the State and shall be disposed of in accordance with Chapter 27, Title 19."

B. This SECTION takes effect upon approval by the Governor.

Time effective

SECTION 27. This act takes effect upon approval by the Governor.

Ratified the 18th day of May, 2022.

Approved the 23rd day of May, 2022.

No. 215

(R243, S1092)

AN ACT TO AMEND SECTION 23-23-60, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF CERTIFICATES OF COMPLIANCE AND QUALIFICATION TO LAW ENFORCEMENT OFFICERS AND PERSONS TRAINED BY THE CRIMINAL JUSTICE ACADEMY, SO AS TO

ESTABLISH THE MINIMUM AGE FOR CERTAIN DETENTION AND CORRECTIONAL OFFICER CANDIDATES AS EIGHTEEN YEARS OF AGE.

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

Minimum age of correctional officer

SECTION 1. Section 23-23-60(B)(8) of the 1976 Code is amended to read:

"(8) evidence satisfactory to the director that the candidate's present age is no less than twenty-one years. However, if the person is a candidate for detention or correctional officer, not to include officers for the Department of Juvenile Justice, then the candidate's present age must be no less than eighteen years of age. This evidence must include a birth certificate or another acceptable document;"

Time effective

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

Ratified the 18th day of May, 2022.

Approved the 23rd day of May, 2022.

No. 216

(R244, S1237)

AN ACT TO AMEND ARTICLE 142, CHAPTER 3, TITLE 56, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF "UNIVERSITY OF SOUTH CAROLINA 2017 WOMEN'S BASKETBALL NATIONAL CHAMPIONS" SPECIAL LICENSE PLATES BY THE DEPARTMENT OF MOTOR VEHICLES, SO AS TO ALSO PROVIDE FOR THE ISSUANCE OF "UNIVERSITY OF SOUTH CAROLINA 2022 WOMEN'S BASKETBALL NATIONAL CHAMPIONS" SPECIAL LICENSE PLATES BY THE DEPARTMENT; TO AMEND SECTION 56-3-14970, RELATING TO THE ISSUANCE

OF CERTAIN MILITARY SERVICE SPECIAL LICENSE PLATES, SO AS TO PROVIDE FOR THE ISSUANCE OF "US SPACE FORCE" SPECIAL LICENSE PLATES; TO AMEND SECTION 56-3-14940, RELATING TO THE ISSUANCE OF SERVICE-CONNECTED DISABILITY SPECIAL LICENSE PLATES, SO AS TO EXEMPT THESE LICENSE PLATES FROM THE REGULAR MOTOR VEHICLE REGISTRATION FEE, AND PROVIDE FOR REFUNDS OF CERTAIN REGISTRATION FEES; TO AMEND SECTION 56-3-14960, RELATING TO THE ISSUANCE OF MERITORIOUS SERVICE SPECIAL LICENSE PLATES, SO AS TO PROVIDE FOR THE ISSUANCE OF "MERITORIOUS SERVICE MEDAL" SPECIAL LICENSE PLATES; TO AMEND SECTION 56-3-14980, RELATING TO THE ISSUANCE OF SPECIAL LICENSE PLATES SHOWING SUPPORT FOR MILITARY-RELATED PRIVATE ORGANIZATIONS, SO AS TO PROVIDE FOR THE ISSUANCE OF "SUPPORT OUR TROOPS" SPECIAL LICENSE PLATES; TO AMEND SECTION 56-3-14990, RELATING TO SURVIVING SPOUSES OBTAINING CERTAIN SPECIAL LICENSE PLATES ISSUED TO THEIR DECEASED SPOUSES, SO AS TO REVISE THE SPECIAL LICENSE PLATES SUBJECT TO THIS PROVISION; TO AMEND SECTION 56-3-15000, RELATING TO LICENSE PLATES ISSUED UNDER PREVIOUS AWARD CRITERIA, SO AS TO MAKE TECHNICAL CHANGES; AND TO REPEAL ARTICLE 20, CHAPTER 3, TITLE 56 RELATING TO SPECIAL LICENSE PLATES ISSUED TO MEMBERS OF FOREIGN CONSULATES.

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

University of South Carolina Women's Basketball National Champions special license plates

SECTION 1. Article 142, Chapter 3, Title 56 of the 1976 Code is amended to read:

"Article 142

'University of South Carolina 2017 and 2022 Women's Basketball National Champions' Special License Plates

Section 56-3-14210. (A)(1) The Department of Motor Vehicles shall issue 'University of South Carolina 2017 and 2022 Women's Basketball National Champions' special license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names.

(B) The University of South Carolina may submit to the department for its approval the emblem, seal, or other symbol it desires to be used for its respective special license plate.

(C) The requirements for production, collection, and distribution of fees for the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of seventy dollars. Any portion of the additional seventy-dollar fee not set aside to defray costs of production and distribution must be distributed to the fund established for the University of South Carolina pursuant to Section 56-3-3710(B) used for the purposes provided in that section.

(D) License number '1' for the 'University of South Carolina 2017 and 2022 Women's Basketball National Champions' license plates are reserved for the University of South Carolina Women's Basketball Coach.

(E) The department must issue to registrants who have a license plate commemorating only the 2017 Women's Basketball National Championship the license plate commemorating both the 2017 and 2022 national championship once the 2017 license plate reaches the end of its ten-year lifecycle. This subsection does not apply to registrants who choose to switch to the '2017 and 2022' license plate on their own."

US Space Force special license plates

SECTION 2. Section 56-3-14970(A) of the 1976 Code, as added by Act 38 of 2021, is amended to read:

"(A) The department may issue the following special license plates reflective of military service for private passenger vehicles and motorcycles to active or prior service members associated with the following military components or designations:

(1) Veteran or Veteran wheelchair if the registrant qualifies for handicapped parking pursuant to Section 56-3-1910(H)

(2) Female Veteran or Female Veteran wheelchair if the registrant qualifies for handicapped parking pursuant to Section 56-3-1910(H)

(3) Combat-Related Disabled Veteran - the registrant must have a combat-related disability as evidenced by a letter from the U.S.

Department of Veterans Affairs defining a combat and operations-related disability

(4) Army
(5) Marine Corps
(6) Navy
(7) Air Force
(8) Coast Guard
(9) US Space Force
(10) National Guard- Army
(11) National Guard- Air
(12) National Guard- Retired
(13) US Military Reserve- Army
(14) US Military Reserve- Marine Corps
(15) US Military Reserve- Navy
(16) US Military Reserve- Air Force
(17) US Military Reserve- Coast Guard
(18) US Armed Forces Retired
(19) State Guard."

Service connected disability special license plates

SECTION 3. Section 56-3-14940(B) of the 1976 Code, as added by Act 38 of 2021, is amended to read:

"(B) The qualifying service member or veteran must be one of the registrants of the vehicle. No more than three license plates may be issued to the award recipient. License plates for medals specified in subsection (A) are exempt from the regular motor vehicle registration fee contained in Article 5, Chapter 3, Title 56. These special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued. Any registration fees collected pursuant to this section from May 6, 2022, to the effective date of this act shall be refunded by the Department of Motor Vehicles."

Meritorious service special license plates

SECTION 4. Section 56-3-14960(A) of the 1976 Code, as added by Act 38 of 2021, is amended to read:

"(A) The department may issue the following special license plates reflective of meritorious service for private passenger vehicles and

motorcycles to active or prior service members who received the following awards:

(1) Air Medal
(2) Bronze Star (service)
(3) Meritorious Service Medal."

Military related private organizations special license plates

SECTION 5. Section 56-3-14980(A) of the 1976 Code, as added by Act 38 of 2021, is amended to read:

"(A) The department may issue the following types of special license plates showing support for military-related private organizations for private passenger vehicles and motorcycles to members of the general public that will financially benefit the following organizations:

(1) Blue Star Family
(2) Veterans of Foreign Wars
(3) American Legion
(4) Disabled American Veterans
(5) American Veterans
(6) Marine Corps League
(7) Chief Petty Officer
(8) Support Our Troops."

Surviving spouses

SECTION 6. Section 56-3-14990 of the 1976 Code, as added by Act 38 of 2021, is amended to read:

"Section 56-3-14990. Upon the death of an award recipient, a surviving spouse may apply to the department for a license plate issued under the provisions of Section 56-3-14910, 56-3-14920, or 56-3-14930(A)(3). The surviving spouse may apply to the department to transfer a license plate previously issued to the award recipient under the provisions of Section 56-3-14910, 56-3-14920, or 56-3-14930(A)(3) pursuant to Section 56-3-210(G). The surviving spouse must turn the plate into the department when the surviving spouse is no longer eligible for surviving spouse military benefits."

License plates

SECTION 7. Section 56-3-15000 of the 1976 Code, as added by Act 38 of 2021, is amended to read:

"Section 56-3-15000. License plates first issued to registrants under previous requirements are not subject to the revised requirements that a person must meet to apply for a plate specified in this article."

Repeal

SECTION 8. Article 20, Chapter 3, Title 56 is repealed.

Time effective

SECTION 9. SECTION 1 of this act takes effect upon approval by the Governor. SECTIONS 2, 3, 4, 5, 6, 7, and 8 of this act take effect May 6, 2022.

Ratified the 18th day of May, 2022.

Approved the 23rd day of May, 2022.

No. 217

(R245, H3037)

AN ACT TO AMEND SECTION 56-1-80, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO APPLICATIONS FOR DRIVERS' LICENSES AND PERMITS, SO AS TO PROVIDE THE DEPARTMENT OF MOTOR VEHICLES MUST PROVIDE A FORM THAT ALLOWS APPLICANTS TO VOLUNTARILY DISCLOSE PERMANENT MEDICAL CONDITIONS, TO PROVIDE FOR A LIMITED NUMBER OF PERMANENT MEDICAL CONDITIONS THAT MAY BE CONTAINED IN MOTOR VEHICLE DRIVERS' RECORDS, AND TO REVISE THE LIST OF PERSONS WHO MAY ACCESS MEDICAL INFORMATION CONTAINED IN DRIVERS' RECORDS, TO AMEND SECTION 56-1-3350, AS AMENDED, RELATING TO APPLICATIONS FOR SPECIAL

IDENTIFICATION CARDS, SO AS TO MAKE TECHNICAL CHANGES, TO PROVIDE APPLICANTS MAY OBTAIN SPECIAL IDENTIFICATION CARDS THAT INDICATE THEY HAVE VOLUNTARILY DISCLOSED PERMANENT MEDICAL CONDITIONS, AND PROVIDE FOR LIMITED DISCLOSURE OF THIS INFORMATION.

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

Driver's license application

SECTION 1. Section 56-1-80(A) and (B) of the 1976 Code is amended to read:

"(A) An application for a driver's license or permit must:

(1) be made upon the form furnished by the department;

(2) be accompanied by the proper fee and acceptable proof of date and place of birth;

(3) contain the full name, date of birth, sex, race, and residence address of the applicant and briefly describe the applicant;

(4) state whether the applicant has been licensed as an operator or chauffeur and, if so, when and by what state or country;

(5) state whether a license or permit has been suspended or revoked or whether an application has been refused and, if so, the date of and reason for the suspension, revocation, or refusal;

(6) allow an applicant voluntarily to disclose a permanent medical condition, provided that the disclosure is made on a form prescribed by the department and includes a certification from a physician licensed in this State, as defined in Chapter 47, Title 40 that affirms the existence of the medical condition. The medical condition must be indicated by a symbol designated by the department on the driver's license and contained in the driver's record. The motor vehicle record of a driver may not contain more than three permanent medical conditions unless item (8) applies;

(7) allow an applicant voluntarily to disclose that he is an organ and tissue donor, which must be indicated by a symbol designated by the department on the driver's license and contained in the driver's record;

(8) allow an applicant voluntarily to disclose that he is autistic, which must be indicated by a symbol designated by the department on the driver's license and contained in the driver's record. The applicant

must provide documentation that he is autistic from a physician licensed in this State, as defined in Section 40-47-20(35); and

(9) include a statement that certain driver's license and driver's record information may be released, upon request, pursuant to subsection (B).

(B)(1) The information contained on a driver's license and in the driver's department records pertaining to a person's permanent medical condition, as provided for in subsection (A)(6) or subsection (A)(8), must be made available, upon request only to:

(a) law enforcement, emergency medical services, and hospital personnel;

(b) the medical advisory board pursuant to Section 56-1-221;

(c) permitted entities pursuant to the Driver Privacy Protection Act, 18 U.S.C.A. 2721; and

(d) the person to whom the records of the permanent medical condition applies.

(2) The information contained on a driver's license and in the driver's department records pertaining to a person's organ and tissue donor status, as provided for in subsection (A)(7), must be made available, upon request only to:

(a) law enforcement, emergency medical services, and hospital personnel; and

(b) the South Carolina Donor Referral Network, as provided for in Section 44-43-910.

(3) The information contained on a driver's license and in the driver's department records pertaining to a person's permanent medical condition, as provided for in subsection (A)(6) or subsection (A)(8), and pertaining to a person's organ and tissue donor status, as provided for in subsection (A)(7), may not be sold and is exempt from disclosure pursuant to Chapter 4, Title 30, the South Carolina Freedom of Information Act."

Special identification card application

SECTION 2. Section 56-1-3350(A) of the 1976 Code is amended to read:

"(A) Upon application by a person five years of age or older, who is a resident of South Carolina, the department shall issue a special identification card provided that the:

(1) application is made on a form approved and furnished by the department;

(2) applicant presents to the person issuing the identification card a birth certificate or other evidence acceptable to the department of his name and date of birth;

(3) applicant, who wishes to obtain a special identification card that indicates the applicant is autistic, complies with subsection (A)(1) and (2) and provides documentation that he is autistic from a physician licensed in this State, as defined in Chapter 47, Title 40. The special identification requested must be indicated by a symbol designated by the department on the person's special identification card; and

(4) applicant, who wishes to obtain a special identification card that indicates the applicant has voluntarily disclosed a permanent medical condition, complies with subsection (A)(1) and (2), and provides documentation of the medical condition from a physician licensed in this State, as defined in Chapter 47, Title 40. The record of an identification card holder may not contain more than three permanent medical conditions unless subsection (A)(3) applies. The information contained on a special identification card and in the special identification card holder's department records pertaining to his autism, as provided for in item (3), or his permanent medical condition, as provided for in this item, may not be sold, is exempt from disclosure pursuant to Chapter 4, Title 30, the South Carolina Freedom of Information Act, and may be released upon request only to:

(a) law enforcement, emergency medical services, and hospital personnel;

(b) the medical advisory board pursuant to Section 56-1-221;

(c) permitted entities pursuant to the Driver Privacy Protection Act, 18 U.S.C.A. 2721; and

(d) the person to whom the records of the permanent medical condition applies."

Time effective

SECTION 3. (A) SECTION 1 takes effect July 1, 2022.

(B) SECTION 2 takes effect one year after the approval by the Governor.

Ratified the 18th day of May, 2022.

Approved the 23rd day of May, 2022.

No. 218

(R246, H3050)

AN ACT TO AMEND SECTION 23-23-40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CERTIFICATION OF A LAW ENFORCEMENT OFFICER EMPLOYED OR APPOINTED BY A PUBLIC LAW ENFORCEMENT AGENCY, SO AS TO PROVIDE THIS PROVISION APPLIES TO LAW ENFORCEMENT OFFICERS EMPLOYED OR APPOINTED AFTER JULY 1, 2022, TO PROVIDE NONCERTIFIED LAW ENFORCEMENT OFFICERS SHALL ONLY PERFORM DUTIES AS LAW ENFORCEMENT OFFICERS WHILE ACCOMPANIED BY CERTIFIED LAW ENFORCEMENT OFFICERS, AND TO MAKE A TECHNICAL CHANGE; TO AMEND SECTION 23-23-150, RELATING TO THE ADJUDICATION OF ALLEGATIONS OF MISCONDUCT BY LAW ENFORCEMENT OFFICERS, SO AS TO DEFINE THE DEFINITION OF THE TERM "MISCONDUCT", TO REVISE THE CRITERIA A SHERIFF OR CHIEF EXECUTIVE OFFICER OF A LAW ENFORCEMENT AGENCY OR DEPARTMENT MUST USE WHEN FILING A REPORT OF MISCONDUCT AGAINST A LAW ENFORCEMENT OFFICER, TO PROVIDE THE PROCEDURE FOR PROSECUTING INCIDENCES OF MISCONDUCT, AND TO PROVIDE FOR THE IMPOSITION OF CIVIL FINES AGAINST AGENCIES THAT FAIL TO COMPLY WITH THIS SECTION; BY ADDING SECTION 23-1-250 SO AS TO PROVIDE FOR THE LAWFUL USE OF CHOKEHOLDS OR CAROTID HOLDS, TO PROVIDE WILFUL USE OF EXCESSIVE FORCE MAY BE CONSIDERED MISCONDUCT BY A LAW ENFORCEMENT OFFICER AND SUBJECT TO DISCIPLINARY ACTION, AND TO PROVIDE FOR THE DEVELOPMENT OF CURRICULA AND STANDARDS TO ADDRESS JUSTIFIABLE USE OF CHOKEHOLDS AND CAROTID HOLDS; BY ADDING SECTION 23-23-85 SO AS TO PROVIDE FOR ESTABLISHMENT OF MINIMUM STANDARDS REQUIRED OF LAW ENFORCEMENT AGENCIES BY THE LAW ENFORCEMENT TRAINING COUNCIL, AND PROVIDE THE COUNCIL WITH THE AUTHORITY TO TAKE PUNITIVE ACTION AGAINST LAW ENFORCEMENT AGENCIES THAT FAIL TO COMPLY WITH STANDARDS ISSUED PURSUANT TO THIS SECTION; BY

ADDING SECTION 23-23-160 SO AS TO ESTABLISH A COMPLIANCE DIVISION WITHIN THE LAW ENFORCEMENT TRAINING COUNCIL AND PROVIDE ITS RESPONSIBILITIES; TO AMEND SECTION 23-23-100, RELATING TO COMPLIANCE WITH PROVISIONS ENFORCED BY THE LAW ENFORCEMENT TRAINING COUNCIL, SO AS TO REVISE THIS PROVISION; TO AMEND SECTION 23-23-60, RELATING TO THE ISSUANCE OF CERTIFICATES OF COMPLIANCE BY THE LAW ENFORCEMENT TRAINING COUNCIL, SO AS TO ADD ADDITIONAL EVIDENCES A LAW ENFORCEMENT AGENCY MUST SUBMIT TO THE COUNCIL ABOUT A CANDIDATE BEING CONSIDERED FOR CERTIFICATION; AND TO AMEND SECTION 16-23-20, AS AMENDED, RELATING TO THE UNLAWFUL CARRYING OF HANDGUNS, SO AS TO ALLOW RETIRED COMMISSIONED LAW ENFORCEMENT OFFICERS TO CARRY THEM ABOUT THEIR PERSONS.

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

Law enforcement officer certification

SECTION 1. Section 23-23-40 of the 1976 Code is amended to read:

"Section 23-23-40. (A) No law enforcement officer employed or appointed on or after July 1, 2022, by any public law enforcement agency in this State is authorized to enforce the laws or ordinances of this State or any political subdivision thereof unless he has been certified as qualified by the council, except that any public law enforcement agency in this State may appoint or employ as a law enforcement officer, a person who is not certified if, within one year after the date of employment or appointment, the person secures certification from the council; provided, that if any public law enforcement agency employs or appoints as a law enforcement officer a person who is not certified, the person shall not perform any of the duties of a law enforcement officer involving the control or direction of members of the public or exercising the power of arrest until he has successfully completed a firearms qualification program approved by the council; and provided, further, that within three working days of employment, the academy must be notified by a public law enforcement agency that a person has been employed by that agency as a law enforcement officer, and within three working days of the notice the firearms qualification program as

approved by the director must be provided to the newly hired personnel; and shall only perform his duties as a law enforcement officer while accompanied by a certified law enforcement officer. If the firearms qualification program approved by the director is not available within three working days after receipt of the notice, then the public law enforcement agency making the request for the firearms qualification program may employ the person to perform any of the duties of a law enforcement officer, including those involving the control and direction of members of the public and exercising the power of arrest. Should any such person fail to secure certification within one year from his date of employment, he may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until he has been certified. He is not eligible for employment or appointment by any other agency in South Carolina as a law enforcement officer, nor is he eligible for any compensation by any law enforcement agency for services performed as an officer. Exceptions to the one-year rule may be granted by the director in these cases:

(1) military leave or injury occurring during that first year which would preclude the receiving of training within the usual period of time; or

(2) in the event of the timely filing of application for training, which application, under circumstances of time and physical limitations, cannot be honored by the training academy within the prescribed period; or

(3) upon presentation of documentary evidence that the officer-candidate has successfully completed equivalent training in one of the other states which by law regulate and supervise the quality of police training and which require a minimum basic or recruit course of duration and content at least equivalent to that provided in this chapter or by standards set by the council; or

(4) if it is determined by documentary evidence that the training will result in undue hardship to the requesting agency, the requesting agency must propose an alternate training schedule for approval.

(B) Notwithstanding another provision of law, in the case of a candidate for certification who begins one or more periods of state or federal military service within one year after his date of employment or appointment, the period of time within which he must obtain the certification required to become a law enforcement officer is automatically extended for an additional period equal to the aggregate period of time the candidate performed active duty or active duty for training as a member of the National Guard, the State Guard, or a reserve

component of the Armed Forces of the United States, plus ninety days. The director must take all necessary and proper action to ensure that a candidate for certification as a law enforcement officer who performs military service within one year of his employment or appointment is not prejudiced in obtaining certification as a result of having performed state or federal military service."

Definitions, law enforcement misconduct

SECTION 2. Section 23-23-150(A) and (B) of the 1976 Code, as added by Act 215 of 2018, is amended to read:

"(A) For purposes of this section:

(1) 'Academy' means the South Carolina Criminal Justice Academy.

(2) 'Council' means the Law Enforcement Training Council.

(3) 'Misconduct' means:

(a) a conviction, plea of guilty, plea of no contest or admission of guilt to a felony, a crime punishable by a sentence of more than one year, regardless of the sentence actually imposed, or a crime of moral turpitude, any of which were committed in this State or any other jurisdiction;

(b) the unlawful use of a controlled substance;

(c) the repeated use of excessive force in dealing with the public or prisoners;

(d) dangerous or unsafe practices involving firearms, weapons, or vehicles which indicate either a wilful or wanton disregard for the safety of persons or property;

(e) the physical or psychological abuse of members of the public or prisoners;

(f) the wilful failure to intervene when observing another officer physically abusing a person, whether or not the person is in custody, while in the performance of his official duties, if the officer knew the person's rights were being violated, the officer had an opportunity to intervene, and the officer chose not to do so;

(g) the wilful and knowing failure to promptly report another officer, while in the performance of his official duties, abusing a person whether or not the person is in custody;

(h) the misrepresentation of employment-related information;

(i) wilfully making false, misleading, incomplete, deceitful, or incorrect statements to a law enforcement officer, a law enforcement

agency, or a representative of the agency, except when required by departmental policy or by the laws of this State;

(j) wilfully making false, misleading, incomplete, deceitful, or incorrect statements to any court of competent jurisdiction, or their staff members, whether under oath or not;

(k) wilfully providing false, misleading, incomplete, deceitful, or incorrect information on a document, record, report, or form, except when required by departmental policy or by the laws of this State;

(l) the falsification of any application for certification and training based upon which the officer was admitted for training; or

(m) wilfully providing false information to the Criminal Justice Academy or the Law Enforcement Training Council.

(B)(1) The sheriff or the chief executive officer of a law enforcement agency or department within the State must report to the academy the occurrence of any act or multiple acts by a law enforcement officer, who is currently or was last employed by his agency, he reasonably believes to be misconduct. The report shall be made within fifteen days of the final agency or department action resulting from the internal investigation conducted by the agency or department, and shall be on a form prescribed by the council.

(2) Reported incidences of misconduct shall be prosecuted by the reporting agency before the contested case hearing. The reporting agency shall maintain prosecutorial discretion up to the time of the contested case hearing. If the agency declines to prosecute the allegation or allegations of misconduct, the agency shall provide a written report to the council stating that the case is not being prosecuted.

(3) A wilful failure to report information related to acts of misconduct shall subject the violator to a civil penalty as provided by the council. The council may impose civil fines, in its discretion, not to exceed five hundred dollars per day for each day an agency is out of compliance with this section."

Chokeholds

SECTION 3. Chapter 1, Title 23 of the 1976 Code is amended by adding:

"Section 23-1-250. (A) The use of a chokehold or carotid hold is limited to circumstances where the use of deadly force would otherwise be authorized and is objectively reasonable.

(B) In addition to any other penalty provided by law, the wilful use of excessive force in an objectively unreasonable manner may be

considered misconduct and may serve as grounds for disciplinary action against the law enforcement officer, including dismissal, demotion, suspension, or transfer.

(C) The Law Enforcement Training Council shall develop and implement curricula and standards to address the lawful justifiable use of chokeholds and carotid holds in accordance with this section."

Law Enforcement Training Council

SECTION 4. Chapter 23, Title 23 of the 1976 Code is amended by adding:

"Section 23-23-85. (A) The council shall establish required minimum standards for all law enforcement agencies. The standards must include, but are not limited to, policies regarding:

(1) the use of force and response to resistance by law enforcement officers. The policy must establish standards limiting officers to force that is objectively reasonable based on the totality of the circumstances involved. The policy must prohibit the use of chokeholds and carotid restraints as less lethal force options;

(2) uniform vehicle pursuit standards and the use of lethal options during pursuit;

(3) an officer's duty to intervene in the actions of other observed officers;

(4) hiring and terminating practices;

(5) mandatory and uniform post basic academy field training;

(6) uniform implementation and the use of body-worn cameras;

(7) the use of 'no knock' warrants;

(8) the establishment, implementation, or continuation of systems and processes for filing and investigating complaints, including anonymous complaints, against the law enforcement agency or an employee of the law enforcement agency. The council shall require law enforcement agencies to have a written directive, which must be made available to the public, that delineates how complaints can be made, the investigative process of such complaints, and a maximum timeframe for the resolution of the complaint. All substantiated complaints must be reported to the council through standardized forms as promulgated by the council; and

(9) the establishment, implementation, or continuation of an early warning system that identifies, assesses, reviews, and tracks at-risk behavior of employees and requires intervention where appropriate.

(B) For the purposes of this section, 'at-risk behavior' is defined as behavior or action that increases the risk of injury to an employee or to others, that could constitute a civil rights violation, or that could result in the law enforcement agency losing public support and confidence. Examples of 'at-risk behavior' shall include, but are not limited to, repeated uses of force, at-fault traffic accidents, repeated founded complaints, improper vehicle pursuits, repeated violations of agency policy or procedures, excessive use of leave, excessive Workers' Compensation Claims, or documented substandard performance.

(C) The council shall have the authority to take punitive action against any law enforcement agency that refuses to comply with standards issued pursuant to this section, including civil fines, as described in Section 23-23-100.

(D) Nothing in this section shall be construed to prevent or prohibit law enforcement agencies from adopting policies that exceed the minimum standards adopted by the council."

Compliance Division

SECTION 5. Chapter 23, Title 23 of the 1976 Code is amended by adding:

"Section 23-23-160. (A) There is hereby established a Compliance Division under the jurisdiction of the council. The inspectors and such other personnel as may be provided for the division shall be selected by the director.

(B) The division shall be responsible for inspecting, at least once every three years, the relevant policies and procedures for every law enforcement agency in this State to ensure compliance with minimum standards established in Section 23-23-85. For the purposes of this section, 'law enforcement agency' means any agency or entity of the State or any of its political subdivisions that employs or appoints law enforcement officers.

(C) If an inspection under this chapter discloses that a law enforcement agency does not meet the minimum standards established in Section 23-23-85, the council shall notify the law enforcement agency director and hold a meeting of the council to consider the inspection reports. If requested, the inspection personnel shall appear to advise and consult concerning appropriate corrective action. The law enforcement agency shall initiate appropriate corrective action within ninety days or may be subject to additional penalties, as described in Section 23-23-100.

(D) If a law enforcement agency produces evidence satisfactory to the director to prove the agency is currently accredited by either the South Carolina Law Enforcement Accreditation Council or the Commission on Accreditation for Law Enforcement Agencies, the agency shall be exempt from inspections pursuant to this section and shall be deemed to be in compliance with the minimum standards established in Section 23-23-85."

Compliance

SECTION 6. Section 23-23-100 of the 1976 Code is amended to read:

"Section 23-23-100. (A) All public law enforcement agencies are required to comply with the provisions of this chapter and the regulations promulgated pursuant to this chapter. Whenever the director finds that any public law enforcement agency is in violation of any provision of this chapter, or any regulation promulgated pursuant to this chapter, the director shall notify the public law enforcement agency of the violation and of the public law enforcement agency's duty to comply with the provision and/or regulation. This notification shall be sent to the public law enforcement agency head via certified U.S. Mail or delivered by hand. The agency must come into compliance within thirty days.

(B) If after thirty days the public law enforcement agency has failed to come into compliance, the director, at the direction of the council, shall issue an order requiring the public law enforcement agency to comply with the provision or regulation. This order may include a civil penalty not to exceed one thousand dollars per violation per day the agency is not in compliance or is found in violation. Any public law enforcement agency against which a civil penalty is invoked by the director may appeal the decision to the court of common pleas of the county where the public law enforcement agency is located.

(C) If the public law enforcement agency has failed to comply with the director's order, the director shall either bring a civil action for injunctive relief or a civil enforcement action for failure to comply with the order in the court of common pleas of the county where the public law enforcement agency is located. Violation of any court order issued pursuant to this section must be considered in contempt of the issuing court and punishable as provided by law.

(D) If the imposition of civil fines fails to bring a law enforcement agency into compliance with the provisions of this chapter, regulations promulgated pursuant to this chapter, or an order authorized in this chapter, the council is authorized to temporarily hold in abeyance the

law enforcement certification of every law enforcement officer employed or appointed by the noncompliant law enforcement agency until such time as the council deems the agency to be in compliance with the minimum standards or a motion for injunctive relief is settled. An individual whose law enforcement certification has been held in abeyance by the council is not authorized to enforce the laws or ordinances of this State or any political subdivision thereof. An individual who has had his law enforcement certification held in abeyance as a result of a noncompliant law enforcement agency shall not be prohibited from regaining law enforcement certification if he is subsequently employed or appointed by a compliant law enforcement agency, provided he is otherwise qualified to be certified. Further, in the event the council holds law enforcement certifications in abeyance at a noncompliant law enforcement agency, no law enforcement officer shall go without his or her regular pay, compensation, and benefits. Any records for the certification hold for the individual officer must be expunged by the council within thirty days of the termination of the hold after full compliance by the agency or the employment by another agency."

Ethical policing

SECTION 7. Section 23-23-60(B)(5) of the 1976 Code is amended to read:

"(5) evidence satisfactory to the director that the candidate is a person of good character. This evidence must include, but is not limited to:

(a) certification by the candidate's employer that a background investigation has been conducted and the employer is of the opinion that the candidate is of good character;

(b) evidence satisfactory to the director that the candidate holds a valid current state driver's license with no record during the previous five years for suspension of driver's license as a result of driving under the influence of alcoholic beverages or dangerous drugs, driving while impaired (or the equivalent), reckless homicide, involuntary manslaughter, or leaving the scene of an accident. Candidates for certification as state or local correctional officers may hold a valid current driver's license issued by any jurisdiction of the United States;

(c) evidence satisfactory to the director that a local credit check has been made with favorable results;

(d) evidence satisfactory to the director that the candidate's fingerprint record as received from the Federal Bureau of Investigation and South Carolina Law Enforcement Division indicates no record of felony convictions; and

(e) evidence satisfactory to the director that the candidate has signed an attestation form committing to the practice of ethical policing, which means the discharge of responsibilities, stemming from employment as a law enforcement officer, which is devoid of misconduct and which is carried out in conformance with this chapter, including the duty to safeguard life and the duty to intervene.

In the director's determination of good character, the director shall give consideration to all law violations, including traffic and conservation law convictions, as indicating a lack of good character. The director shall also give consideration to the candidate's prior history, if any, of alcohol and drug abuse in arriving at a determination of good character;"

Unlawful carrying of a handgun

SECTION 8. Section 16-23-20(1) of the 1976 Code is amended to read:

"(1) regular, salaried law enforcement officers, and reserve police officers of a state agency, municipality, or county of the State, uncompensated Governor's constables, law enforcement officers of the federal government or other states when they are carrying out official duties while in this State, deputy enforcement officers of the Natural Resources Enforcement Division of the Department of Natural Resources, and retired commissioned law enforcement officers;"

Time effective

SECTION 9. This act takes effect upon approval by the Governor; however, SECTION 4 and SECTION 5 take effect on January 1, 2023.

Ratified the 18th day of May, 2022.

Approved the 23rd day of May, 2022.

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No. 219

(R247, H3291)

AN ACT TO AMEND SECTION 16-11-600, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TRESPASSING AND THE POSTING OF NOTICE OF TRESPASSING, SO AS TO ALLOW FOR A DIFFERENT METHOD OF THE POSTING OF NOTICE OF TRESPASSING INVOLVING CLEARLY VISIBLE PURPLE-PAINTED BOUNDARIES.

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

Notice of trespassing, purple paint

SECTION 1. Section 16-11-600 of the 1976 Code is amended to read:

"Section 16-11-600. (A) Every entry upon the lands of another, after notice from the owner or tenant has been posted or given prohibiting such entry, is a misdemeanor and must be punished by a fine of not more than one hundred dollars or by imprisonment not more than thirty days.

(B) The owner or tenant of any lands may accomplish the posting of notice as follows:

(1) by posting a notice in four conspicuous places on the borders of such land prohibiting entry thereon; or

(2) by marking boundaries with a clearly visible purple-painted marking, consisting of one vertical line not less than eight inches in length and two inches in width, and the bottom of the mark not less than three nor more than six feet from the ground or normal water surface. These marks must be affixed to immovable, permanent objects that are not more than one hundred yards apart and readily visible to any person approaching the property.

(C) When any owner or tenant of any lands shall post a notice as provided in this section, a proof of the posting is deemed and taken as notice conclusive against the person making entry for the purpose of trespassing."

Time effective

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

Ratified the 18th day of May, 2022.

Approved the 23rd day of May, 2022.

No. 220

(R248, H4062)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 58-3-21 SO AS TO ALLOW THE PUBLIC SERVICE COMMISSIONERS TO RECEIVE SUBSISTENCE ALLOWANCES UNDER CERTAIN CIRCUMSTANCES; BY ADDING SECTION 58-3-22 SO AS TO PROVIDE PROCEDURES FOR THE PUBLIC SERVICE COMMISSION TO RECEIVE TECHNICAL AND LEGAL ADVICE NOT SUBJECT TO THE FREEDOM OF INFORMATION ACT; TO AMEND SECTION 58-3-20, RELATING TO THE MEMBERSHIP AND QUALIFICATIONS OF THE PUBLIC SERVICE COMMISSION, SO AS TO REVISE THE QUALIFICATIONS; AND TO EXPRESS FINDINGS OF THE GENERAL ASSEMBLY REGARDING THE IMPORTANCE OF ECONOMIC DEVELOPMENT AND THE ROLE THAT ELECTRICITY AND RENEWABLE ENERGY PLAY IN IT, TO DEFINE NECESSARY TERMS, TO ENCOURAGE ELECTRIC UTILITIES TO PROVIDE THE DEPARTMENT OF COMMERCE OR A PROSPECTIVE MANUFACTURING ENTITY WITH RATE PROPOSALS, TO PROVIDE PARAMETERS FOR AGREEMENTS THAT CONTAIN ECONOMIC DEVELOPMENT RATES, AND TO PROVIDE THAT FEDERAL, STATE, AND LOCAL LAWS AND ORDINANCES MUST BE FOLLOWED, AMONG OTHER THINGS.

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

Public Service Commission, subsistence allowance, legal advice not subject to Freedom of Information Act

SECTION 1. Article 1, Chapter 3, Title 58 of the 1976 Code is amended by adding:

"Section 58-3-21. While hearing cases or any other matter within the commission's jurisdiction or on other official business outside the county in which he resides, within fifty miles of his residence, a public service commissioner is entitled to a subsistence allowance in the amount of thirty-five dollars per day plus such mileage allowance for travel as is provided for other employees of the State. While hearing cases or any other matter within the commission's jurisdiction or on other official business at a location fifty miles or more from his residence, a public service commissioner is entitled to a subsistence allowance in the amount as provided for members of the General Assembly plus such mileage allowance for travel as is provided for other employees of the State.

Section 58-3-22. Members of the Public Service Commission may meet together to receive technical and legal advice from the commission's staff on matters pending on the commission's docket, provided that the:

(1) advice is to aid the members in carrying out their responsibilities on the commission;

(2) advice is provided in a manner consistent with the South Carolina Code of Judicial Conduct; and

(3) members who attend such a meeting are not authorized to make recommendations to or transact any business for the Public Service Commission.

A meeting between the members of the Public Service Commission and commission staff pursuant to this section does not constitute a 'public meeting' for purposes of the Freedom of Information Act."

Public Service Commission, qualifications

SECTION 2. Section 58-3-20 of the 1976 Code is amended to read:

"Section 58-3-20. (A) The commission is composed of seven members to be elected by the General Assembly in the manner prescribed by this chapter. Each member must have:

(1) a baccalaureate or more advanced degree from:

(a) a recognized institution of higher learning requiring face-to-face contact between its students and instructors prior to completion of the academic program;

(b) an institution of higher learning that has been accredited by a regional or national accrediting body; or

(c) an institution of higher learning chartered before 1962; and

(2) a background of substantial duration and an expertise in at least one of the following:

(a) energy issues;

(b) telecommunications issues;

(c) consumer protection and advocacy issues;

(d) water and wastewater issues;

(e) finance, economics, and statistics;

(f) accounting;

(g) engineering; or

(h) law.

(B)(1) Beginning in 2004, the members of the Public Service Commission must be elected to staggered terms. In 2004, the members representing the Second, Fourth, and Sixth Congressional Districts must be elected for terms ending on June 30, 2006, and until their successors are elected and qualify. Thereafter, members representing the Second, Fourth, and Sixth Congressional Districts must be elected to terms of four years and until their successors are elected and qualify. In 2004, the members representing the First, Third, and Fifth Congressional Districts and the State at large must be elected for terms ending on June 30, 2008, and until their successors are elected and qualify. Thereafter, members representing the First, Third, and Fifth Congressional Districts and the State at large must be elected to terms of four years and until their successors are elected and qualify. Notwithstanding the provisions of this section, members representing the First, Third, and Fifth Congressional Districts shall serve until the expiration of their terms, and in 2013, members representing the First, Third, and Fifth Congressional Districts must be elected for terms ending on June 30, 2016, and until their successors are elected and qualified.

(2) In the event there are Seven Congressional Districts, the member elected from the State at large shall serve until the expiration of his term, and in 2013, a member representing the Seventh Congressional District must be elected for a term ending on June 30, 2016, and until his successor is elected and qualified. Thereafter, the member representing the Seventh Congressional District must be elected to terms of four years and until his successor is elected and qualified. Upon the election and qualification of the member representing the Seventh Congressional

District, the at-large member elected to satisfy the requirements of subsection (C) immediately shall cease to be a member of the commission.

(C) The General Assembly must provide for the election of the seven-member commission and elect its members based upon the congressional districts established by the General Assembly pursuant to the latest official United States Decennial Census. If the number of congressional districts is less than seven, additional members must be elected at large to provide for a seven-member commission. In the event the congressional districts established by the General Assembly are under review by a court for compliance with statutory or constitutional requirements, an election scheduled pursuant to this section shall not be held until a final determination is made by the courts regarding the congressional districts. The inability to hold an election due to judicial review of the congressional districts does not constitute a vacancy on the commission and the commissioners serve until their successors are elected and qualify.

(D) The Governor may fill vacancies in the office of commissioner until the successor in the office for a full term or an unexpired term, as applicable, has been elected by the General Assembly. In cases where a vacancy occurs on the commission when the General Assembly is not in session, the Governor may fill the vacancy by an interim appointment. The Governor must report the interim appointment to the General Assembly and must forward a formal appointment at its next ensuing regular session."

Economic development, rate agreements

SECTION 3. A. The General Assembly hereby finds and declares that:

(1) the economic and financial well-being of South Carolina and its citizens depends upon continued economic development and opportunities for employment;

(2) the cost of electricity and the availability of renewable energy sources for electricity are important factors in the decision for a commercial and industrial entity to locate or expand their existing establishments in South Carolina;

(3) competitive electric rates, terms, and conditions and the ability to utilize renewable energy sources for electric power generation are necessary to attract prospective commercial or industrial entities to invest in South Carolina and to encourage and incent robust economic growth in the State;

(4) the Public Service Commission of South Carolina should weigh and consider any quantifiable net benefits that may result from economic development opportunities resulting from prospective commercial or industrial entities in determining whether rates, terms, and conditions proposed by an electrical utility as defined by Section 58-27-10(7) are reasonable, prudent, and in the best interest of the electrical utility's general body of retail customers; and

(5) rates proposed by electrical utilities for prospective commercial or industrial entities that are at or greater than the electrical utility's marginal cost should be presumed reasonable.

B. For the purposes of SECTION 3 unless otherwise specified:

(1) "Commission" means the Public Service Commission of South Carolina.

(2) "Electrical utility" has the same meaning as provided in Section 58-27-10(7).

(3) "Prospective manufacturing entity" means a commercial or industrial entity that proposes to:

(a) request new, permanent electric service to a new establishment or location in an electrical utility's service territory;

(b) expand an existing establishment in an electrical utility's service territory that has existing permanent electric service and which expansion will result in additional electrical load on the electrical utility's system; or

(c) locate in an existing establishment and establish a new customer service account with the electrical utility for which expansion will result in additional electrical load on the electrical utility's system.

(4) "Marginal cost" means the electrical utility's marginal cost for producing energy.

(5) "Rate proposal" means a written document that identifies the rates, terms, and conditions for electric service offered by an electrical utility to a prospective manufacturing entity.

(6) "Contracts" shall have the same meaning as the term is used in Section 58-27-980.

(7) "Qualifying customer" means a commercial or industrial customer that agrees to locate its operations in South Carolina, or expand its existing establishment, and such location or expansion results in the addition of a minimum of:

(a) 500 kilowatts at one point of delivery;

(b) one hundred new employees; and

(c) capital investment of four hundred thousand dollars following the electrical utility's approval for service.

(8) "Renewable energy facility" means a solar array or other facility constructed by or on behalf of a qualifying customer for the exclusive purpose of supplementing electric power generation from a renewable energy source for its economic development location or expansion.

C. (A) Notwithstanding any other provision of law, an electrical utility may provide the South Carolina Department of Commerce or a prospective manufacturing entity with a rate proposal containing terms and conditions that would incentivize and encourage the prospective manufacturing entity to employ additional workforce and to make capital investments in the electrical utility's service territory. The rate proposal provided by an electrical utility may differ from the final contract, rate, terms, and conditions with the qualifying customer.

(B) The electrical utility shall file the rate proposal with the commission for review and acceptance. The rate proposal is determined to be presumptively reasonable if the rates, terms, and conditions are equal to or greater than the electrical utility's marginal cost.

D. (A) Nothing in this act shall restrict the commission's authority to regulate rates and charges or review contracts entered into by or supervise the operations of electrical utilities.

(B) An electrical utility may offer economic development rates to a qualifying customer that may be lower than the rate or rates that the qualifying customer otherwise would be or is subject to under the electrical utility's commission approved tariffs in effect at the time; provided, however, that the economic development rate must not be lower than the electrical utility's marginal cost of providing service to the qualifying customer.

(C) An electrical utility may negotiate and enter into agreements that contain economic development rates with a qualifying customer, which agreements and rates shall be subject to commission approval, and which shall be for a term not exceeding ten years. The electrical utility may offer the qualifying customer real time pricing options or riders for other clean energy attributes which may support the qualifying customer's sustainability goals.

(D) In the commission's determination of the public interest for any economic development rate or contract, the electrical utility bears the burden of proof to establish that:

(1) the rates or charges assessed to the electrical utility's other customers do not subsidize the cost of providing economic development rates to a qualifying customer;

(2) the rates of other electrical utility operations do not increase; and

(3) other customers of the electrical utility do not experience a rate increase due to a rate or rates offered to a qualifying customer.

E. (1) The construction of a proposed renewable energy facility by or on behalf of a qualifying customer to support electric power generation at its economic development location or expansion must comply with federal, state, and local laws and ordinances.

(2) In compliance with federal, state, and local laws and ordinances, the utility may expedite interconnection of a proposed renewable energy facility to be constructed by a qualifying customer to support electric power generation at its economic development location or expansion where high quality and reliable electric service are not adversely impacted.

F. The provisions of SECTION 3 must be liberally construed to effectuate the purposes of this SECTION.

Time effective

SECTION 4. This act takes effect upon approval by the Governor. The provisions of SECTION 3 expire on July 1, 2026.

Ratified the 18th day of May, 2022.

Approved the 23rd day of May, 2022.

No. 221

(R249, H4075)

AN ACT TO AMEND SECTION 23-3-430, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SEX OFFENDER REGISTRY, SO AS TO DELETE THE TERM "ADJUDICATED DELINQUENT", TO MAKE TECHNICAL CHANGES, TO PROVIDE PERSONS CONVICTED OF CERTAIN OFFENSES WOULD BE REFERRED TO AS EITHER TIER I, TIER II, OR TIER III OFFENDERS; BY ADDING SECTION 23-23-436 SO AS TO REQUIRE CERTAIN PERSONS

ADJUDICATED DELINQUENT FOR A TIER III OFFENSE TO REGISTER AS SEX OFFENDERS; TO AMEND SECTION 23-3-460, RELATING TO BIANNUAL LIFETIME REGISTRATION FOR SEX OFFENDERS, SO AS TO PROVIDE OFFENDERS CAN BE REMOVED FROM THE SEX OFFENDER REGISTRY UNDER CERTAIN CIRCUMSTANCES, AND TO REQUIRE SEX OFFENDERS REGISTER WITHIN THREE DAYS OF BEGINNING EMPLOYMENT AT A SCHOOL; BY ADDING SECTIONS 23-3-462 AND 23-3-463 SO AS TO PROVIDE FOR THE TERMINATION OF THE REGISTRATION REQUIREMENTS FOR SEX OFFENDERS WHO HAVE SUCCESSFULLY COMPLETED CERTAIN REQUIREMENTS OR UPON COURT ORDER; TO AMEND SECTION 23-3-490, RELATING TO PUBLIC INSPECTION OF THE SEX OFFENDER REGISTRY, SO AS TO PROVIDE INFORMATION CONTAINED IN THE REGISTRY MAY BE MADE AVAILABLE BY ELECTRONIC MEANS AND TO ELIMINATE CERTAIN RESTRICTIONS PLACED ON THE RELEASE OF THIS INFORMATION, AND TO PROVIDE FOR THE RELEASE OF INFORMATION FOR PERSONS ADJUDICATED DELINQUENT FOR COMMITTING TIER III OFFENSES; BY ADDING SECTION 23-3-538 SO AS TO PROVIDE CERTAIN TERMS AND THEIR DEFINITIONS, TO PROVIDE LAW ENFORCEMENT AGENCIES THAT DETERMINE SEX OFFENDERS ARE IN VIOLATION OF THIS SECTION MUST NOTIFY THE SEX OFFENDERS OF THE VIOLATION, AND TO PROVIDE PENALTIES FOR CERTAIN SEX OFFENDERS WHO CONTINUE TO ENGAGE IN CERTAIN ACTIVITIES AFTER RECEIVING NOTICE; TO PROVIDE THAT THIS ACT IS RETROACTIVE AND APPLIES TO CERTAIN RESIDENTS WHO CURRENTLY ARE REQUIRED TO REGISTER AS SEX OFFENDERS; AND BY ADDING SECTION 23-3-437 SO AS TO PROVIDE FOR REMOVAL FROM THE SEX OFFENDER REGISTRY FOR CERTAIN JUVENILES UNDER CERTAIN CIRCUMSTANCES.

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

Sex offender registry

SECTION 1. Section 23-3-430 of the 1976 Code is amended to read:

"Section 23-3-430. (A) Any person, regardless of age, residing in the State of South Carolina who in this State has been convicted of, pled guilty or nolo contendere to an offense described below, or who has been convicted, pled guilty or nolo contendere, or found not guilty by reason of insanity in any comparable court in the United States, or a foreign country, or who has been convicted, pled guilty or nolo contendere, or found not guilty by reason of insanity in the United States federal courts of a similar offense, or who has been convicted of, pled guilty or nolo contendere, or found not guilty by reason of insanity to an offense for which the person was required to register in the state where the conviction or plea occurred, shall be required to register pursuant to the provisions of this article. A person who has been found not guilty by reason of insanity shall not be required to register pursuant to the provisions of this article unless and until the person is declared to no longer be insane or is ordered to register by the trial judge. A person who has been convicted, pled guilty or nolo contendere, or found not guilty by reason of insanity in any court in a foreign country may raise as a defense to a prosecution for failure to register that the offense in the foreign country was not equivalent to any offense in this State for which he would be required to register and may raise as a defense that the conviction, plea, or finding in the foreign country was based on a proceeding or trial in which the person was not afforded the due process of law as guaranteed by the Constitution of the United States and this State.

(B) For purposes of this article, a person who remains in this State for a total of thirty days during a twelve-month period is a resident of this State.

(C)(1) For purposes of this article, a person who has been convicted of, or pled guilty or nolo contendere to any of the following offenses shall be referred to as a Tier I offender:

(a) criminal sexual conduct in the third degree (Section 16-3-654);

(b) kidnapping (Section 16-3-910) of a person eighteen years of age or older except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;

(c) incest (Section 16-15-20);

(d) buggery (Section 16-15-120);

(e) peeping, voyeurism, or aggravated voyeurism (Section 16-17-470);

(f) a person, regardless of age, who has been convicted or pled guilty or nolo contendere in this State, or who has been convicted or pled

guilty or nolo contendere in a comparable court in the United States, or who has been convicted or pled guilty or nolo contendere in the United States federal courts of indecent exposure or of a similar offense in other jurisdictions is required to register pursuant to the provisions of this article if the court makes a specific finding on the record that, based on the circumstances of the case, the convicted person should register as a sex offender;

(g) sexual intercourse with a patient or trainee (Section 44-23-1150);

(h) administering, distributing, dispensing, delivering, or aiding, abetting, attempting, or conspiring to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an individual with the intent to commit a crime listed in Section 44-53-370(f), except petit larceny or grand larceny;

(i) any other offense as described in Section 23-3-430(D); or

(j) any other offense required by Title I of the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109-248), the Sex Offender Registration and Notification Act (SORNA).

(2) For purposes of this article, a person who has been convicted of, or pled guilty or nolo contendere to any of the following offenses shall be referred to as a Tier II offender:

(a) criminal sexual conduct in the second degree (Section 16-3-653);

(b) engaging a child for sexual performance (Section 16-3-810);

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

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

(e) criminal sexual conduct with minors, second degree (Section 16-3-655(B)). If evidence is presented at the criminal proceeding, or in any court of competent jurisdiction, and the court makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct, as contained in Section 16-3-655(B)(2), provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article;

(f) criminal sexual conduct with minors, third degree (Section 16-3-655(C)). If evidence is presented at the criminal proceeding, or in any court of competent jurisdiction, and the court makes a specific finding on the record that the conviction obtained for this offense

resulted from consensual sexual conduct, as contained in Section 16-3-655(B)(2), provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article;

(g) criminal solicitation of a minor if the purpose or intent of the solicitation or attempted solicitation was to:

(i) persuade, induce, entice, or coerce the person solicited to engage or participate in sexual activity as defined in Section 16-15-375(5);

(ii) perform a sexual activity in the presence of the person solicited (Section 16-15-342); or

(h) violations of Article 3, Chapter 15, Title 16 involving a minor.

(3) For purposes of this article, a person who has been convicted of, or pled guilty or nolo contendere to any of the following offenses shall be referred to as a Tier III offender:

(a) criminal sexual conduct in the first degree (Section 16-3-652);

(b) criminal sexual conduct with minors, first degree (Section 16-3-655(A));

(c) criminal sexual conduct: assaults with intent to commit (Section 16-3-656);

(d) kidnapping (Section 16-3-910) of a person under eighteen years of age except when the offense is committed by a parent;

(e) criminal sexual conduct when the victim is a spouse (Section 16-3-658);

(f) sexual battery of a spouse (Section 16-3-615); or

(g) any offense listed or described in this section committed after the offender becomes a Tier I or Tier II offender.

(D) Upon conviction, guilty plea, or plea of nolo contendere of a person of an offense not listed in this article, the presiding judge may order as a condition of sentencing that the person be included in the sex offender registry if good cause is shown by the prosecution.

(E) SLED shall remove a person's name and any other information concerning that person from the sex offender registry immediately upon notification by the Attorney General that the person's adjudication, conviction, guilty plea, or plea of nolo contendere for an offense listed in subsection (C) was reversed, overturned, or vacated on appeal and a final judgment has been rendered.

(F) If an offender receives a pardon for the offense for which he was required to register, the offender must reregister as provided by Section 23-3-460 and may not be removed from the registry except:

(1) as provided by the provisions of subsection (E); or

(2) if the pardon is based on a finding of not guilty specifically stated in the pardon.

(G) If an offender files a petition for a writ of habeas corpus or a motion for a new trial pursuant to Rule 29(b), South Carolina Rules of Criminal Procedure, based on newly discovered evidence, the offender must reregister as provided by Section 23-3-460 and may not be removed from the registry except:

(1) as provided by the provisions of subsection (E); or

(2)(a) if the circuit court grants the offender's petition or motion and orders a new trial; and

(b) a verdict of acquittal is returned at the new trial or entered with the state's consent."

Registration

SECTION 2. Article 7, Chapter 3, Title 23 of the 1976 Code is amended by adding:

"Section 23-3-436. (A) A child who is fourteen years of age or older and who has been adjudicated delinquent by a family court in this State for any Tier III offense is required to register in accordance with this article.

(B) A child who is fourteen years of age or older and has been adjudicated delinquent of any other offense listed in Section 23-3-430(C) may be required, in the discretion of the family court, to register in accordance with this article. In making this determination, the court shall consider:

(1) the likelihood the juvenile will reoffend, based on a psychosexual risk assessment and evaluation by a licensed clinical psychologist or licensed psychiatrist employed by the Department of Juvenile Justice. The Circuit Solicitor's Office, Attorney General's Office, or the juvenile also may have an independent psychosexual risk assessment evaluation by a licensed psychologist or psychiatrist;

(2) the age of the juvenile at the time of the offense and adjudication;

(3) mitigating factors;

(4) aggravating factors including, but not limited to, age of victim, use of force, or use of weapons;

(5) prior adjudications; and

(6) other factors the court considers relevant.

(C) A child twelve years of age but less than fourteen years of age who has been adjudicated delinquent by a family court in this State for any Tier III offense may be required to register in the discretion of the Family Court.

(1) In making the determination, the court must consider:

(a) the likelihood the person will reoffend, based on a psychosexual risk assessment and evaluation by a licensed clinical psychologist or licensed psychiatrist as ordered by the court. The Circuit Solicitor's Office, Attorney General's Office, or the juvenile also may have an independent psychosexual risk assessment evaluation by a licensed psychologist or psychiatrist;

(b) the age of the juvenile at the time of the offense and adjudication;

(c) mitigating factors;

(d) aggravating factors including, but not limited to, age of victim, use of force, or use of weapons;

(e) prior adjudications; and

(f) other factors the court considers relevant.

(D) A resident child who is adjudicated delinquent in any other state is required to register in this State subject to the requirements of the sentencing jurisdiction including duration of registration."

Biannual registration

SECTION 3. Section 23-3-460(A) and (C) of the 1976 Code are amended to read:

"(A) A person required to register pursuant to this article is required to register biannually for life subject to the provisions of Section 23-3-462 and Section 23-3-463. For purposes of this article, 'biannually' means each year during the month of his birthday and again during the sixth month following his birth month. The person required to register shall register and must reregister at the sheriff's department in each county where he resides, owns real property, is employed, or attends any public or private school including, but not limited to, a secondary school, adult education school, college or university, and any vocational, technical, or occupational school. A person determined by a court to be a sexually violent predator pursuant to state law is required to verify registration and be photographed every ninety days by the sheriff's department in the county in which he resides unless the person is

committed to the custody of the State, and verification will be held in abeyance until his release.

(C) If a person required to register pursuant to this article changes his address within the same county, that person must send written notice of the change of address to the sheriff within three business days of establishing the new residence. If a person required to register under this article owns or acquires real property or is employed within a county in this State, or attends, is enrolled, volunteers, interns, or carries on a vocation at any public or private school including, but not limited to, a secondary school, adult education school, college or university, and any vocational, technical, or occupational school, he must register with the sheriff in each county where the real property, employment, or the public or private school is located within three business days of acquiring the real property, beginning employment at any school, or attending the public or private school."

Termination of registration requirements

SECTION 4. Article 7, Chapter 3, Title 23 of the 1976 Code is amended by adding:

"Section 23-3-462. (A) After successful completion of the requirements of this section, an offender may apply to the South Carolina Law Enforcement Division for the termination of the requirements of registration pursuant to this article. If it is determined that the offender has met the requirements of this section, SLED shall remove the offender's name and identifying information from the sex offender registry and shall notify the offender within one hundred twenty days that the offender has been relieved of the registration requirements of this article.

(1) An offender may file a request for termination of the requirement of registration with SLED, in a form and process established by the agency:

(a) after having been registered for at least fifteen years if the offender was required to register based on an adjudication of delinquency or the offender was required to register as a Tier I offender;

(b) after having been registered for at least twenty-five years, if the offender was convicted as an adult, and was required to register as a Tier II offender;

(c) an offender who was required to register as an offender because of a conviction in another state or because of a federal

conviction may apply to be removed from the requirements of the registry if he is eligible to be removed under the laws of the jurisdiction where the conviction occurred.

(2) An offender who was convicted as an adult, and who is required to register as a Tier III offender may not file a request for termination of registration with SLED nor shall any such request be granted pursuant to this subsection.

(3) The requesting offender must have successfully completed all sex offender treatment programs that have been required.

(4) The requesting offender must not have been convicted of failure to register within the previous ten years.

(5) The offender must not have been convicted of any additional sexual offense or violent sexual offense after being placed on the registry.

(6) A filing fee, as set by SLED but not to exceed two hundred fifty dollars, shall be paid to file the request for termination of registration requirements. The initial application may be filed with SLED and the administrative review may begin one hundred twenty days prior to the date specified in subsection (A)(1); however, any removal may not occur prior to the date specified.

(B) Upon receipt of the request for termination, SLED shall review documentation provided by the offender and contained in the offender's file and the sex offender registry to determine whether the offender has complied with the requirements of this section. In addition, SLED shall conduct fingerprint-based state and federal criminal history checks to determine whether the offender has been convicted of any additional sexual offenses, as defined in Section 23-3-430.

(C) If all the requirements of this section are verified, SLED shall, within one hundred twenty days of receipt of the request for termination, remove an offender's name from the registry and notify the offender that the offender is no longer required to comply with the registry requirements of this article.

(D) If it is determined that the offender has been convicted of any additional sexual offenses or violent sexual offenses during the applicable period, has not substantially complied with this section, or an objection has been filed by the original prosecuting agency, SLED shall not remove the offender's name from the sex offender registry and shall notify the offender that the offender has not been relieved of the provisions in this article.

(1) If an offender is denied a termination request, the offender may petition again for termination with SLED no sooner than five years after the previous denial.

(2) If an offender is denied a termination request based on conviction of any additional sexual offenses or violent sexual offenses, the offender may not submit a petition to SLED for termination unless the subsequent conviction is overturned or pardon granted.

(E) An offender whose request for termination of registration requirements is denied by SLED is entitled to appeal the denial to the general sessions court pursuant to the requirements of Section 23-3-463 for the county in which the conviction occurred if the conviction occurred within the State, or if not, the county in which the offender resides. Individuals placed on the registry as a juvenile should petition the family court that adjudicated them delinquent. The SLED official who denied the request for termination of registration requirements may submit an affidavit to the court detailing the reasons the request was denied.

(F) If a person is convicted of multiple offenses requiring registration, and the offenses fall within different tiers, the person only may petition for removal of the registration requirement once the required time passes for the highest tier offense they have been convicted of that requires registration. If a petition based upon this section is denied, the person may not petition again until five years after the date of the final order."

Termination of registration requirements

SECTION 5. Article 7, Chapter 3, Title 23 of the 1976 Code is amended by adding:

"Section 23-3-463. (A) An offender may file a motion with the general sessions court to request an order to be removed from the requirements of the sex offender registry act if:

(1) He is a Tier I or Tier II offender or if the offender was required to register based on an adjudication of delinquency whose application for removal under Section 23-3-462 has been denied by SLED.

(2) He is a Tier III offender after thirty years from the date of discharge from incarceration without supervision, or the termination of active supervision of probation, parole, or any other active alternative to incarceration.

(3) If the offender is required to register due to an out-of-state or federal conviction, the equivalent tier under the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109-248), the Sex Offender Registration and Notification Act (SORNA) shall apply.

(B) All motions pursuant to this section must be made no earlier than the appropriate timeframes related to the underlying offense as specified in Section 23-3-462(A)(1) or subsection (A)(2). An offender is not eligible for a hearing pursuant to this section if he submitted an application prior to the timeframe specified in Section 23-3-462(A)(1) that was either not accepted or erroneously accepted by SLED.

(C) The motion must be filed in the county in which the underlying conviction occurred if the conviction occurred within the State, or if the conviction occurred outside of the State, the county in which the offender resides.

(D) A person requesting a hearing under this section is entitled to the assistance of counsel, and if the person is indigent, the court must appoint counsel to assist the person.

(E) The court may direct that a qualified evaluator designated by the South Carolina Department of Mental Health conduct an evaluation whether the offender poses a foreseeable risk to reoffend. For any such evaluation, the court must order the offender to comply with all testing and assessments deemed necessary by the evaluator. After the evaluation by the qualified evaluator designated by the department, if the offender or the prosecutor seeks an independent evaluation by an independent qualified evaluator, then that evaluation must be completed within ninety days after receipt of the request by the department evaluator. The court may grant an extension upon the request of the independent qualified evaluator and a showing of extraordinary circumstances. Any qualified evaluator who will be submitted as an expert at a hearing on the motion must submit a written report available to both parties.

(F) The court must make a determination upon a finding by clear and convincing evidence that the offender is no longer a foreseeable risk to reoffend and that it is in the best interest of justice to grant the motion for removal from the requirement of registration.

(G) The State of South Carolina must be named as the respondent to the action and shall be represented by the prosecution office that obtained the underlying conviction for which the offender is required to register, or, if the conviction occurred outside of the State, the Attorney General. All requirements of the Victim's Rights Act, including reasonable notice, must be observed. The following agencies have standing to request to be made a party to the motion:

(1) any original prosecuting solicitor's office for an underlying qualifying conviction if not already representing the State;

(2) the local solicitor's office where the offender resides at the time of the hearing if not already representing the State; or

(3) the Attorney General's Office if not already representing the State.

(H) If a person is convicted of multiple offenses requiring registration, and the offenses fall within different tiers, the person only may petition for removal of the registration requirement once the required time passes for the highest tier offense they have been convicted of that requires registration.

(I) If the motion is denied, the person may not file for removal from the registry pursuant to this section again until five years after the date of the final order."

Release of information

SECTION 6. Section 23-3-490 of the 1976 Code is amended to read:

"Section 23-3-490. (A) Information collected for the offender registry is open to public inspection, and must be made available on the Internet or by other electronic means.

(B) A sheriff or SLED must release information regarding persons required to register under this article to a member of the public if the request is made in writing, or via electronic means on a form prescribed or utilized by SLED. The sheriff must provide the person making the request with the full names of the registered sex offenders, any aliases, any other identifying physical characteristics, each offender's date of birth, the home address on file, the offense for which the offender was required to register pursuant to Section 23-3-430, and the date, city, and state of conviction. A photocopy of a current photograph must also be provided. The sheriff may provide to a newspaper with general circulation within the county a listing of the registry for publication.

A sheriff or SLED who provides the offender registry for publication or a newspaper which publishes the registry, or any portion of it, is not liable and must not be named as a party in an action to recover damages or seek relief for errors or omissions in the publication of the offender registry; however, if the error or omission was done intentionally, with malice, or in bad faith the sheriff or newspaper is not immune from liability.

(C) A person may request on a form prescribed by SLED a list of registered sex offenders residing in a city, county, or zip code zone or a list of all registered sex offenders within the State from SLED. A person may request information regarding a specific person who is required to register under this article from SLED. SLED shall provide the person making the request with the full names of the requested registered sex

offenders, any aliases, any other identifying physical characteristics, each offender's date of birth, the home address on file, the offense for which the offender was required to register pursuant to Section 23-3-430, and the date, city, and state of conviction. The State Law Enforcement Division may charge a reasonable fee to cover the cost of copying and distributing sex offender registry lists as provided for in this section. These funds must be used for the sole purpose of offsetting the cost of providing sex offender registry lists.

(D) Nothing in subsection (A) prohibits a sheriff from disseminating information contained in subsection (A) regarding persons who are required to register under this article if the sheriff or another law enforcement officer has reason to believe the release of this information will deter criminal activity or enhance public safety. The sheriff shall notify the principals of public and private schools, and the administrator of child day care centers and family day care centers of any offender whose address is within one-half mile of the school or business.

(E) For purposes of this article, information on a person adjudicated delinquent in family court for an offense listed in Section 23-3-436, and who is required to register under this article, must be made available to the public in accordance with the following provisions:

(1) If a person has been adjudicated delinquent for committing a Tier III offense, information must be made available to the public pursuant to subsections (A), (B), and (C):

(2) Information shall only be made available, upon request, to victims of or witnesses to the offense, public or private schools, child day care centers, family day care centers, businesses or organizations that primarily serve children, women, or vulnerable adults, as defined in Section 43-35-10(11), for persons adjudicated delinquent for committing any other offenses requiring registration.

(3) Nothing in this section shall prohibit the dissemination of all registry information to law enforcement.

(F) For purposes of this section, use of computerized or electronic transmission of data or other electronic or similar means is permitted."

Notification

SECTION 7. Article 7, Chapter 3, Title 23 of the 1976 Code is amended by adding:

"Section 23-3-538. (A) As contained in this section:

(1) 'Child-oriented business' means any business whose primary service includes the education, care, or entertainment of children

including, but not limited to: a school, daycare center, children's recreational facility, arcade, trampoline park, amusement park, public playground, or mobile food delivery whose primary business is the sale or delivery of ice cream or candy to children.

(2) 'Children's recreational facility' means a facility owned and operated by a city, county, or special purpose district used for the purpose of recreational activity for children under the age of eighteen.

(3) 'Daycare center' means an arrangement where, at any one time, there are three or more preschool-aged children, or nine or more school-aged children receiving childcare.

(B) It is unlawful for a sex offender who has been convicted of any of the following offenses to operate, work for, be employed by, or volunteer for a child-oriented business:

(1) criminal sexual conduct with a minor, first degree;

(2) criminal sexual conduct with a minor, second degree;

(3) assault with intent to commit criminal sexual conduct with a minor;

(4) kidnapping a person under eighteen years of age; or

(5) trafficking in persons of a person under eighteen years of age except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense.

(C) If upon registration of a sex offender, or at any other time, a local law enforcement agency determines that a sex offender is in violation of this section, a law enforcement agency or a probation or parole agent must notify the sex offender of the violation. If a person who is required to register under this chapter continues to operate, be employed by, or volunteer for a child-oriented business after notice, the person, upon conviction, must be punished as follows:

(1) for a first offense, the sex offender is guilty of a misdemeanor and must be imprisoned not more than thirty days, or fined not more than five hundred dollars, or both;

(2) for a second offense, the sex offender is guilty of a misdemeanor and must be imprisoned not more than three years, or fined not more than one thousand dollars, or both;

(3) for a third or subsequent offense, the sex offender is guilty of a felony and must be imprisoned for not more than five years, or fined not more than five thousand dollars, or both.

(D) The owner of any business who knowingly employs a person in violation of this section after receiving notice by a member of law enforcement or other appropriate governmental agency shall be subject to a civil fine of up to one hundred dollars per day."

Retroactive application

SECTION 8. This act is retroactive and shall apply to any resident of this State who currently is required to register as a sex offender pursuant to the provisions of Article 7, Chapter 3, Title 23, and who meets the requirements set forth in the act.

Termination of registration requirements

SECTION 9. Article 7, Chapter 3, Title 23 of the 1976 Code is amended by adding:

"Section 23-3-437. A juvenile convicted of an offense in family court who is required to register pursuant to the provisions of this article who has his record expunged, sealed, or receives a pardon must be removed from the registry by SLED."

Time effective

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

Ratified the 18th day of May, 2022.

Approved the 23rd day of May, 2022.

No. 222

(R250, H5182)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "SOUTH CAROLINA OPIOID RECOVERY ACT" BY ADDING CHAPTER 58 TO TITLE 11 SO AS TO PROVIDE FOR PURPOSES OF THE ACT, PROVIDE DEFINITIONS, ESTABLISH THE SOUTH CAROLINA OPIOID RECOVERY FUND, ESTABLISH THE DISCRETIONARY SUBFUND, ESTABLISH THE GUARANTEED POLITICAL SUBDIVISION SUBFUND, ESTABLISH THE ADMINISTRATIVE SUBFUND, ESTABLISH THE SOUTH CAROLINA OPIOID RECOVERY FUND BOARD, PROVIDE THAT THE STATE FISCAL ACCOUNTABILITY

AUTHORITY IS RESPONSIBLE FOR ADMINISTRATIVE OPERATIONS, PROVIDE FOR CERTAIN RESTRICTIONS ON BRINGING CERTAIN CLAIMS, AND TO PROVIDE THAT THIS ACT MUST BE LIBERALLY CONSTRUED.

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

South Carolina Opioid Recovery Act

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

"CHAPTER 58

South Carolina Opioid Recovery Act

Section 11-58-10. (A) This act may be cited as the 'South Carolina Opioid Recovery Act'.

(B) The purpose of this act is to ratify and implement the necessary terms of certain opioid-related settlements entered into by the State of South Carolina and its participating political subdivisions by:

(1) creating the South Carolina Opioid Recovery Fund from which money will be distributed to help address and remediate opioid-related issues;

(2) creating the South Carolina Opioid Recovery Fund Board to administer and distribute money in the South Carolina Opioid Recovery Fund; and

(3) barring future claims by state and local governmental entities against certain companies which have entered into opioid-related settlements with the State of South Carolina.

Section 11-58-20. For purposes of this chapter:

(1) 'Administrative Subfund' means the subaccount or subaccounts with the State Treasurer created pursuant to this chapter where certain funds in the South Carolina Opioid Recovery Fund are expended by the South Carolina Opioid Recovery Fund Board and the State Fiscal Accountability Authority to pay for costs associated with administering this chapter.

(2) 'Approved abatement strategies' means those measures to address and remediate opioid-related issues that are set forth in opioid-related settlements between the State of South Carolina, its participating political subdivisions, and certain companies that market, promote, distribute, dispense, or supply opioids and incorporated herein.

(3) 'Discretionary Subfund' means the subaccount or subaccounts with the State Treasurer created pursuant to this chapter where certain funds in the South Carolina Opioid Recovery Fund are distributed by the South Carolina Opioid Recovery Fund Board in its discretion to qualified applicants for approved abatement strategies.

(4) 'Guaranteed Political Subdivision Subfund' means the subaccount or subaccounts with the State Treasurer created pursuant to this chapter where certain funds in the South Carolina Opioid Recovery Fund guaranteed to participating political subdivisions are distributed by the South Carolina Opioid Recovery Fund Board to qualified applicants for approved abatement strategies.

(5) 'Participating political subdivision' means those counties and municipalities that participated in certain opioid-related settlements with the State of South Carolina.

(6) 'South Carolina Opioid Recovery Fund' means the account or accounts with the State Treasurer created pursuant to this chapter to receive funds obtained through settlement with or judgment against certain companies that market, promote, distribute, dispense, or supply opioids. These funds are not general fund revenue of the State and must be kept by the State Treasurer in a distinct and separate unbudgeted trust and agency fund apart from the general fund. These funds are to be administered pursuant to this chapter and expended only for the purposes provided in this chapter. For the avoidance of doubt, the Administrative Subfund, the Discretionary Subfund, and the Guaranteed Political Subdivision Subfund are part of the South Carolina Opioid Recovery Fund.

(7) 'South Carolina Opioid Recovery Fund Board' or 'the board' means the entity created pursuant to this chapter for the purpose of administering and distributing the funds within the South Carolina Opioid Recovery Fund.

Section 11-58-30. (A) The State Treasurer shall establish the South Carolina Opioid Recovery Fund. This fund must be held and maintained separately from all other funds, properties, assets, and accounts of the State and its other agencies.

(B) The South Carolina Opioid Recovery Fund shall receive money from certain opioid-related settlements entered into by the State of South Carolina and its participating political subdivisions pursuant to the terms of an agreement between the Attorney General and the participating political subdivisions. The Attorney General and participating political subdivisions may direct funds from future opioid-related settlements or judgments to the South Carolina Opioid Recovery Fund.

(C) All funds in the South Carolina Opioid Recovery Fund must be spent on approved abatement strategies, except that up to two percent of funds deposited into the South Carolina Opioid Recovery Fund pursuant to subsection (B) may be allocated by the South Carolina Opioid Recovery Fund Board to the Administrative Subfund for the purpose of administering this chapter.

(D) The State Auditor shall conduct an annual examination of the South Carolina Opioid Recovery Fund and provide a report of its findings to the South Carolina Opioid Recovery Fund Board and the State Fiscal Accountability Authority.

(E) The State Treasurer may invest funds held in the South Carolina Opioid Recovery Fund for the sole benefit of that fund.

(F) The State Inspector General may investigate and address allegations of fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing relating to the South Carolina Opioid Recovery Fund. If any such allegations come to the attention of the board or its staff, immediate notice of the relevant facts must be transmitted to the State Inspector General.

Section 11-58-40. (A) The State Treasurer shall establish the Discretionary Subfund within the South Carolina Opioid Recovery Fund.

(B) The South Carolina Opioid Recovery Fund Board may authorize payments from the Discretionary Subfund to requesting entities, if all of the following requirements are met:

(1) the request complies with all application requirements set out by the board;

(2) the request is for an approved abatement strategy;

(3) sufficient funds to pay the request are in the Discretionary Subfund; and

(4) the request is, in the judgment and discretion of the board, an appropriate, reasonable, and merited use of funds to help address issues caused by opioids.

(C) The board may approve, deny, or defer any request. The board may establish criteria for evaluating competing requests for payments from the Discretionary Subfund. The board may, but is not required to, provide its grounds for denying a request for funds from the Discretionary Subfund.

(D) All decisions of the South Carolina Opioid Recovery Fund Board to authorize payment from the Discretionary Subfund are final and not subject to appeal or judicial review.

Section 11-58-50. (A) The State Treasurer shall establish the Guaranteed Political Subdivision Subfund within the South Carolina Opioid Recovery Fund.

(B) The South Carolina Opioid Recovery Fund Board shall authorize payments from the Guaranteed Political Subdivision Subfund to requesting entities, if all of the following requirements are met:

(1) the request complies with all application requirements set out by the board;

(2) the request is for an approved abatement strategy;

(3) the request is made by the governing body of a participating political subdivision or another entity with written authorization from the governing body of a participating political subdivision; and

(4) sufficient funds to pay the request are in the Guaranteed Political Subdivision Subfund and set aside for use by that participating political subdivision.

(C) If the board denies a request under this section, it promptly shall notify the participating political subdivision that requested or authorized the request for funds and provide its grounds for denying the request.

(D) Any legal challenge to a decision of the South Carolina Opioid Recovery Fund Board denying payment from the Guaranteed Political Subdivision Subfund must be brought as a declaratory judgment action in the court of common pleas in Richland County by the participating political subdivision directly.

Section 11-58-60. (A) The State Treasurer shall establish the Administrative Subfund within the South Carolina Opioid Recovery Fund.

(B) Funds allocated to the Administrative Subfund by the South Carolina Opioid Recovery Fund Board may be expended by the board and the State Fiscal Accountability Authority to pay for the costs associated with administering this chapter, in accordance with a budget adopted or amended pursuant to Section 11-58-80(E).

(C) The board may authorize the State Treasurer to transfer funds from the Administrative Subfund to the South Carolina Opioid Recovery Fund at any time.

Section 11-58-70. (A) The South Carolina Opioid Recovery Fund Board is hereby created as an independent, quasi-governmental agency responsible for the purpose of managing the South Carolina Opioid Recovery Fund. The board is not an ‘agency’ or ‘state agency’ as defined in Chapter 23, Title 1.

(B) The South Carolina Opioid Recovery Fund Board shall be comprised of nine members, who shall be appointed as follows:

(1) the Governor shall appoint one member, who shall serve as chairperson;

(2) the President of the Senate shall appoint one member;

(3) the Speaker of the House of Representatives shall appoint one member;

(4) the Governor shall appoint three members, the Speaker one member, and the President of the Senate one member from a list provided by the South Carolina Association of Counties, with at least one member selected from each of the South Carolina public health regions as defined by the South Carolina Department of Health and Environmental Control; and

(5) the Governor shall appoint one member from a list provided by the Municipal Association of South Carolina.

The members appointed by the Governor, other than the chairperson, shall select one of themselves to serve as vice chairperson.

(C)(1) All members of the South Carolina Opioid Recovery Fund Board shall be academic, medical, licensed health, or other professionals with significant experience in opioid prevention, treatment, or intervention or who can represent the interest of the victims and families of victims of opioid overuse or misuse. Members of the board must not have been convicted of a felony or a crime of moral turpitude.

(2) In making appointments, race, gender, national origin, and other demographic factors should be considered by the appointing authority to ensure nondiscrimination to the greatest extent possible as to all segments of the population of the State.

(D) Members of the South Carolina Opioid Recovery Fund Board shall not be compensated for their services except as provided in Section 11-58-80(C).

(E) All members of the South Carolina Opioid Recovery Fund Board shall be appointed within thirty days of the board's creation.

(F) The terms of appointment as a member of the South Carolina Opioid Recovery Fund Board shall be as follows:

(1) for the initial term of the chairperson and four of the members selected by the Governor from the list provided by the South Carolina Association of Counties, six years;

(2) for the initial term of all other members of the board, four years; and

(3) for all subsequent members of the board, four years.

All terms of members are deemed to commence on May first of the appointing year and expire on April thirtieth of the ending year.

Members of the board may continue to serve upon the expiration of their terms until either reappointed or a new appointment is made.

Any vacancy on the board caused by the death, incapacity, or resignation of a member shall be filled for the unexpired term in the same manner as the original appointment.

(G) The South Carolina Opioid Recovery Fund Board shall hold at least four regular meetings each year, and the board may hold additional meetings as scheduled by the chairperson or by request of at least five members. The board shall conduct its first meeting within sixty days of its creation or thirty days after all members have been appointed, whichever comes first. At that meeting, the board shall, at a minimum:

(1) allocate all funds in the South Carolina Opioid Recovery Fund to the Administrative Subfund, the Discretionary Subfund, and the Guaranteed Political Subdivision Subfund pursuant to the terms of an agreement between the Attorney General and the participating political subdivisions;

(2) develop and publish the process under which entities may apply for funds from the Discretionary Subfund or the Guaranteed Political Subdivision Subfund and, in the case of the Discretionary Subfund, the necessary qualifications of any applicants; and

(3) adopt bylaws that shall include, among other things, a conflicts of interest policy.

(H) All members of the South Carolina Opioid Recovery Fund Board shall be required to attend all meetings unless notice and justification for the absence is provided to the chairperson. Absences are subject to Section 1-3-245.

(I) The board shall have the power to adopt, promulgate, amend, and repeal regulations and bylaws. The board shall not enact regulations, bylaws, or other items that are inconsistent with the terms of any court order or opioid-related settlement, or any agreement between the Attorney General and participating political subdivisions that pertains to any opioid-related settlement.

(J) The South Carolina Opioid Recovery Fund Board shall prepare and publish, on or before July first of each year, an annual report of all funds spent from the South Carolina Opioid Recovery Fund.

(K) The South Carolina Opioid Recovery Fund Board is subject to the requirements of the Freedom of Information Act. In addition to the provisions of Section 30-4-70, the board may enter into executive session to receive legal advice or to address a potential conflict of interest by a member.

(L) The South Carolina Opioid Recovery Fund Board may obtain services in accordance with the procedures, guidelines, and criteria

established by the board for that purpose and are not restricted by Chapter 35, Title 11 or any successor provision.

(M) Membership on the South Carolina Opioid Recovery Fund Board shall not constitute holding an 'office' for the purpose of the prohibition on dual office holding in Section 3, Article VI and Section 1A, Article XVII of the South Carolina Constitution, 1895.

(N) The State of South Carolina, its participating political subdivisions, the Office of Attorney General, the State Fiscal Accountability Authority, and the South Carolina Opioid Recovery Fund Board are not liable for a loss resulting from the performance of any duty related to the service of the members of the board.

(O) The South Carolina Opioid Recovery Fund Board shall remain in existence until all funds in the South Carolina Opioid Recovery Fund have been exhausted, no new funds are expected, and the board has satisfied all reporting obligations in any settlement that has provided funds to the South Carolina Opioid Recovery Fund.

(P) Before authorizing payments from the Discretionary Subfund to a requesting entity, the board may require that the entity has the appropriate financial, material, equipment, facility, and personnel resources and expertise, or the ability to obtain them, necessary to indicate its ability to meet all requirements established by the board; a satisfactory record of performance; and a satisfactory record of integrity.

(Q) The board has the duty and authority to regulate the expenditure by requesting entities of authorized payments from the Discretionary Subfund to ensure authorized payments are used only for approved purposes, to facilitate accountability for their use, and to prevent fraud, waste, abuse, mismanagement, and misconduct.

(R) The board may enter assistance agreements with each requesting entity approved to receive authorized payments from the Discretionary Subfund. These agreements are enforceable. Without limitation, such agreements may impose restrictions on the appropriate use of payments and penalties for the misuse of such payments. In addition, such agreements may impose payment, purchasing, accounting, auditing, record keeping, performance and financial reporting, and compliance requirements. Without limitation, the application requirements adopted by the board may include the acceptance of such agreements by the requesting entity. The board may inspect, audit, and examine any requesting entity receiving authorized payments from the Discretionary Subfund.

(S) Without limitation, a participating political subdivision may, but is not required to, enter into an assistance agreement, as referenced in subsection (R), with any entity receiving payments from the Guaranteed

Political Subdivision Subfund as a result of the entity having received written authorization from the governing body of the participating political subdivision to submit the request pursuant to Section 11-58-50(B)(1).

Section 11-58-80. (A) The State Fiscal Accountability Authority is solely responsible for all administrative operations of the South Carolina Opioid Recovery Fund Board. Administrative operations may include, but are not limited to, finance, human resources, procurement, clerical, and associated support services. The authority's executive director shall employ and supervise personnel necessary to provide any required administrative operations. The authority's executive director is authorized to pay for and receive from other state and local agencies and departments such services as will in his opinion promote the efficient and economical provision of administrative operations to the board. The authority will not provide legal services to the board or its staff. The board must retain ultimate responsibility and provide proper oversight for the implementation of this chapter.

(B) The State Fiscal Accountability Authority shall receive compensation for expenses incurred in providing administrative operations to the South Carolina Opioid Recovery Fund Board from the Administrative Subfund. With the approval of the board, staff of the authority shall enter into contracts and agreements on behalf of the board to implement this chapter. The Administrative Subfund may be used to satisfy any obligations of the board pursuant to such contracts and agreements.

(C) When attending meetings that require travel, members of the South Carolina Opioid Recovery Fund Board and staff assigned to the board by the authority or the Attorney General may receive the usual rate for mileage, subsistence, and per diem as provided by law for members of state boards, committees, and commissions and may be reimbursed for actual and necessary expenses incurred in connection with and as a result of their work as members of the board or support for the members of the board. The board, within the limits set by the Comptroller General, shall establish reimbursement standards for travel and other expenses incurred in aid of the board's official duties. Compensation and reimbursements paid under this subsection shall be paid from the Administrative Subfund.

(D) The Attorney General shall designate an attorney within the Office of Attorney General to attend all South Carolina Opioid Recovery Fund Board meetings, to provide all necessary legal services to the board, to ensure that funds within the South Carolina Opioid Recovery

Fund are spent only on approved abatement strategies, and to ensure that the board complies with all applicable laws, settlement agreements, and court orders.

(E) The South Carolina Opioid Recovery Fund Board shall prepare and publish an annual budget for administrative costs and expenses and publish an annual report of these expenditures. The annual budget may be amended as necessary.

(F) The South Carolina Opioid Recovery Fund Board shall be considered 'qualified personnel for the purpose of bona fide research or education' for the purpose of Section 44-53-1650, and the Department of Health and Environmental Control shall enter into a written agreement with the board to enable the sharing of prescription information with appropriate redactions.

Section 11-58-90. (A) To the extent the Attorney General has entered into a settlement with, or obtained a judgment against, a company or individual that markets, promotes, distributes, dispenses, or supplies opioids settling or adjudicating claims arising out of such conduct, and an agreement has been reached between the Attorney General and participating political subdivisions regarding the disposition of funds obtained through such settlement or judgment, no claims released by the Attorney General or participating political subdivisions or adjudicated by a court of competent jurisdiction may be brought against that company or individual by any of the following entities:

(1) a state agency;

(2) a political subdivision including, but not limited to, counties and municipalities;

(3) a school district;

(4) a health district;

(5) a hospital district;

(6) a fire district; or

(7) a library district.

(B) This section shall not infringe upon the power of the Attorney General or any participating political subdivision to enforce the terms of any such settlement agreement or judgment.

Section 11-58-100. This act and all powers granted by this chapter must be liberally construed to effectuate its intent and their purposes, without implied limitations on them. This chapter constitutes full and complete authority for all things herein contemplated to be done. All rights and powers granted in this chapter shall be as cumulative with those derived from other sources and shall not, except as expressly stated

in this chapter, be construed in limitation thereof. Insofar as the provisions of this chapter are inconsistent with the provisions of any other act, general or special, the provisions of this chapter are controlling. If any clause, sentence, paragraph, section, or part of this chapter be adjudged by any court of competent jurisdiction to be invalid, this judgment shall not affect, impair, or invalidate the remainder of this chapter but is confined in its operation to the clause, sentence, paragraph, section, or part of the chapter directly involved in the controversy in which the judgment shall have been rendered."

Severability

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, then 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 3. This act takes effect upon approval by the Governor.

Ratified the 18th day of May, 2022.

Approved the 23rd day of May, 2022.

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ASHLEY HARWELL-BEACH
Code Commissioner
P. O. Box 11489
Columbia, S.C. 29211