

2013 REGULAR SESSION

Acts and Joint Resolutions

of the

GENERAL ASSEMBLY
OF THE STATE OF SOUTH CAROLINA

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ACTS

AND

JOINT RESOLUTIONS

OF THE

General Assembly

OF THE

State of South Carolina

NIKKI R. HALEY, Governor; GLENN F. McCONNELL, Lieutenant Governor and ex officio President of the Senate; JOHN E. COURSON, President Pro Tempore of the Senate; ROBERT W. HARRELL JR., Speaker of the House of Representatives; JAMES H. LUCAS, Speaker Pro Tempore of the House of Representatives; JEFFREY S. GOSSETT, Clerk of the Senate; CHARLES F. REID, Clerk of the House of Representatives.

PART I

GENERAL AND PERMANENT LAWS

No. 1

(R1, S156)

AN ACT TO AMEND SECTION 54-7-100, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE HUNLEY COMMISSION, INCLUDING ITS MEMBERS AND DUTIES, SO AS TO PROVIDE THAT AN ADDITIONAL MEMBER OF THE COMMISSION SHALL BE THE LIEUTENANT GOVERNOR TO SERVE EX OFFICIO, OR HIS DESIGNEE.

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

Member added

SECTION 1. Section 54-7-100 of the 1976 Code, as last amended by Act 361 of 1996, is further amended to read:

“Section 54-7-100. A committee of ten members of the ‘Hunley Commission’ shall be appointed, three of whom must be members of the House of Representatives to be appointed by the Speaker, three of whom must be members of the Senate to be appointed by the President Pro Tempore, and three members to be appointed by the Governor. The tenth member of the commission shall be the Lieutenant Governor to serve ex officio, or his designee. The committee shall make a study of the law regarding the rights to the salvage of the Hunley and any claim that a person or entity may assert with regard to ownership or control of the vessel. The committee is authorized to negotiate with appropriate representatives of the United States government concerning the recovery, curation, siting, and exhibition of the H.L. Hunley. Provided, inasmuch as actual locations or geographical coordinates of submerged archaeological historic properties are now exempt from disclosure as public records pursuant to Section 54-7-820(A), the geographical coordinates of the Hunley’s location, regardless of the custodian, upon receipt from the Navy or receipt otherwise are expressly made exempt from disclosure pursuant to the Freedom of Information Act or any other law and no remedy for the disclosure of such coordinates exists pursuant to the Freedom of Information Act; and provided further, that with respect to the Hunley project, as described herein, the applicable duties and responsibilities contained in

Article 5, Chapter 7 of this title shall be vested in the Hunley Commission; and provided further, that with respect to the Hunley project that the Hunley Commission shall be exempt from compliance with the provisions of Chapter 35, Title 11. However, the committee may not negotiate any agreement which would result in the siting outside South Carolina of any remains, not claimed by direct descendants, found in the Hunley or which would relinquish South Carolina's claim of title to the Hunley unless perpetual siting of the submarine in South Carolina is assured by the federal government in the agreement.

The committee shall make recommendations regarding the appropriate method of preservation of this historic vessel and is also authorized to direct the Attorney General on behalf of South Carolina to take appropriate steps to enforce and protect the rights of the State of South Carolina to the salvage of the Hunley and to defend the State against claims regarding this vessel. The committee shall submit a recommendation for an appropriate site in South Carolina for the permanent display and exhibition of the H.L. Hunley to the General Assembly for its review and approval.

The committee members shall not receive the subsistence, mileage, and per diem as may be provided by law for members of boards, committees, and commissions."

Time effective

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

Ratified the 22nd day of January, 2013.

Approved the 23rd day of January, 2013.

No. 2

(R2, S91)

AN ACT TO AMEND SECTION 50-11-310, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE HUNTING AND TAKING OF ANTLERED DEER, SO AS TO DELETE A PROHIBITION ON BAITING DEER IN GAME ZONES 1 AND 2.

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

Deer

SECTION 1. Section 50-11-310(B) of the 1976 Code, as last amended by Act 286 of 2008, is further amended to read:

“(B) In Game Zones 1 and 2, it is unlawful to pursue deer with dogs.”

Time effective

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

Ratified the 27th day of February, 2013.

Approved the 1st day of March, 2013.

No. 3

(R3, S165)

AN ACT TO AMEND SECTION 50-15-65, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MANAGEMENT AND CONTROL OF ALLIGATORS ON PRIVATE LANDS, SO AS TO EXTEND THE HUNTING SEASON OF ALLIGATORS ON PRIVATE LANDS TO MAY THIRTY-FIRST.

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

Alligator hunting season extended

SECTION 1. Section 50-15-65(B)(3) of the 1976 Code, as last amended by Act 183 of 2010, is further amended to read:

“(3) A landowner or lessee of property on which alligators occur may apply to the department for a permit to participate in the Private Lands Alligator Program. On those private lands the season for

hunting and taking alligators is from September first through May thirty-first. On those lands in the private lands program only, unsecured alligators may be taken by firearms, provided no alligator may be taken by use of rim fire weapons or shotguns. Unsecured alligators may be taken only by firearms from thirty minutes before sunrise until thirty minutes after sunset. A person who takes an alligator by use of firearms must make a reasonable effort to recover the carcass at the time of taking or for the next ensuing forty-eight hours. A person using a firearm to take an alligator must have a gaff or grappling hook or other similar device to immediately locate and recover the carcass.”

Time effective

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

Ratified the 27th day of February, 2013.

Approved the 1st day of March, 2013.

No. 4

(R4, S244)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY REPEALING SECTION 50-11-940 RELATING TO THE DESIGNATION OF CERTAIN PROPERTY OF THE BELLE W. BARUCH FOUNDATION IN GEORGETOWN COUNTY AS A BIRD AND GAME REFUGE; AND BY REPEALING SECTION 50-11-941 PROVIDING THAT PROVISIONS OF SECTION 50-11-940 MUST NOT BE CONSTRUED TO BE IN CONFLICT WITH THE LAST WILL AND TESTAMENT OF BELLE W. BARUCH.

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

Findings for repeal

SECTION 1. The General Assembly finds that:

(1) Pursuant to a request by the trustees of the Belle W. Baruch Foundation, the General Assembly passed Act 1016 of 1974 that declared the 17,000 acres of the Belle W. Baruch Foundation property in Georgetown County a bird and game sanctuary and prohibited the hunting of any birds or game on the property.

(2) Act 1016 of 1974, codified as Section 50-11-940 of the 1976 Code, has been amended on several occasions, most recently to allow the hunting of deer, hogs, coyotes, or raccoons by "an employee or agent" of the Belle W. Baruch Foundation.

(3) The Belle W. Baruch Foundation, which at the time of enactment of Act 1016, was a New York foundation, requested that the property be declared a bird and game sanctuary in order to discourage poaching of birds and game on the property, due to the proliferation of poaching resulting from a limited presence of staff of the Belle W. Baruch Foundation and wildlife law enforcement officials on and around the property.

(4) The Belle W. Baruch Foundation is now a South Carolina foundation that employs nine people who work on and manage its property in Georgetown County, and the property is adequately patrolled and protected by staff of the Belle W. Baruch Foundation and law enforcement.

(5) The trustees of the Belle W. Baruch Foundation have undertaken a study of the wildlife management goals for the property and have determined:

(a) the designation of the property as a bird and game refuge is no longer necessary for or helpful to the management of the property;

(b) the restrictions on hunting contained in Section 50-11-940 result in increased liability to the Belle W. Baruch Foundation in its efforts to manage populations of deer, hogs, coyotes, and raccoons on the property, by requiring that anyone hunting these animals be "an employee or agent" of the Belle W. Baruch Foundation;

(c) the restrictions contained in Section 50-11-940 prevent the trustees of the Belle W. Baruch Foundation from utilizing hunting leases and paid hunts as both a management tool and a source of revenue for the Belle W. Baruch Foundation, resulting in the loss of hundreds of thousands of dollars of potential revenue to the Belle W. Baruch Foundation, the inability to create jobs in the area of the property for these purposes, and a missed opportunity for the property to be an integral part of the tourism base for the Georgetown and Grand Strand areas; and

(d) the trustees of the Belle W. Baruch Foundation have by unanimous resolution requested that the designation of the property as a bird and game refuge be removed.

Sections repealed

SECTION 2. Sections 50-11-940 and 50-11-941 of the 1976 Code are repealed.

Time effective

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

Ratified the 27th day of February, 2013.

Approved the 4th day of March, 2013.

No. 5

(R7, S3)

AN ACT TO AMEND SECTION 61-2-180, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO BINGO, RAFFLES, AND OTHER SPECIAL EVENTS, SO AS TO CLARIFY THAT THIS SECTION IS NOT AN EXCEPTION OR LIMITATION TO ACTIVITIES, DEVICES, OR MACHINES THAT ARE PROHIBITED BY SECTION 12-21-2710 OR OTHER PROVISIONS THAT PROHIBIT GAMBLING; AND TO AMEND SECTION 61-4-580, RELATING TO GAME PROMOTIONS ALLOWED BY HOLDERS OF PERMITS AUTHORIZING THE SALE OF BEER OR WINE, SO AS TO CLARIFY THAT THIS SECTION DOES NOT AUTHORIZE THE USE OF AN ACTIVITY, DEVICE, OR MACHINE THAT IS PROHIBITED BY SECTION 12-21-2710 OR BY OTHER PROVISIONS THAT PROHIBIT GAMBLING.

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

Bingo, special events or activities not an exception to gambling and other offenses

SECTION 1. Section 61-2-180 of the 1976 Code is amended to read:

“Section 61-2-180. A person or organization licensed by the department under this title may hold and advertise special events such as bingo or other similar activities intended to raise money for charitable purposes. This section does not affect the requirements for obtaining a bingo license from the department. A special event or activity that is authorized pursuant to this section is not an exception or limitation to Section 12-21-2710 or other provisions of the South Carolina Code of Laws in which gambling or games of chance are unlawful and prohibited.”

Establishments licensed to sell beer and wine, certain promotions not an exception to gambling and other offenses

SECTION 2. Section 61-4-580 of the 1976 Code is amended to read:

“Section 61-4-580. No holder of a permit authorizing the sale of beer or wine or a servant, agent, or employee of the permittee may knowingly commit any of the following acts upon the licensed premises covered by the holder’s permit:

- (1) sell beer or wine to a person under twenty-one years of age;
- (2) sell beer or wine to an intoxicated person;
- (3) permit gambling or games of chance except game promotions including contests, games of chance, or sweepstakes in which the elements of chance and prize are present and which comply with the following:
 - (a) the game promotion is conducted or offered in connection with the sale, promotion, or advertisement of a consumer product or service, or to enhance the brand or image of a supplier of consumer products or services;
 - (b) no purchase payment, entry fee, or proof of purchase is required as a condition of entering the game promotion or receiving a prize;
 - (c) all materials advertising the game promotion clearly disclose that no purchase or payment is necessary to enter and provide details on the free method of participation; and

(d) this subsection is not an exception or limitation to Section 12-21-2710 or other provisions of the South Carolina Code of Laws in which gambling or games of chance are unlawful and prohibited;

(4) permit lewd, immoral, or improper entertainment, conduct, or practices. This includes, but is not limited to, entertainment, conduct, or practices where a person is in a state of undress so as to expose the human male or female genitals, pubic area, or buttocks cavity with less than a full opaque covering;

(5) permit any act, the commission of which tends to create a public nuisance or which constitutes a crime under the laws of this State;

(6) sell, offer for sale, or possess any beverage or alcoholic liquors the sale or possession of which is prohibited on the licensed premises under the law of this State;

(7) conduct, operate, organize, promote, advertise, run, or participate in a 'drinking contest' or 'drinking game'. For purposes of this item, 'drinking contest' or 'drinking game' includes, but is not limited to, a contest, game, event, or other endeavor which encourages or promotes the consumption of beer or wine by participants at extraordinary speed or in increased quantities or in more potent form. 'Drinking contest' or 'drinking game' does not include a contest, game, event, or endeavor in which beer or wine is not used or consumed by participants as part of the contest, game, event, or endeavor, but instead is used solely as a reward or prize. Selling beer or wine in the regular course of business is not considered a violation of this section; or

(8) a violation of any provision of this section is a ground for the revocation or suspension of the holder's permit."

Time effective

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

Ratified the 21st day of March, 2013.

Approved the 22nd day of March, 2013.

No. 6

(R8, S304)

AN ACT TO AMEND SECTION 50-13-10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CERTAIN TERMS AND THEIR DEFINITIONS REGARDING GENERAL RESTRICTIONS ON FRESHWATER FISHING, SO AS TO REVISE THE DEFINITION OF THE TERM "BAIT FISH"; TO AMEND SECTION 50-13-60, AS AMENDED, RELATING TO THE LAWFUL POSSESSION OF FISH, SO AS TO MAKE A TECHNICAL CHANGE TO THE PROVISION RELATING TO THE POSSESSION OF A GAME FISH; TO AMEND SECTIONS 50-13-200, 50-13-210, 50-13-250, 50-13-260, AND 50-13-270, ALL AS AMENDED, RELATING TO THE PROTECTION OF FRESHWATER GAME FISH, SO AS TO REVISE THE AGE OF PERSONS IN A BOAT THAT MAY USE AN UNLIMITED NUMBER OF FISHING DEVICES, TO REVISE THE NUMBER OF TROUT THAT MAY BE TAKEN ON THE LOWER REACH OF THE SALUDA RIVER, TO PROVIDE THE LEGAL LENGTH OF SMALLMOUTH BASS THAT MAY BE TAKEN FROM CERTAIN LAKES, RIVERS, AND RESERVOIRS, AND TO MAKE A TECHNICAL CHANGE; TO AMEND SECTIONS 50-13-620, 50-13-625, AND 50-13-635, ALL AS AMENDED, RELATING TO THE PROTECTION OF NONGAME FISH, SO AS TO FURTHER PROVIDE FOR THE COLOR OF CERTAIN MARKINGS, TO PROVIDE THAT A COMMERCIAL TROTLINE WHICH USES FIFTY OR FEWER HOOKS MUST BE MARKED AT INTERVALS OF TWENTY-FIVE HOOKS, TO REVISE THE AGE OF PERSONS IN A BOAT THAT MAY USE AN UNLIMITED NUMBER OF GAME FISHING DEVICES, AND TO REVISE THE NUMBER OF SET HOOKS A RECREATIONAL FISHERMAN MAY USE.

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

Definition revised

SECTION 1. Section 50-13-10(B)(1) of the 1976 Code, as last amended by Act 113 of 2012, is further amended to read:

“(1) ‘Bait fish’ means a fish allowed to be used as bait in the freshwaters including: Asian clams (*Corbicula* spp.), crayfish, eels, herring, shad, and fathead minnows (*Pimephales promelas*), golden shiners (*Notemigonus crysoleucas*), and goldfish, including ‘black salties’ (*Carassius auratus*). Except for bream (other than redbreast), no other game fish is allowed to be used as bait, provided, trout are allowed to be used as bait only on Lakes Hartwell, Russell, Thurmond, Tugaloo, Yonah, Stevens Creek Reservoir, and the Savannah River.”

Technical correction

SECTION 2. Section 50-13-60(C) of the 1976 Code, as last amended by Act 113 of 2012, is further amended to read:

“(C) Except as otherwise provided, it is unlawful to possess any game fish without head and tail fin intact and, where a length limit is imposed on any species, it is unlawful to possess that species without head and tail fin intact.”

Age revised

SECTION 3. Section 50-13-200 of the 1976 Code, as last amended by Act 113 of 2012, is further amended to read:

“Section 50-13-200. It is unlawful to take freshwater game fish except by game fish devices. A fisherman only may use four game fishing devices. A fisherman fishing from a boat may use an unlimited number of game fishing devices if all persons in the boat sixteen years and older have valid fishing licenses.”

Trout size limitation

SECTION 4. Section 50-13-210(A)(6) of the 1976 Code, as last amended by Act 113 of 2012, is further amended to read:

“(6) not more than five may be trout. However, on the lower reach of the Saluda River, only one trout out of the five possessed may be more than sixteen inches in total length. On Lake Jocassee not more than three trout may be taken;”

Smallmouth bass size limitation

SECTION 5. Section 50-13-250 of the 1976 Code, as last amended by Act 113 of 2012, is further amended to read:

“Section 50-13-250. It is unlawful to possess smallmouth bass less than twelve inches in total length, except on Lakes Hartwell, Russell (including the Lake Hartwell tail water), Thurmond, Tugaloo, Yonah, the Chattooga, and Savannah Rivers, and Steven Creek Reservoir where there is no length limit on smallmouth bass.”

Technical change

SECTION 6. Section 50-13-260(A)(5) of the 1976 Code, as last amended by Act 113 of 2012, is further amended to read:

“(5) Eastatoe Creek from the backwaters of Lake Keowee upstream to S.C. State Highway S-39-143 (Roy Jones Road) in Pickens County.”

Technical change

SECTION 7. Section 50-13-270(B)(4) of the 1976 Code, as last amended by Act 113 of 2012, is further amended to read:

“(4) Eastatoe Creek on Eastatoe Heritage Preserve in Pickens County.”

Markings requirements revised

SECTION 8. Section 50-13-620(A) of the 1976 Code, as last amended by Act 114 of 2012, is further amended to read:

“(A) A trotline, trap, eel pot, gill net, and hoop net must be marked with a white floating marker not less than a capacity of one quart and not more than a capacity of one gallon and must be made of solid, buoyant material that does not sink if punctured or cracked. A floating marker must be constructed of plastic, PVC spongex, plastic foam, or cork. A hollow buoy or float, including plastic, metal, or glass bottles or jugs, must not be used, except that a manufactured buoy or float specifically designed for use with nongame fishing devices may be hollow if constructed of heavy duty plastic material and approved by the department. The owner’s name and department customer

identification number must be legible on each of the white floating markers. Both commercial and recreational fishermen shall comply with provisions of this title pertaining to the marking and use of a nongame fishing device. A trotline must be marked on both ends. A commercial trotline must be marked at intervals of every fifty hooks. A commercial trotline which uses fifty or fewer hooks must be marked at intervals of twenty-five hooks. A recreational trotline must be marked at intervals of every twenty-five hooks. Each interval float must be 'International Orange' in color."

Age revised

SECTION 9. Section 50-13-625 of the 1976 Code, as last amended by Act 114 of 2012, is further amended to read:

"Section 50-13-625. Nongame fish may be taken with any lawful game fishing device. A fisherman only may use four game fishing devices. A fisherman fishing from a boat may use an unlimited number of game fishing devices if all persons in the boat sixteen years and older have valid fishing licenses."

Number of set hooks revised

SECTION 10. Section 50-13-635(14) of the 1976 Code, as last amended by Act 114 of 2012, is further amended to read:

"(14) not more than fifty set hooks;"

Savings clause

SECTION 11. 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 12. 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 13. This act takes effect upon approval by the Governor.

Ratified the 21st day of March, 2013.

Approved the 22nd day of March, 2013.

No. 7

(R9, S305)

AN ACT TO AMEND SECTION 50-1-50, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE GEOGRAPHIC BOUNDARIES OF THE STATE'S BODIES OF WATERS, SO AS TO REVISE THE GEOGRAPHIC BOUNDARIES OF SAINT HELENA SOUND; TO AMEND SECTION 50-5-15, AS AMENDED, RELATING TO CERTAIN TERMS AND THEIR DEFINITIONS, SO AS TO DEFINE THE TERM "TOTAL LENGTH"; TO AMEND SECTION 50-5-40, RELATING TO THE UNAUTHORIZED TAGGING OR MARKING AND RELEASING OF SALTWATER FISH, SO AS TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 50-5-375, RELATING TO SEAFOOD DEALERS' RECORDS, SO AS TO PROVIDE THAT THIS SECTION APPLIES TO EVERY WHOLESALE SEAFOOD DEALER; TO AMEND SECTION

50-5-545, RELATING TO COMMERCIAL CRAB TRAPS, SO AS TO PROVIDE THAT THIS SECTION APPLIES TO TRAPS USED FOR TAKING BLUE CRABS; TO AMEND SECTION 50-5-550, RELATING TO TRAPS ATTACHED TO A BUOY, SO AS TO PROVIDE THAT CERTAIN MINNOW TRAP FLOATS DO NOT HAVE TO BE MARKED WITH THE OPERATOR'S BAIT DEALER LICENSE NUMBER; TO AMEND SECTION 50-5-705, RELATING TO THE ESTABLISHMENT OF TRAWLING ZONES, SO AS TO REVISE THE BOUNDARIES OF CERTAIN TRAWLING ZONES; TO AMEND SECTION 50-5-1330, RELATING TO THE TAKING OF HORSESHOE CRABS, SO AS TO PROVIDE THAT A PERMIT IS NOT REQUIRED TO POSSESS A CAST OFF OR MOLTED SHELL OF A HORSESHOE CRAB, AND TO PROVIDE THAT THE DEPARTMENT OF NATURAL RESOURCES MAY GRANT PERMITS TO CERTAIN INSTITUTIONS AND PERSONS TO POSSESS AN UNLIMITED NUMBER OF HORSESHOE CRABS OR THEIR PARTS; TO AMEND SECTION 50-5-1335, RELATING TO THE USE OF BLUE CRAB TRAPS, SO AS TO PROVIDE THAT IT IS UNLAWFUL TO SET A TRAP USED FOR TAKING BLUE CRAB FOR COMMERCIAL PURPOSES WITHIN CERTAIN WATERS WITHIN THIS STATE; TO AMEND SECTIONS 50-5-1705 AND 50-5-1710, BOTH AS AMENDED, RELATING TO LAWFUL SIZE AND CATCH LIMITS FOR CERTAIN FISH, SO AS PROVIDE THAT THE LIMITS ESTABLISHED IN ARTICLE 17, CHAPTER 5, TITLE 50 APPLY TO ALL STATE WATERS; AND TO REPEAL SECTION 50-5-1340 RELATING TO COMMERCIAL USE OF CRAB POTS IN LITTLE CHECHESSEE CREEK IN BEAUFORT COUNTY.

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

Geographic boundaries of Saint Helena Sound

SECTION 1. Section 50-1-50(90) of the 1976 Code, as last amended by Act 206 of 2012, is further amended to read:

“(90) ‘Saint Helena Sound’ means all waters of Saint Helena Sound bounded by Edisto Beach, Otter Island, Ashe Island, Morgan Island, St. Helena Island, and Harbor Island, bounded on the seaward side by the COLREG line from Edisto Beach to Hunting Island, and bounded on the inland side by the U.S. Highway 21 bridge in the mouth of Harbor River, from the northern tip of Coffin Point (latitude 32° 26.78’ N, longitude 080° 29.01’ W), just east of the mouth of Coffin Creek running north crossing the mouth of Morgan River to the eastern tip of Morgan Island marsh (latitude 32° 28.14’ N, longitude 080° 28.63’ W), and then running north across the mouth of Coosaw River to the southern tip of Ashe Island (latitude 32° 29.77’ N, longitude 080° 28.35’ W), and by a line running due east from the eastern tip of Ashe Island (latitude 32° 30.19’ N, longitude 080° 27.33’ W), crossing the mouth of Rock Creek to Hutchinson Island, and by a line running south across the mouth of the Ashepoo River to the western side of Otter Island (latitude 32° 28.72’ N, longitude 080° 25.15’ W) and extending to the southern tip of Edisto Beach (latitude 32° 28.64’ N, longitude 080° 20.30’ W).”

Definition

SECTION 2. Section 50-5-15 of the 1976 Code, as last amended by Act 15 of 2009, is further amended by adding the following appropriately numbered item:

“() ‘Total length’ means the length of a fish laid flat and measured from the closed mouth (snout) to the tip of the tail fin when pinched together. It is a straight line measure, not over the curvature of the body.”

Saltwater fish

SECTION 3. Section 50-5-40 of the 1976 Code is amended to read:

“Section 50-5-40. Unless authorized by the department, no person may tag or mark and release saltwater fish or promote such activity. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty-five dollars nor more than two hundred dollars or imprisoned for not more than thirty days.”

Wholesale seafood dealers

SECTION 4. Section 50-5-375 of the 1976 Code is amended to read:

“Section 50-5-375. (A) Every wholesale seafood dealer must keep and retain accurate records detailing the information required by the department for a period of not less than one year and shall open the records to the department for inspection upon reasonable demand.

(B) Any wholesale seafood dealer who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned for not more than thirty days. The provisions of this section do not supersede or replace any criminal sanctions for defrauding or attempting to defraud this State.”

Blue crabs

SECTION 5. Section 50-5-545 of the 1976 Code is amended to read:

“Section 50-5-545. (A) Except as provided in this section, from June 1 through March 14, a trap used for taking blue crab used for commercial purposes must have at least two unobstructed, circular escape vents (rings) which must be two and three-eighths inches or greater in inside diameter and located on vertical surfaces. At least one vent (ring) must be in the upper chamber. All vents (rings) must be within two inches of the horizontal partition or the base of the trap.

(B) A trap used for taking blue crab constructed of a single chamber must have at least one two and three-eighths inch or larger inside diameter escape vent (ring) located on a vertical surface within two inches of the base of the trap. Peeler traps are exempt year round.”

Traps attached to a buoy

SECTION 6. Section 50-5-550(A) of the 1976 Code is amended to read:

“(A) Other than minnow traps not used for a commercial purpose, and traps with lines attached to a shore based structure and not used for a commercial purpose, each trap set in the waters of this State must have attached to it a buoy made of solid, buoyant material which does not sink if punctured or if cracked. A spherical or nonspherical primary buoy must be attached to each trap. A nonspherical buoy must

be at least ten inches in length and five inches in diameter or width. A spherical buoy must be at least six inches in diameter. No plastic, metal, or glass bottles or jugs may be used as a buoy, and no buoy attached may be made of a material which could sink if punctured or cracked. No floating line or rope may be used. Minnow traps used for commercial purposes must utilize floats no smaller than five inches marked with the operator's name."

Trawling zones

SECTION 7. Section 50-5-705 of the 1976 Code is amended to read:

"Section 50-5-705. The following General Trawling Zone is established: Based on National Ocean Service (NOS) chart 11513 (22nd edition, July 12, 1997), that area seaward of a line, termed the inshore trawl boundary, beginning at the point of intersection of the north jetty (Oyster Bed Island Training Wall) of the Savannah River and the shoreline ('shoreline' herein defined as the line of Mean High Water) of Oyster Bed Island at latitude 32° 02.35' N, longitude 080° 53.05' W; thence following the shoreline of Oyster Bed Island to the point at the mouth of the Wright River at latitude 32° 02.92' N, longitude 080° 54.62' W; thence following a straight line northeasterly to the southernmost point of Turtle Island at latitude 32° 03.08' N, longitude 080° 54.42' W; thence following the shoreline of Turtle Island to the point at the mouth of the New River at latitude 32° 04.80' N, longitude 080° 52.97' W; thence following a straight line easterly to the southernmost point of Daufuskie Island (Bloody Point) at latitude 32° 04.92' N, longitude 080° 52.60' W; thence following the shoreline of Daufuskie Island to the point at latitude 32° 07.30' N, longitude 080° 50.40' W; thence following a straight line easterly across Calibogue Sound to the point on Hilton Head Island at latitude 32° 07.30' N, longitude 080° 49.50' W; thence following the shoreline of Hilton Head Island and crossing the mouths of Folly and Coggin Creeks to the northernmost point of Hilton Head Island at latitude 32° 16.26' N, longitude 080° 43.72' W; thence following a straight line westerly to a green square beacon marked '5' at latitude 32° 16.10' N, longitude 080° 44.14' W; thence following a straight line northerly to a red triangular beacon marked '4' at latitude 32° 16.38' N, longitude 080° 44.14' W; thence following a straight line easterly to a red nun or conical buoy marked '2' at latitude 32° 16.40' N, longitude 080° 42.40' W; thence following a straight line easterly to the point on Parris Island Spit at latitude 32° 16.72' N, longitude 080° 40.00' W

(approximate location of flashing red day marker No. 246); thence following a straight line easterly to a red nun or conical buoy marked '26' at the mouth of the Beaufort River at latitude 32° 16.75' N, longitude 080° 39.20' W; thence following a straight line easterly to the point at the mouth of Station Creek at latitude 32° 16.72' N, longitude 080° 38.55' W; thence following the shorelines of Bay Point and St. Phillips Islands and crossing the mouth of Morse Island Creek to the point on St. Phillips Island at latitude 32° 17.00' N, longitude 080° 35.30' W; thence following a straight line easterly across Trenchards Inlet to the point at latitude 32° 17.00' N, longitude 080° 34.75' W; thence following the shorelines of Capers and Pritchards Islands and crossing the mouths of Capers, Pritchards, and Skull Inlets to the southernmost point of Fripp Island at latitude 32° 18.40' N, longitude 080° 30.05' W; thence following the shoreline of Fripp Island to its easternmost point at latitude 32° 19.35' N, longitude 080° 27.18' W; thence following a straight line northerly across Fripp Inlet to the southernmost point of Hunting Island at latitude 32° 20.32' N, longitude 080° 27.28' W; thence following the shoreline of Hunting Island to its northernmost point at the mouth of Johnson Creek at latitude 32° 23.50' N, longitude 080° 25.80' W; thence following a straight line northerly to the point on Harbor Island at latitude 32° 24.10' N, longitude 080° 25.63' W; thence following the shoreline of Harbor Island to the eastern end of the U.S. Highway 21 swing bridge at Harbor River at latitude 32° 24.20' N, longitude 080° 27.00' W; thence to the center of the swing span of the bridge at latitude 32° 24.26' N, longitude 080° 27.16' W; thence following a straight line northerly to the beacon on Combahee Bank at latitude 32° 28.07' N, longitude 080° 26.06' W; thence, based on NOS chart 11521 (22nd edition, January 20, 1996), following a straight line northeasterly to the point on Otter Island at the mouth of the Ashepoo River at latitude 32° 29.25' N, longitude 080° 25.15' W; thence following the shoreline of Otter Island to the point at the mouth of Fish Creek at latitude 32° 29.00' N, longitude 080° 23.24' W; thence following a straight line easterly across the South Edisto River to the southernmost point (Bay Point) of Edisto Beach at latitude 32° 28.66' N, longitude 080° 20.18' W; thence following the shorelines of Edisto and Edingsville Beaches and Botany Bay Island and crossing the mouths of Jeremy, Frampton, and Townsend Inlets to the point on Botany Bay Island at latitude 32° 33.50' N, longitude 080° 12.00' W; thence following a straight line easterly across the North Edisto River to the southernmost point on Seabrook Island at latitude 32° 33.55' N, longitude 080° 10.50' W; thence following the shorelines of Seabrook and Kiawah Islands and

crossing the mouth of Captain Sams Inlet to the point on Kiawah Island (Sandy Point) at latitude 32° 37.18' N, longitude 079° 59.65' W; thence following a straight line northeasterly across Stono Inlet to the southernmost point of Folly Island at latitude 32° 38.40' N, longitude 079° 58.36' W; thence following the shoreline of Folly Island to its easternmost point at latitude 32° 41.10' N, longitude 079° 53.17' W; thence following a straight line northerly across Lighthouse Inlet to the Morris Island lighthouse (abandoned) at latitude 32° 41.70' N, longitude 079° 53.03' W; thence following a straight line on a geodetic azimuth of 285 degrees to the shoreline of Morris Island; thence following the shoreline of Morris Island northerly to its point of intersection with the south jetty for Charleston Harbor at latitude 32° 43.91' N, longitude 079° 52.18' W; thence following the submerged jetty easterly to the point where its emergent portion begins at latitude 32° 43.85' N, longitude 079° 50.92' W; thence following a straight line northeasterly across the Charleston Harbor channel to the point where the emergent north jetty begins at latitude 32° 44.57' N, longitude 079° 50.00' W; thence following the submerged north jetty northerly to its point of intersection with Sullivans Island at latitude 32° 45.46' N, longitude 079° 50.40' W; thence following the shoreline of Sullivans Island, the seaward edge of the Breach Inlet bridge, and the shoreline of the Isle of Palms to its easternmost point at latitude 32° 48.90' N, longitude 079° 43.09' W; thence following a straight line northerly across Dewees Inlet to the point on Dewees Island at latitude 32° 49.65' N, longitude 079° 43.27' W; thence following the shoreline of Dewees Island to the point at latitude 32° 50.70' N, longitude 079° 42.03' W; thence following a straight line northerly across Capers Inlet to the southernmost point of Capers Island at latitude 32° 51.10' N, longitude 079° 41.87' W; thence following the shoreline of Capers Island to the point at latitude 32° 52.57' N, longitude 079° 39.30' W; thence following a straight line easterly across Price Inlet to the southernmost point of Bull Island at latitude 32° 52.57' N, longitude 079° 38.95' W; thence, based on NOS chart 11531 (19th edition, April 19, 1997), following the shoreline of Bull Island to its northernmost point at latitude 32° 55.98' N, longitude 079° 34.48' W; thence following a straight line northeasterly to the point at latitude 33° 00.38' N, longitude 079° 29.43' W; thence following a straight line in a northeasterly direction along Raccoon Key, thence crossing the mouth of Raccoon Creek to the point at latitude 33° 01.00' N, longitude 079° 25.25' W; thence following a straight line easterly across Key Inlet to the point of Cape Island at latitude 33° 00.46' N, longitude 079° 24.49' W; thence following the shoreline of Cape Island to the point at latitude

33° 00.61' N, longitude 079° 21.90' W (accretion in this area not shown on the nautical chart); thence following a straight line northeasterly to the point at latitude 33° 02.21' N, longitude 079° 21.04' W, thence following a straight line northeasterly across Cape Romain Harbor to the point on Murphy Island at latitude 33° 05.46' N, longitude 079° 19.72' W; thence following the shoreline of Murphy Island northeasterly to the point at latitude 33° 07.00' N, longitude 079° 16.97' W; thence following a straight line easterly across the South Santee River to the southwesternmost point of Cedar Island at latitude 33° 07.00' N, longitude 079° 16.58' W; thence following the shoreline of Cedar Island to the point at latitude 33° 08.36' N, longitude 079° 14.71' W; thence, based on NOS chart 11532 (18th edition, June 1, 1996), following a straight line northerly across the North Santee River to the southernmost point of Cane Island at latitude 33° 08.92' N, longitude 079° 14.92' W; thence following the eastern shoreline of Cane Island and crossing the mouth of an unnamed creek to the easternmost point of Crow Island at latitude 33° 10.04' N, longitude 079° 15.34' W; thence following a straight line northeasterly across North Santee Bay to the point on South Island at the south side of the mouth of Beach Creek at latitude 33° 10.43' N, longitude 079° 14.60' W; thence following the shoreline of South Island to its southernmost point (Santee Point) at latitude 33° 08.06' N, longitude 079° 14.38' W; thence following the shorelines of South and Sand Islands to the point of intersection with the south jetty for Winyah Bay at latitude 33° 11.43' N, longitude 079° 11.00' W; thence following the shorelines of Sand and South Islands to the point on South Island at latitude 33° 13.82' N, longitude 079° 12.16' W; thence following a straight line easterly passing approximately through the charted positions of a green light buoy marked '15' and a red nun or conical buoy marked '16' to the point on North Island at latitude 33° 14.00' N, longitude 079° 11.32' W; thence following the shoreline of North Island southerly and easterly to its intersection with the north jetty for Winyah Bay at latitude 33° 12.53' N, longitude 079° 10.43' W; thence, based on NOS chart 11535 (11th edition, April 18, 1992), following the shoreline of North Island to the point at latitude 33° 19.03' N, longitude 079° 09.57' W; thence following a straight line northerly across North Inlet to the point on the south end of *Debidue* DeBordieu Island at latitude 33° 19.98' N, longitude 079° 09.60' W; thence following the shorelines of *Debidue* DeBordieu Island, Pawley's Island, Litchfield Beach, and Magnolia Beach and crossing the mouths of Pawley's Inlet and Midway Inlet to the point on the south jetty for Murrells Inlet at latitude 33° 31.60' N, longitude 079° 01.90' W;

thence following a straight line northerly across Murrells Inlet to the point of intersection with the north jetty at latitude 33° 31.96' N, longitude 079° 01.77' W; thence following the shoreline northeasterly and crossing the mouths of Singleton Swash, White Point Swash, and Hog Inlet to the point of intersection with the south jetty for Little River on the eastern end of Waites Island at latitude 33° 50.91' N, longitude 078° 33.21' W; thence following a straight line easterly across Little River Inlet to the point on the north jetty on Bird Island at latitude 33° 50.97' N, longitude 078° 32.62' W; thence following the shoreline of Bird Island to its intersection with the South Carolina-North Carolina boundary line at latitude 33° 51.09' N, longitude 078° 32.50' W.”

Horseshoe crabs

SECTION 8. Section 50-5-1330 of the 1976 Code is amended to read:

“(A) Taking or possessing horseshoe crabs (*Limulus polyphemus*) is unlawful except under permit granted by the department. A permit is not required to possess a cast off or molted shell (exoskeleton) of a horseshoe crab.

(B) The department may permit the taking or possession of horseshoe crabs. Permits granted under this section may include provisions as to lawful fishing areas; minimum size requirements for horseshoe crabs; mesh size and dimensions of nets and other harvesting devices; by catch requirements; fishing times or periods; catch reporting requirements; holding facilities, conditions, and periods; and other conditions the department determines.

(C) Horseshoe crabs from which blood is collected for production of amebocyte lysate may be held in facilities approved by the department and must be handled so as to minimize injury to the crab. Horseshoe crabs collected in this State must be returned unharmed to state waters of comparable salinity and water quality as soon as possible after bleeding unless subsequent retention is permitted.

(D) The taking of horseshoe crabs incidentally during legal fishing operations does not violate this section if the crabs are returned immediately to the water unharmed.

(E) The department may grant permits to institutions and persons engaged in science instruction or curation to possess horseshoe crabs or parts thereof for such purposes, and permittees are not required to be licensed under this chapter.

(F) No horseshoe crab collected in South Carolina may be removed from this State.

(G) A person who violates this section or a condition of a permit issued hereunder is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned for not more than thirty days. Each horseshoe crab or part thereof in violation is a separate offense.”

Blue crab traps

SECTION 9. Section 50-5-1335 of the 1976 Code is amended to read:

“Section 50-5-1335. It is unlawful to set a trap used for taking blue crab for commercial purposes within these waters of the State:

(1) Pawley’s Island Creek and Midway Creek on Pawley’s Island in Georgetown County;

(2) one hundred fifty feet of the mean low tide watermark on Atlantic Ocean shoreline of Pawley’s Island in Georgetown County;

(3) DeBordieu Creek and its tributaries and distributaries above the entrance to Bass Hole Creek and seaward of the causeways of Luvan Boulevard in Georgetown County;

(4) the Sampit River above a line connecting the point on the eastern shoreline of Sampit River at its confluence with Winyah Bay at latitude 33° 21.08’ N, longitude 79° 16.71’ W and the point on the western shoreline of Winyah Bay generally south of its confluence with Sampit River at latitude 33° 20.68’ N, longitude 79° 16.90’ W in Georgetown County; and

(5) Little Chechessee Creek in Beaufort County.”

Lawful size and catch limits

SECTION 10. Section 50-5-1705 of the 1976 Code, as last amended by Act 210 of 2012, is further amended to read:

“Section 50-5-1705. (A) As used in this article, a day means sunrise on one day to sunrise on the following day.

(B) The limits established in this article apply to all state waters.

(C) It is unlawful for a person to take or have in possession more than ten spotted seatrout in any one day.

(D) It is unlawful for a person to take or have in possession more than three red drum in any one day.

(E) It is unlawful for a person to take or have in possession more than one tarpon in any one day.

(F) It is unlawful for a person to take or have in possession more than five black drum (*Pogonias cromis*) in any one day.

(G) It is unlawful for a person to take or possess more than twenty flounder (*Paralichthys* species) taken by means of gig, spear, hook and line, or similar device in any one day, not to exceed forty flounder in any one day on any boat.

(H) It is unlawful for a person to take or have in possession more than one weakfish (*Cynoscion regalis*) in any one day.

(I) It is unlawful for a person to take or possess more than ten sheepshead (*Archosargus probatocephalus*) in any one day, not to exceed thirty sheepshead in any one day on any boat.

(J) It is unlawful to take or possess hardhead catfish (*Ariopsis felis*) or gafftopsail catfish (*Bagre marinus*).

(K) It is unlawful to gig for spotted seatrout or red drum from December first through the last day of February, inclusive.

(L) The possession limits do not apply to the possession or sale of properly identified fish imported by seafood dealers or produced by permitted mariculture operations, or to possession as allowed under permit authorized by this chapter.”

Lawful size and catch limits

SECTION 11. Section 50-5-1710 of the 1976 Code, as last amended by Act 210 of 2012, is further amended to read:

“Section 50-5-1710. (A) The limits established in this article apply to all state waters.

(B) Except as provided in Article 21, it is unlawful to take, possess, land, sell, purchase, or attempt to sell or purchase:

(1) spotted seatrout (*Cynoscion nebulosus*) (winter trout) of less than fourteen inches in total length;

(2) flounder (*Paralichthys*) of less than fourteen inches total length;

(3) red drum (*Sciaenops ocellatus*) (channel bass or spottail bass) of less than fifteen inches in total length, or more than twenty-three inches in total length;

(4) black drum (*Pogonias cromis*) of less than fourteen inches or more than twenty-seven inches in total length;

(5) weakfish (*Cynoscion regalis*) of less than twelve inches in total length; or

(6) sheepshead (*Archosargus probatocephalus*) of less than fourteen inches in total length.

(C) The finfish species named in this section must be brought to the dock or landed with head and tail fin intact except for product produced by mariculture operations permitted under this chapter, provided that returning fish of unlawful size immediately to the water does not constitute a violation. A commercial retailer or restaurant may remove the head at the request of the ultimate consumer after completion of the transaction but before transfer of the purchase or serving of the dish.”

Repeal

SECTION 12. Section 50-5-1340 of the 1976 Code is repealed.

Severability clause

SECTION 13. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Time effective

SECTION 14. This act takes effect upon approval by the Governor.

Ratified the 21st day of March, 2013.

Approved the 22nd day of March, 2013.

No. 8

(R11, S352)

AN ACT TO AMEND SECTION 7-7-390, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN MCCORMICK COUNTY, SO AS TO ADD THE "MONTICELLO" PRECINCT, TO DESIGNATE A MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD, AND TO CORRECT ARCHAIC LANGUAGE.

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

McCormick County voting precincts designated

SECTION 1. Section 7-7-390 of the 1976 Code, as last amended by Act 205 of 1987, is further amended to read:

“Section 7-7-390. In McCormick County there are the following voting precincts:

Mt. Carmel
Willington
Savannah
McCormick No. 1
Bethany
McCormick No. 2
Plum Branch
Parksville
Modoc
Clarks Hill
Monticello

The precinct lines defining the above precincts are as shown on official maps on file with the Office of Research and Statistics of the State Budget and Control Board designated as document P-65-13 and as shown on certified copies provided to the State Election Commission and the McCormick County Board of Voter Registration.

Polling places must be determined by the McCormick County Election Commission with the approval of the McCormick County Legislative Delegation.”

Time effective

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

Ratified the 21st day of March, 2013.

Approved the 22nd day of March, 2013.

No. 9

(R13, S230)

**AN ACT TO AMEND SECTION 7-27-275, AS AMENDED,
CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING
TO THE CLARENDON COUNTY BOARD OF ELECTIONS
AND VOTER REGISTRATION, SO AS TO ADJUST THE
MEMBERSHIP AND COMPOSITION OF THE BOARD.**

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

Clarendon County Board of Elections and Voter Registration

SECTION 1. Section 7-27-275 of the 1976 Code, as last amended by Act 214 of 2012, is further amended to read:

“Section 7-27-275. Notwithstanding another provision of law:

(A)(1) There is established the Board of Elections and Voter Registration of Clarendon County, to be composed of nine members appointed by a majority of the Clarendon County Legislative Delegation.

(2) Four of the initial appointees shall serve two-year terms, and five of the initial appointees shall serve four-year terms. Upon expiration of the terms of those members initially appointed, the term of office for the members of the board is four years, and until their successors are appointed and qualify. Members may succeed themselves.

(3) In case of a vacancy on the board, the vacancy must be filled in the same manner as an original appointment, as provided in this section, for the unexpired term.

(4) A majority of senators representing the county and a majority of members of the House of Representatives representing the county shall appoint the board's chairman. The chairman shall serve a term of four years and may be reappointed to that office for any number of successive terms without limitation.

(5) The board may choose to elect a vice chair, a secretary, and other officers the board considers appropriate. The initial director must be employed by a majority of the Clarendon County Legislative Delegation. Subsequently, the board shall employ the director, determine the compensation, and determine the number and compensation of other staff positions. Salaries must be consistent with the compensation schedules established by the county for similar positions.

(6) The director is responsible for hiring and management of the staff positions established by the board that report to the director. Staff positions are subject to the personnel system policies and procedures by which all county employees are regulated, except that the director serves at the pleasure of the board.

(B) The Clarendon County Legislative Delegation shall notify the State Election Commission in writing of the appointments made pursuant to subsection (A).

(C) The Board of Elections and Voter Registration of Clarendon County shall notify the State Election Commission in writing of the name of the person elected as chairman of the board pursuant to subsection (A).

(D) A member who misses three consecutive meetings of the board is considered to have resigned his office, and a vacancy on the board exists, which must be filled pursuant to subsection (A). This section does not apply to a member who presents a verifiable doctor's certificate that illness prevented his attendance at a meeting.

(E) Except as otherwise specifically provided in subsections (A), (B), (C), and (D), the provisions of law contained in Title 7, relating to county boards of voter registration and county election commissions, apply to the Board of Elections and Voter Registration of Clarendon County, *mutatis mutandis*.

(F)(1) The Clarendon County Board of Voter Registration is abolished effective within sixty days after this section is approved by the Governor, and its functions, duties, and powers are devolved upon

the Board of Elections and Voter Registration of Clarendon County as established pursuant to subsection (A).

(2) The Clarendon County Election Commission is abolished effective within sixty days after this section is approved by the Governor, and its functions, duties, and powers are devolved upon the Board of Elections and Voter Registration of Clarendon County as established pursuant to subsection (A).

(G)(1) The terms of the members of the Clarendon County Board of Voter Registration, regardless of when these members were appointed to office, or when their current terms would otherwise have expired, expire for all purposes upon the abolishment of that board pursuant to subsection (F)(1).

(2) The terms of the members of the Clarendon County Election Commission, regardless of when these members were appointed to office, or when their current terms would otherwise have expired, expire for all purposes upon abolishment of that commission pursuant to subsection (F)(2).

(3) Notwithstanding items (1) and (2) of this subsection or another provision of law, a person serving as a member of the Clarendon County Board of Voter Registration or the Clarendon County Election Commission may not be removed from office, and neither the board nor the commission may be abolished until this section has been given final approval by the United States Department of Justice.”

Time effective

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

Ratified the 9th day of April, 2013.

Approved the 12th day of April, 2013.

No. 10

(R14, S261)

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 JANUARY 2, 2013, AND TO DELETE AN INAPPLICABLE SUBITEM; AND TO AMEND SECTION 12-6-50, AS AMENDED, RELATING TO PROVISIONS OF THE INTERNAL REVENUE CODE NOT ADOPTED BY THIS STATE, SO AS TO NOT ADOPT CERTAIN PROVISIONS RELATING TO THE REDUCTION ON ITEMIZED DEDUCTIONS AND THE REDUCTION ON THE PERSONAL EXEMPTION.

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) of the 1976 Code, as last amended by Act 126 of 2012, is further amended to read:

“(a) Except as otherwise provided, ‘Internal Revenue Code’ means the Internal Revenue Code of 1986, as amended through January 2, 2013, and includes the effective date provisions contained in it.”

Deletion of Internal Revenue Code extension

SECTION 2. Section 12-6-40(A)(1) of the 1976 Code, as last amended by Act 126 of 2012, is amended by deleting subitem (c) which reads:

“(c) For Internal Revenue Code sections adopted by the State which expired or portions thereof expired on December 31, 2011, or January 1, 2012, in the event any of these expired sections or portions thereof are extended, but otherwise not amended, by the federal government during 2012, these sections or portions thereof also will be extended for South Carolina income tax purposes in the same manner that they are extended for federal income tax purposes.”

Internal Revenue Code sections not adopted

SECTION 3. A. Section 12-6-50 of the 1976 Code, as last amended by Act 126 of 2012, is further amended by adding an appropriately numbered item to read:

“() Section 68 relating to the reduction on itemized deductions and Section 151(d)(3) relating to the reduction on the personal exemption for:

(a) a joint return or surviving spouse with an adjusted gross income exceeding three hundred thousand dollars or the same adjusted gross income adjusted for inflation pursuant to Section 68, whichever is higher;

(b) a head of household with an adjusted gross income exceeding two hundred seventy-five thousand dollars or the same adjusted gross income adjusted for inflation pursuant to Section 68, whichever is higher; and

(c) an individual who is not married and who is not a surviving spouse or head of household with an adjusted gross income exceeding two hundred fifty thousand dollars or the same adjusted gross income adjusted for inflation pursuant to Section 68, whichever is higher.”

B. From existing funds, the Department of Revenue shall create and distribute the forms and worksheets necessary to aid taxpayers in utilizing the provisions of this SECTION.

Time effective

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

Ratified the 9th day of April, 2013.

Approved the 9th day of April, 2013.

No. 11

(R16, S213)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 57 TO TITLE 33 SO AS TO AUTHORIZE QUALIFIED NONPROFIT ORGANIZATIONS TO OPERATE AND CONDUCT RAFFLES THROUGH REGISTRATION WITH THE SOUTH CAROLINA SECRETARY OF STATE, TO PROVIDE STANDARDS FOR THESE EVENTS, TO REQUIRE PROCEEDS TO BE USED FOR CHARITABLE PURPOSES, TO PROVIDE PENALTIES FOR

VIOLATIONS, AND TO REPEAL THESE PROVISIONS JULY 1, 2020, UNLESS REAUTHORIZED BY THE GENERAL ASSEMBLY AND TO PROVIDE FOR SIMILAR REPEALS AT TEN-YEAR INTERVALS.

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

Charitable raffles allowed, requirements

SECTION 1. Title 33 of the 1976 Code is amended by adding:

“CHAPTER 57

Nonprofit Raffles for Charitable Purposes

Section 33-57-100. (A) A lottery or raffle of any type whatsoever is unlawful unless it is authorized by the following:

- (1) Chapter 150, Title 59, the Education Lottery;
- (2) Article 24, Chapter 21, Title 12, Charitable Bingo; or
- (3) Chapter 57, Title 33, Nonprofit Raffles for Charitable

Purposes.

(B) It is the intent of the General Assembly that only qualified tax-exempt entities, which are organized and operated for charitable purposes and which dedicate raffle proceeds to charitable purposes, shall operate and conduct raffles as authorized by this chapter.

(C)(1) Nothing in this chapter may be construed to allow electronic gambling devices or machines of any types, slot machines, video poker or similar electronic play devices, or to change or alter in any manner the prohibitions regarding video poker or similar electronic play devices in Chapter 21, Title 12 and Chapter 19, Title 16.

(2) No person shall conduct a fundraising event commonly known and operated as a ‘casino night’, ‘Las Vegas night’, or ‘Monte Carlo night’ involving live individuals playing roulette, blackjack, poker, baccarat, or other card games, or dice games, unless the event is conducted only for entertainment purposes and no prizes, financial rewards, or incentives are received by players.

(3) No events with an electronic device or machine, slot machines, electronic video gaming devices, wagering on live sporting events, or simulcast broadcasts of horse races are authorized.

(D) Except for raffles conducted by the South Carolina Lottery Commission pursuant to Chapter 150, Title 59 or Charitable Bingo authorized by Article 24, Chapter 21, Title 12, the provisions of this

chapter provide the sole means by which activities associated with conducting raffles are authorized. The provisions of this chapter must be narrowly construed to ensure that tax-exempt entities conducting a nonprofit raffle pursuant to this chapter are in strict compliance with the requirements of this chapter.

Section 33-57-110. For purposes of this chapter:

(1) 'Charitable purpose' means religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals within the meaning of Internal Revenue Code Section 170(c)(2)(B). Any interpretation of this statute with respect to charitable purpose shall be guided by the applicable Internal Revenue Code provisions and regulations of the Internal Revenue Service as interpreted by the courts.

(2) 'Adjusted gross receipts' means gross receipts less all cash prizes and the amount paid for merchandise prizes purchased.

(3) 'Member' shall have the same meaning as defined in Chapter 31, Title 33.

(4) 'Nonprofit organization' means an organization recognized by the South Carolina Department of Revenue and the United States Internal Revenue Service as exempt from federal and state income taxation pursuant to Internal Revenue Code Section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d), or is a class, department, or organization of an educational institution, as defined in Chapter 56, Title 33.

(5) 'Nonprofit gaming supplies and equipment' means any material, device, apparatus, or paraphernalia customarily used in the conducting of raffles, including raffle tickets, and other apparatus or paraphernalia used in conducting raffles subject to regulation under this chapter. The term shall not include any material, device, apparatus, or paraphernalia incidental to the raffle, such as pencils, playing cards, or other supplies that may be purchased or leased from normal sources of supply.

(6) 'Fifty-fifty raffle' means a raffle conducted by a nonprofit organization qualified to operate raffles pursuant to Section 33-57-120 and the proceeds collected by the sale of the raffle tickets are split evenly between the prize winner and the nonprofit organization after the raffle drawing.

(7) 'Gross receipts' means all funds collected or received from the conduct of raffles.

(8) 'Net receipts' means adjusted gross receipts less all expenses, charges, fees, and deductions that are authorized under this chapter. Payment of unauthorized expenses, charges, fees, and deductions from the gross receipts is a violation of this chapter.

(9) 'Operate', 'operated', or 'operating' means the conduct, direction, supervision, management, operation, control, or guidance of activity.

(10) 'Person' means an individual, an organization, a trust, a foundation, a group, an association, a partnership, a corporation, a society, any other private entity, or a combination of them, or a manager, agent, servant, officer, or employee thereof.

(11) 'Raffle' means a game of chance in which a participant is required to pay something of value for a ticket for a chance to win a prize, with the winner to be determined by a random drawing or similar process whereby all entries have an equal chance of winning.

(12) 'Secretary' means the Office of the Secretary of State.

(13) 'Ticket' means tangible evidence issued by the nonprofit organization to provide participation in a raffle.

(14) 'Year' means a twelve-month period that is the same as a nonprofit organization's fiscal year.

Section 33-57-120. (A) A nonprofit organization is qualified to conduct raffles in accordance with the provisions of this chapter if the nonprofit organization:

(1) is recognized by the South Carolina Department of Revenue and the United States Internal Revenue Service as exempt from federal and state income taxation pursuant to Internal Revenue Code Section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d), or is a class, department, or organization of an educational institution, as defined in Chapter 56, Title 33;

(2) is organized and operated for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals; and

(3) is registered with the Secretary pursuant to the requirements of Chapter 56, Title 33, unless it is exempt from or not required to follow the registration requirements of Chapter 56, Title 33, or is a governmental unit or educational institution of this State.

(B)(1) The requirement to register with the Secretary for the purpose of operating raffles for charitable purposes shall apply to any and all nonprofit organizations that intend to operate a raffle in this State,

including those organizations that are exempt from or not required to follow the requirements for solicitation of charitable funds pursuant to Chapter 56, Title 33.

(2) An exemption from registration for the purpose of operating raffles is authorized for:

(a) raffles operated by a nonprofit organization for charitable purposes, where a noncash prize is donated for the nonprofit raffle and the total value of the prize or prizes offered for a raffle event is not more than five hundred dollars; and

(b) fifty-fifty raffles where the tickets are sold to members or guests of a nonprofit organization, and not to the general public, and the total value of proceeds collected is not more than nine hundred fifty dollars.

(3) An organization operating a raffle that is within an exemption authorized by the provisions of item (2) shall not operate more than one raffle every seven calendar days.

(C) Nonprofit organizations that comply with the requirements of Section 33-57-120(A) and intend to operate a raffle must submit an annual raffle form with a fee of fifty dollars to the Secretary. Proceeds from the fees shall be retained by the Secretary for enforcement of these provisions. This registration form shall cover all authorized raffles for that nonprofit organization's fiscal year. Registrations for raffles shall expire on the fifteenth day of the fifth month after the end of a nonprofit organization's fiscal year.

(D) The Secretary may revoke a registration issued pursuant to this chapter if an organization is not in compliance with the exemption requirements of the Internal Revenue Code. A registration revoked under this chapter must not be reissued until a new application for registration has been made and the Secretary determines that the organization is in compliance with the applicable provisions of the Internal Revenue Code.

(E) Nonprofit organizations, other organizations, and persons operating raffles for charitable purposes are subject to investigation and other actions by the Secretary and subject to all penalties contained in Chapters 56 and 57, Title 33.

(F) Nonprofit organizations, other organizations, or persons operating raffles or lotteries that violate the provisions of Chapter 19, Title 16, are subject to investigation and other actions by law enforcement.

Section 33-57-130.(A) A nonprofit organization is allowed to operate up to four raffles per year. If a nonprofit organization has

affiliates or subsidiaries that share a federal Employer's Identification Number (EIN) with a parent nonprofit organization, meet the requirements of this chapter, and are registered pursuant to Section 33-57-120(C), then each qualified affiliate or subsidiary, in addition to the raffles conducted by a parent nonprofit organization, may operate and conduct up to four raffles per year. Each nonprofit raffle shall continue for not more than nine months from the date the first raffle ticket is sold. No raffle drawing shall be conducted between the hours of midnight and 10 a.m. Local law enforcement officials are authorized to enforce the hours of operation.

(B) The restriction on numbers of raffles shall not apply to raffles held by nonprofit organizations that are exempt pursuant to Section 33-57-120(B)(2).

Section 33-57-140. (A) Except for fifty-fifty raffles, no less than ninety percent of the net receipts of a raffle authorized pursuant to this chapter must be used for the charitable purpose of the nonprofit organization.

(B) No receipts of a raffle shall be used for any expenditure or activity which would subject an organization exempt from taxation under Internal Revenue Code Section 501(c)(3) or its managers to revocation of its tax-exempt status or excise taxes under the Internal Revenue Code, including directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office or engaging in an excess benefit transaction with a person who would be a disqualified person if the nonprofit organization were exempt from taxation under Internal Revenue Code Section 501(c)(3).

(C) A nonprofit organization shall not enter into a contract with any person to have that person operate raffles on behalf of the nonprofit organization.

(D)(1) A nonprofit organization shall not lend its name nor allow its identity to be used by any person in the operating or advertising of a raffle in which the nonprofit organization is not directly and solely operating the raffle.

(2) No person shall purchase or lease the name of a nonprofit organization for the purpose of conducting a raffle.

(3) Nothing in this section, however, shall prohibit two or more qualified nonprofit organizations from participating together to conduct a raffle.

(E) A nonprofit organization conducting a raffle may advertise the event. An advertisement, in whatever form, for a raffle must name,

within the advertisement, the nonprofit organization sponsoring the event, the charitable purposes for which the net receipts shall be used, and a statement of the proportion of the gross receipts of all raffles conducted by the nonprofit organization in the most recent two years in which the nonprofit organization conducted raffles which were not applied to charitable purposes.

(F)(1) A raffle shall be conducted only by a qualified and authorized nonprofit organization through its directors, bona fide employees, and unpaid volunteers none of whom shall receive compensation for their services in conducting the raffle, except that bona fide employees of a nonprofit organization may receive their regular and ordinary compensation.

(2) Except as otherwise provided in this chapter, no member, director, officer, employee, or agent of a nonprofit organization, a member of the family of any of those persons, or an entity in which a person described in the previous two categories holds a thirty-five percent ownership interest is allowed to receive any direct or indirect economic benefit from the operation of the raffle other than being able to participate in the raffle on a basis equal to all other participants, except that bona fide employees may receive reasonable compensation for services rendered in furthering the charitable purposes of the nonprofit organization from raffle proceeds.

(3) Food and beverages served to and consumed by volunteers or staff of the sponsoring organization during a raffle are not compensation.

(4) Bona fide employees, for purposes of this section, do not include an employee whose compensation is based, in whole or in part, on the amount raised in gross or net receipts from a raffle operated by the nonprofit organization or whose job duties are significantly related to the conduct of raffles.

(G) A nonprofit organization shall not conduct raffles through any agent or third party, and shall not pay anything of value to any person for any services performed in relation to operating or conducting a nonprofit raffle except the usual and regular compensation of bona fide employees. Rental of raffle equipment from a third party and the hiring of a person to operate equipment, so long as the expense is reasonable, are not considered conducting a raffle by a third party.

(H) Noncash prizes shall not be redeemed for money from the nonprofit organization or from any other entity that redeems noncash prizes awarded by raffles for money in the ordinary course of business.

(I) No raffle drawing event shall be held on Christmas Day.

(J) Raffle drawings must be conducted in accordance with local building and fire code regulations.

(K) The provisions of this chapter are not intended and shall not be construed to allow the operation or play of raffles through electronic gambling devices, or machines, slot machines, video poker or similar electronic play devices and do not amend or alter in any manner the prohibitions on video poker or similar electronic play devices in Chapter 21, Title 12 or Chapter 19, Title 16.

(L) An individual prize awarded to each winner in a raffle shall not exceed a maximum fair market value of forty thousand dollars. No real property shall be offered as a prize in a raffle. For each raffle event, the total fair market value of all prizes offered by any nonprofit organization shall not exceed two hundred fifty thousand dollars.

(M) The purchase price for a raffle ticket may not exceed one hundred dollars.

Section 33-57-150. (A) Expenses that are reasonable and necessary to operate and conduct raffles, as authorized by this chapter, are allowable.

(B) Allowable expenses include only reasonable and necessary expenses incurred for:

(1) advertising, including the cost of printing raffle tickets and gift certificates, provided that costs of advertising are reasonable and the services are not provided, directly or indirectly, in connection with any other service related to operating or conducting a nonprofit raffle regardless of whether those services are compensated;

(2) office supplies, copying, and minor office equipment costs incurred in conducting or operating a nonprofit raffle;

(3) reasonable postage, parking, and shipping costs;

(4) costs of food and beverages, including corkage and gratuity fees, provided to the attendees and volunteers of the event;

(5) costs of materials and supplies for decorating a facility used for a nonprofit raffle drawing;

(6) entertainment-related costs, such as disc jockeys, music bands, auctioneers, waiters, bartenders, and wait staff, incurred during the conducting or operating of a nonprofit raffle drawing;

(7) repairs to premises and equipment related to conducting or operating a nonprofit raffle;

(8) door prizes or raffle prizes;

(9) stated premises' rental or insurance expenses;

(10) security expenses incurred in conducting or operating a nonprofit raffle;

(11) bookkeeping, accounting, or legal services utilized in connection with a nonprofit raffle including, but not limited to, the registration fees and the required financial reports;

(12) permit costs, fees, or taxes required by local or state government to conduct and operate a nonprofit raffle; and

(13) janitorial services and supplies incurred in conducting or operating a nonprofit raffle.

(C) A report shall be submitted annually to the Secretary no later than the fifteenth day of the fifth month after the end of the nonprofit organization's fiscal year. The report must be signed under penalty of perjury and must contain the following information for each raffle conducted within the preceding year:

(1) the amount of the gross receipts;

(2) an itemized list of expenses incurred or paid, including the name of each person, company, or governmental entity to whom an expense was paid;

(3) each item of an expenditure made or to be made, with a detailed description of the merchandise purchased or the services rendered, and the name of each person, company, or governmental entity to whom the expenditure is to be made;

(4) the amount of the net receipts;

(5) the use to which the net receipts have been or are to be applied;

(6) a list of prizes offered and given, with an estimate of their respective values; and

(7) the number of tickets sold.

(D) Records required by this chapter shall be preserved for three years, and organizations shall make available their records relating to operations of raffles at any time at the request of a member of the organization, or investigators from the Secretary or from law enforcement.

(E) No new registration shall be issued to an organization that fails to file its report as required by this section until all reports are filed, and the Secretary has confirmed that the information in the reports is in compliance with the provisions of this chapter. An organization that fails to file a timely annual report required by this section may be assessed by the Secretary administrative fines of ten dollars for each day of noncompliance for each delinquent report not to exceed two thousand dollars for each separate violation. In addition to the assessed fines, the Secretary may revoke an organization's registration for failure to file an annual report and bring an action before an

administrative law judge to enjoin the organization from conducting raffles until the required reports are filed with the Secretary.

Section 33-57-160. (A) The Secretary shall perform all functions incident to the administration, collection, enforcement, and operation of the provisions imposed pursuant to this chapter. Upon his own motion or upon complaint of any person, the Secretary may investigate an organization to determine if it has violated the provisions of this chapter or has filed an application, or other information required by this chapter, which contains false or misleading statements. The Secretary may subpoena or audit persons and organizations and require production of books, papers, and other documents to aid in the investigation of alleged violations of this chapter. By registering with the Secretary pursuant to this chapter, each nonprofit organization consents to the Secretary, as well as his agents, including local law enforcement or a circuit solicitor or his agents, entering onto the premises where a nonprofit raffle drawing is being held, for the purpose of enforcing the provisions of this chapter.

(B)(1) In addition to other actions authorized by this chapter and by law, the Secretary, if he has reason to believe that one or more of the following acts or violations listed below has occurred or may occur, may assess a fine of not more than five hundred dollars for each violation that has occurred and bring an action before an administrative law judge to enjoin a person or an organization from continuing the act or violation, or committing other acts in furtherance of it, and for other relief as the court considers appropriate:

(a) a person or organization operated in violation of the provisions of this chapter;

(b) a person or organization made a false statement in any information required to be filed by this chapter;

(c) a person or organization used a device, scheme, or artifice to defraud or to obtain money or property by means of false pretences, representation, or promise during a nonprofit raffle for charitable purposes;

(d) the officers, directors, representatives, or agents of a nonprofit organization refused or failed, after notice, to produce records of the organization; or

(e) the funds raised by the nonprofit raffles were not devoted to or distributed to the charitable purposes of the nonprofit raffle.

(2) Each violation and each day in violation of a provision of this chapter constitutes a separate offense for which an administrative fine may be assessed.

(C) A person or organization that is assessed an administrative fine, has its registration suspended or revoked, or that has its registration denied, has thirty days from receipt of certified notice from the Secretary to pay the fine or request an evidentiary hearing before an administrative law judge. If a person or organization fails to remit fines or request a hearing after the required notice is given and after thirty days from the date of receipt of certified notice has elapsed, the Secretary may suspend its registration pending final resolution and may bring an action before the administrative law judge to enjoin the person or organization from engaging in further nonprofit raffles. The decision of the administrative law judge may be appealed according to the procedures in the Administrative Procedures Act.

Section 33-57-170. (A) A person or organization that knowingly and wilfully conducts a nonprofit raffle without obtaining the necessary registration or qualifying for an exemption is guilty of conducting an illegal lottery and, upon conviction of a first offense, must be fined not more than one thousand dollars or imprisoned not more than one year, or both. For a second or subsequent offense, a person or organization is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than five years, or both.

(B) A person or organization that knowingly and wilfully violates a provision of this chapter with the intent to deceive or defraud an individual or nonprofit organization is guilty of a misdemeanor and, upon conviction of a first offense, must be fined not more than five thousand dollars or imprisoned not more than one year, or both. For a second or subsequent offense, a person or organization is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than five years, or both.

(C) A person or organization that knowingly and wilfully gives false or misleading information to the Secretary in a registration or report required by this chapter is guilty of a misdemeanor and, upon conviction of a first offense, must be fined not more than two thousand dollars or imprisoned not more than one year, or both. For a second or subsequent offense, a person or organization is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both.

(D) Upon the conviction of a member of a nonprofit organization or the conviction of a nonprofit organization for a violation pursuant to this section, all proceeds of the raffle from which the offense arose shall be disgorged to the Secretary. Proceeds disgorged pursuant to

this chapter shall be retained by the Secretary for purposes of enforcement of this chapter.

(E) An organization whose officer or director is convicted of a violation pursuant to this section shall be prohibited from registering to conduct a raffle for a period of no less than five calendar years after the date of the conviction.

Section 33-57-180. All administrative fines collected pursuant to this chapter must be transmitted to the State Treasurer and deposited in the state general fund.

Section 33-57-190. The Secretary of State may promulgate regulations to administer and enforce the provisions of this chapter.

Section 33-57-200. (A) The provisions of this chapter are repealed as of July 1, 2020, unless and until the General Assembly reauthorizes the provisions by joint resolution by a two-thirds vote of each body. The vote on the reauthorization may occur within two years preceding the date of repeal.

(B) The provisions of this chapter are repealed every ten years thereafter, unless reauthorized in accordance with subsection (A).”

Unrelated to Catawba settlement

SECTION 2. Nothing in the provisions of this act, including the allowance of persons to operate casino nights for entertainment purposes when no prizes, financial rewards, or incentives are received by players, shall alter or amend the terms of “The Catawba Indian Claims Settlement Agreement” or “The Catawba Indian Claims Settlement Act”, as referenced in S.C. Code Ann. Sections 27-16-10 through 27-16-140 (2010) and in 25 U.S.C. Sections 941 through 941n (2010), or the holding of the South Carolina Supreme Court in *Catawba Indian Tribe of South Carolina v. State of South Carolina*, 372 S.C. 519, 642 S.E.2d 751 (2007).

Actions saved

SECTION 3. This act shall apply prospectively. The repeal or amendment by the provisions of this act or any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the

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

Severability

SECTION 4. If any section, subsection, item, subitem, 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, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, items, subitems, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective, unless the provision prohibiting the altering or amending of the terms of "The Catawba Indian Claims Settlement Act" is held invalid or unconstitutional, so as to allow casino games in South Carolina by an Indian Tribe or any other group of individuals. The invalidity of that provision shall affect all other provisions or applications of this act, and to that end, the provisions of this act are nonseverable from that provision.

Time effective

SECTION 5. The provisions of this act become effective thirty days after ratification of an amendment to Section 7, Article XVII of the Constitution of this State allowing its terms as proposed to the qualified electors of this State at the 2014 General Election.

Ratified the 18th day of April, 2013.

Approved the 23rd day of April, 2013.

No. 12

(R18, S374)

AN ACT TO AMEND SECTION 30-5-10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PERFORMANCE OF THE DUTIES OF THE REGISTER OF DEEDS, SO AS TO ADD CHEROKEE COUNTY TO THOSE COUNTIES EXEMPT FROM THE REQUIREMENT THAT THOSE DUTIES BE PERFORMED BY THE CLERK OF COURT; AND TO AMEND SECTION 30-5-12, AS AMENDED, RELATING TO THE APPOINTMENT OF THE REGISTER OF DEEDS FOR CERTAIN COUNTIES, SO AS TO ADD CHEROKEE COUNTY TO THOSE COUNTIES WHERE THE GOVERNING BODY OF THE COUNTY SHALL APPOINT THE REGISTER OF DEEDS.

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

County clerks of court exempt from register of deeds duties, Cherokee County added

SECTION 1. Section 30-5-10(A) of the 1976 Code, as last amended by Act 127 of 2010, is further amended to read:

“(A)In every county in the State other than Aiken, Anderson, Beaufort, Berkeley, Charleston, Cherokee, Chesterfield, Clarendon, Colleton, Dorchester, Georgetown, Greenville, Horry, Jasper, Kershaw, Lancaster, Lexington, Oconee, Orangeburg, Pickens, Richland, Spartanburg, and Sumter the duties prescribed by law for the register of deeds must be performed by the clerk of court who has all the powers and emoluments given the register of deeds in Aiken, Anderson, Beaufort, Berkeley, Charleston, Cherokee, Chesterfield, Clarendon, Colleton, Dorchester, Georgetown, Greenville, Horry, Jasper, Kershaw, Lancaster, Lexington, Oconee, Orangeburg, Pickens, Richland, Spartanburg, and Sumter counties.”

County governing bodies required to appoint register of deeds, Cherokee County added

SECTION 2. Section 30-5-12(A) of the 1976 Code, as last amended by Act 127 of 2010, is further amended to read:

“(A)The governing bodies of Anderson, Beaufort, Cherokee, Chesterfield, Clarendon, Colleton, Georgetown, Horry, Jasper, Kershaw, Lancaster, Oconee, Orangeburg, and Pickens counties shall appoint the register of deeds for its county under terms and conditions as it may agree upon.”

Time effective

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

Ratified the 18th day of April, 2013.

Approved the 23rd day of April, 2013.

No. 13

(R19, S578)

AN ACT TO AMEND VARIOUS PROVISIONS OF CHAPTER 41, TITLE 11, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE GENERAL OBLIGATION ECONOMIC DEVELOPMENT BOND ACT, SO AS TO PROVIDE FOR THE ISSUANCE OF GENERAL OBLIGATION DEBT TO SUPPORT AN ENHANCED ECONOMIC DEVELOPMENT PROJECT, TO MAKE FINDINGS THAT THE ISSUANCE OF THE BONDED INDEBTEDNESS SUPPORTS A PUBLIC PURPOSE AND IS IN THE BEST INTEREST OF THE STATE, TO PROVIDE QUALIFYING INVESTMENT AND JOB CREATION CRITERIA, AND TO PROVIDE FOR THE TERMS, CONDITIONS, AND REQUIREMENTS FOR THE ISSUANCE OF THE BONDED INDEBTEDNESS.

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

Findings

SECTION 1. The General Assembly hereby finds, as a fact, that the construction of infrastructure, as defined in, and subject to the terms and conditions of, the State General Obligation Economic

Development Bond Act, for use by private parties enhances the recruitment of businesses to the State and the expansion of businesses within the State, facilitates the operation and growth of businesses in the State, and thereby provides significant and substantial direct and indirect benefits to the State and its residents, including employment and other opportunities; that such benefits outweigh the costs of such infrastructure; that for such reasons it is in the best interest of the State to authorize the issuance of economic development bonds as defined in, and subject to the terms and conditions of, the State General Obligation Economic Development Bond Act; and that such economic development bonds, issued for such purpose, serve a public purpose in fostering economic development and increasing employment in the State. The General Assembly further finds, as a fact, that the primary beneficiaries of the issuance of such economic development bonds and the construction of such infrastructure are the State of South Carolina and its residents.

Additional findings

SECTION 2. Section 11-41-20 of the 1976 Code is amended to read:

“Section 11-41-20. As incident to this chapter, the General Assembly finds:

(1) That by Section 4, Act 10 of 1985, the General Assembly ratified an amendment to Section 13(6)(c), Article X, of the Constitution of this State, 1895. One amendment in Section 13(6)(c), Article X limits the issuance of general obligation debt of the State such that maximum annual debt service on all general obligation bonds of the State, excluding highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes, must not exceed five percent of the general revenues of the State for the fiscal year next preceding, excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds.

(2) That Section 13(6)(c), Article X, further provides that the percentage rate of general revenues of the State by which general obligation bond debt service is limited may be reduced to four or increased to seven percent by legislative enactment passed by a two-thirds vote of the total membership of the Senate and a two-thirds vote of the total membership of the House of Representatives.

(3) That pursuant to Section 13(6)(c), Article X, the General Assembly, in Act 254 of 2002 and Act 187 of 2004, increased to five and one-half percent the percentage rate of the general revenues of the

State by which general obligation bond debt service is limited with the additional debt service capacity available at any time as a consequence of the increase available only for the repayment of general obligation bonds issued to provide infrastructure required for significant economic development projects within the State, including those related to the life sciences industry that create high-paying jobs and meet certain investment criteria.

(4) That pursuant to Section 13(6)(c), Article X, the General Assembly, in Act 187 of 2004, increased to six percent the percentage rate of the general revenues of the State by which general obligation bond debt service is limited with the additional debt service capacity available at any time as a consequence of the increase available only for the repayment of general obligation bonds issued to advance economic development and to facilitate and increase research within the State at the research universities.

(5) That Section 13(6)(c), Article X, provides that if general obligation debt be authorized by two-thirds of the members of each House of the General Assembly, then there shall be no conditions or restrictions limiting the incurring of such indebtedness except those restrictions and limitations imposed in the authorization to incur such indebtedness, and the provisions of Article X, Section 13(3).

(6) That Section 13(6)(c), Article X, provides additional constitutional authority for bonds authorized by this chapter.

(7) In order to continue fostering economic development within the State as set out in subsections (3) and (4), it is in the best interest of the State that the General Assembly authorize an additional amount of general obligation debt pursuant to Section 13(5), Article X, with such indebtedness limited to a principal amount of general obligation debt not exceeding one hundred seventy million dollars at any time, provided that no more than a total of one hundred seventy million dollars of proceeds may be used for any one project regardless of available capacity.

(8) That in order to support significant economic development projects in this State which will satisfy the investment and new jobs creation criteria set forth in Section 11-41-30(2)(a)(ii), the General Assembly finds that sufficient debt service capacity exists below the original five percent threshold established by Section 13(6)(c), Article X, to allow the issuance of general obligation debt, with such indebtedness limited to a principal amount of general obligation debt not to exceed one hundred twenty million dollars, and that the authorization of this general obligation debt supports a public purpose and is in the best interest of the State.”

Definitions

SECTION 3. Section 11-41-30(2)(a) of the 1976 Code is amended to read:

“(a)(i) ‘Economic development project’ or ‘project’ means either (A) a project in this State as defined in Section 12-44-30(16) in which a total of at least four hundred million dollars is invested in the project by the sponsor and at least four hundred new jobs are created at the project by the sponsor, or (B) an expansion of an existing economic development project for which economic development bonds have previously been issued, if in connection with the expansion, in addition to and not including the investment made and new jobs created in connection with the existing project for which economic development bonds have previously been issued, a total of at least four hundred million dollars is invested in the project by the sponsor and at least four hundred new jobs are created at the project by the sponsor.

(ii) ‘Enhanced economic development project’ or ‘enhanced project’ means an economic development project for which the sponsor satisfies the jobs and investment criteria set forth in subsubitem (i), and, further, (A) the total investment in the project by the sponsor is not less than 1.1 billion dollars and (B) the total number of new jobs created at the project is not less than two thousand. Subject to the satisfaction of the additional criteria set forth in this paragraph and further subject to Sections 11-41-50(C), 11-41-60, and 11-41-70, an enhanced project constitutes an economic development project for purposes of this chapter.”

Definitions

SECTION 4. Section 11-41-30(2)(c) of the 1976 Code is amended to read:

“(2)(c) To qualify as an economic development project defined in subitems (a) and (b) above for purposes of this chapter, the applicable investment and job creation requirements must be attained no later than the eighth year after the project first begins operations.”

Issuance

SECTION 5. Section 11-41-40 of the 1976 Code is amended to read:

“Section 11-41-40. To obtain funds for allocation to the department or to the State or agency, instrumentality, or political subdivision, as the case may be, for financing of infrastructure, there are issued from time to time state general obligation economic development bonds under the conditions prescribed by this chapter. Subject to Section 11-41-90(6), bonds for an economic development project may be issued in one or more series, pursuant to one or more notifications required by Section 11-41-70.”

Bonds authorized

SECTION 6. Section 11-41-50 of the 1976 Code is amended to read:

“Section 11-41-50. (A) Pursuant to Section 13(6)(c), Article X of the Constitution of this State, 1895, the General Assembly provides that economic development bonds may be issued pursuant to this subsection at such times as the maximum annual debt service on all general obligation bonds of the State, including economic development bonds outstanding and being issued pursuant to this subsection or pursuant to Section 11-41-50(C), but excluding economic development bonds issued pursuant to Section 11-41-50(B), research university infrastructure bonds pursuant to Chapter 51 of this title, highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes, will not exceed five and one-half percent of the general revenues of the State for the fiscal year next preceding, excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds. The State at any time may not issue general obligation bonds, excluding economic development bonds issued pursuant to this chapter, but not excluding economic development bonds issued pursuant to Section 11-41-50(C), research university infrastructure bonds issued pursuant to Chapter 51 of this title, highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes, if at the time of issuance the maximum annual debt service on all such general obligation bonds, outstanding and being issued exceeds five percent of the general revenues of the State for the fiscal year next preceding, excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds.

(B) In addition to and exclusive of the economic development bonds provided for and issued pursuant to subsection (A), the General Assembly provides that pursuant to Section 13(5), Article X, (i)

additional economic development bonds may be issued under this chapter in an aggregate principal amount that does not exceed one hundred seventy million dollars, and (ii) in addition to the authorization contained in the preceding item, additional economic development bonds may be issued provided that the aggregate principal amount of economic development bonds then outstanding under items (i) and (ii), together with the economic development bonds to be issued pursuant to this item (ii), does not at any time exceed the principal amount specified in item (i). From the proceeds of the economic development bonds authorized pursuant to this subsection, no more than a total of one hundred seventy million dollars of proceeds may be used for any one project regardless of available capacity.

(C) In addition to and exclusive of the economic development bonds provided for and issued pursuant to subsections (A) and (B) of this section, the General Assembly provides that pursuant to Section 13(6)(c), Article X, economic development bonds may be issued under this chapter in an aggregate principal amount that does not exceed one hundred twenty million dollars to support enhanced projects.”

Debt service limit

SECTION 7. Section 11-41-60 of the 1976 Code is amended to read:

“Section 11-41-60. The maximum annual debt service on bonds issued pursuant to Section 11-41-50(A) must not exceed one-half of one percent of the general revenues for the fiscal year next preceding, excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds. Bonds issued pursuant to Section 11-41-50(B) shall not be subject to the limitation on maximum annual debt service prescribed by Section 13(6)(c), Article X. The maximum annual debt service on bonds issued pursuant to Section 11-41-50(C), when combined with the debt service on all other general obligation bonds issued under the five percent limitation established in Section 13(6)(c), Article X, which limitation does not include bonds issued pursuant to subsection (A) or subsection (B) of Section 11-41-50, research university infrastructure bonds issued pursuant to Chapter 51 of this title, highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes, must not exceed five percent of the general revenues of the fiscal year next preceding, excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds.”

Notification

SECTION 8. Section 11-41-70(2)(a) of the 1976 Code is amended to read:

“(a)(i) in the case of an economic development project as defined in Section 11-41-30(2)(a)(i), an investment by the sponsor at the project of not less than four hundred million dollars and creation by the sponsor at the project of no fewer than four hundred new jobs, or, (ii) in the case of an enhanced economic development project defined in Section 11-41-30(2)(a)(ii), an investment by the sponsor at the project of not less than four hundred million dollars, and the creation at the project of no fewer than four hundred new jobs by the sponsor, and, further, (A) the total investment at the project by the sponsor is not less than 1.1 billion dollars and (B) the total number of new jobs created at the project is not less than two thousand; or”

Authorizing resolution

SECTION 9. Section 11-41-90 of the 1976 Code is amended to read:

“Section 11-41-90. To effect the issuance of bonds, the State Budget and Control Board shall adopt a resolution providing for the issuance of bonds pursuant to the provisions of this chapter. The authorizing resolution must include:

(1) a statement of whether the bonds are being authorized and issued pursuant to Section 11-41-50(A), Section 11-41-50(B), or Section 11-41-50(C);

(2) a schedule showing the aggregate of bonds issued, the annual principal payments required to retire the bonds, and the interest on the bonds;

(3) the amount of bonds proposed to be issued;

(4) a schedule showing future annual principal requirements and estimated annual interest requirements on the bonds to be issued;

(5) certificates evidencing that the provisions of Sections 11-41-50 and 11-41-60 have been or will be met; and

(6) a statement that the resolution required by this section for the issuance of bonds pursuant to this chapter is adopted not later than eighteen months after the date of the first notification to the Joint Bond Review Committee and the State Budget and Control Board with respect to such economic development project pursuant to Section 11-41-70.”

One subject

SECTION 10. The General Assembly finds that the sections presented in this act constitute one subject as required by Section 17, Article III, in particular finding that each change and each topic relates directly to or in conjunction with other sections to the subject of major economic development opportunities in this State 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.

Severability

SECTION 11. If any section, subsection, item, subitem, 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, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, items, subitems, 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.

Ratified the 18th day of April, 2013.

Approved the 23rd day of April, 2013.

No. 14

(R20, H3047)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-5-581 SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON TO GIG FOR FLOUNDER IN SALT WATERS DURING DAYLIGHT HOURS, TO DEFINE THE TERM “DAYLIGHT HOURS”, TO PROVIDE A PENALTY, AND TO PROVIDE THAT GIGGING DOES NOT INCLUDE UNDERWATER SPEAR FISHING.

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

Unlawful gigging for flounder

SECTION 1. Article 5, Chapter 5, Title 50 of the 1976 Code is amended by adding:

“Section 50-5-581. It is unlawful for a person to gig for flounder in the salt waters of this State during daylight hours. For the purposes of this section, ‘daylight hours’ means that period of time between official sunrise and official sunset. Any person violating the provisions of this section, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days. For the purposes of this section, gigging does not include underwater spear fishing.”

Time effective

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

Ratified the 18th day of April, 2013.

Approved the 23rd day of April, 2013.

No. 15

(R21, H3248)

AN ACT TO AMEND SECTION 16-13-510, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FINANCIAL IDENTITY FRAUD, SO AS TO BROADEN THE SCOPE OF FINANCIAL IDENTITY FRAUD AND REVISE THE DEFINITION OF "PERSONAL IDENTIFYING INFORMATION", TO DEFINE THE TERM "FINANCIAL RESOURCES", TO PROVIDE VENUE FOR PROSECUTION OF AN IDENTITY FRAUD OFFENSE, AND TO ADD CONFORMING LANGUAGE CONTAINED IN FINANCIAL TRANSACTION CARD CRIME TO PROVIDE THAT IT IS NOT A DEFENSE WHEN SOME OF THE ACTS OF THE CRIME DID NOT OCCUR IN THIS STATE OR WITHIN A CITY, COUNTY, OR LOCAL JURISDICTION; TO AMEND SECTION 37-20-130, RELATING TO THE INITIATION OF A LAW ENFORCEMENT INVESTIGATION OF IDENTITY THEFT, SO AS TO DELETE THE LANGUAGE ALLOWING REFERRAL OF THE MATTER TO THE LAW ENFORCEMENT AGENCY WHERE THE CRIME WAS COMMITTED FOR INVESTIGATION; AND TO AMEND SECTION 39-1-90, RELATING TO BREACH OF CERTAIN SECURITY AND BUSINESS DATA AND NOTICE TO THE CONSUMER PROTECTION DIVISION, SO AS TO REVISE THE DEFINITION OF "PERSONAL IDENTIFYING INFORMATION".

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

Financial identify fraud, offense revised

SECTION 1. Section 16-13-510 of the 1976 Code, as last amended by Act 190 of 2008, is further amended to read:

"Section 16-13-510. (A) It is unlawful for a person to commit the offense of financial identity fraud or identity fraud.

(B) A person is guilty of financial identity fraud when the person, without the authorization or permission of another individual, and with the intent of unlawfully:

(1) appropriating the financial resources of the other individual to the person's own use or the use of a third party;

(2) devising a scheme or artifice to defraud; or

(3) obtaining money, property, or services by means of false or fraudulent pretenses, representations, or promises obtains or records identifying information which would assist in accessing the financial records of the other individual or accesses or attempts to access the financial resources of the other individual through the use of identifying information as defined in subsection (D).

(C) A person is guilty of identity fraud when the person uses identifying information, as defined in subsection (D), of another individual for the purpose of obtaining employment or avoiding identification by a law enforcement officer, criminal justice agency, or another governmental agency, including, but not limited to, law enforcement, detention, and correctional agencies or facilities.

(D) 'Personal identifying information' includes, but is not limited to:

(1) social security numbers;

(2) driver's license numbers or state identification card numbers issued instead of a driver's license;

(3) checking account numbers;

(4) savings account numbers;

(5) credit card numbers;

(6) debit card numbers;

(7) personal identification (PIN) numbers;

(8) electronic identification numbers;

(9) digital signatures;

(10) dates of birth;

(11) current or former names, including first and last names, middle and last names, or first, middle, and last names, but only when the names are used in combination with, and linked to, other identifying information provided in this section;

(12) current or former addresses, but only when the addresses are used in combination with, and linked to, other identifying information provided in this section; or

(13) other numbers, passwords, or information which may be used to access a person's financial resources, numbers, or information issued by a governmental or regulatory entity that uniquely will identify an individual or an individual's financial resources.

(E) 'Financial resources' includes:

(1) existing money and financial wealth contained in a checking account, savings account, line of credit, or otherwise;

(2) a pension plan, retirement fund, annuity, or other fund which makes payments monthly or periodically to the recipient; and

(3) the establishment of a line of credit or an amount of debt whether by loan, credit card, or otherwise for the purpose of obtaining goods, services, or money.

(F) A person who violates this section is guilty of a felony, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. The court may order restitution to the victim pursuant to the provisions of Section 17-25-322.

(G) Venue for the prosecution of offenses pursuant to this section is in the county in which:

(1) the victim resided at the time the information was obtained or used; or

(2) the information is obtained or used.

(H) In a prosecution for a violation of this section, the State is not required to establish and it is not a defense that some of the acts constituting the crime did not occur in this State or within one city, county, or local jurisdiction.”

Identity theft investigations

SECTION 2. Section 37-20-130 of the 1976 Code, as added by Act 190 of 2008, is amended to read:

“Section 37-20-130. A person who learns or reasonably suspects that the person is the victim of identity theft may initiate a law enforcement investigation by reporting to a local law enforcement agency that has jurisdiction over the person’s actual legal residence. The law enforcement agency shall take the report, provide the complainant with a copy of the report, and begin an investigation.”

Breach of security and business data, definition revised

SECTION 3. Section 39-1-90(D) of the 1976 Code, as added by Act 190 of 2008, is amended to read:

“(D) For purposes of this section:

(1) ‘Breach of the security of the system’ means unauthorized access to and acquisition of computerized data that was not rendered unusable through encryption, redaction, or other methods that compromises the security, confidentiality, or integrity of personal

identifying information maintained by the person, when illegal use of the information has occurred or is reasonably likely to occur or use of the information creates a material risk of harm to a resident. Good faith acquisition of personal identifying information by an employee or agent of the person for the purposes of its business is not a breach of the security of the system if the personal identifying information is not used or subject to further unauthorized disclosure.

(2) 'Person' has the same meaning as in Section 37-20-110(10).

(3) 'Personal identifying information' means the first name or first initial and last name in combination with and linked to any one or more of the following data elements that relate to a resident of this State, when the data elements are neither encrypted nor redacted:

(a) social security number;

(b) driver's license number or state identification card number issued instead of a driver's license;

(c) financial account number, or credit card or debit card number in combination with any required security code, access code, or password that would permit access to a resident's financial account; or

(d) other numbers or information which may be used to access a person's financial accounts or numbers or information issued by a governmental or regulatory entity that uniquely will identify an individual.

The term does not include information that is lawfully obtained from publicly available information, or from federal, state, or local governmental records lawfully made available to the general public."

Savings clause

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

Time effective

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

Ratified the 18th day of April, 2013.

Approved the 23rd day of April, 2013.

No. 16

(R23, H3571)

**AN ACT TO AMEND SECTION 50-13-665, AS AMENDED,
CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING
TO BAIT THAT MAY BE USED WITH TROTTLINES, SET
HOOKS, AND JUGS, SO AS TO REVISE THE SIZE OF HOOKS
THAT MAY BE USED TO FISH ALONG CERTAIN RIVERS.**

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

Hooks used to fish along certain rivers

SECTION 1. Section 50-13-665 of the 1976 Code, as last amended by Act 114 of 2012, is further amended to read:

“Section 50-13-665. (A) Except as provided in subsections (B) and (C), and the bait listed below, no other bait may be used with trotlines, set hooks, and jugs:

- (1) soap;
- (2) dough balls;
- (3) nongame fish or bream cut into two or more equal parts;
- (4) shrimp;
- (5) meat scraps which may not include insects, worms, or other invertebrates;
- (6) grapes.

(B) Notwithstanding another provision of law, on the Black, Edisto, Great Pee Dee (including the navigable oxbows and sloughs), Little Pee Dee (including the navigable oxbows and sloughs), Lumber, Lynches (including Clarks, Mill, and Muddy Creeks), Sampit, and Waccamaw Rivers, live nongame fish and live bream may be used with

single-barbed set hooks that have a shank-to-point gap of fifteen-sixteenths inches or greater. However, it is unlawful for a person to have in possession more than the lawful creel limit of bream while fishing with nongame devices on these rivers.

(C) Live nongame fish and live bream may be used on a trotline having not more than twenty hooks that have a shank-to-point gap of fifteen-sixteenths inches or greater on the Black, Great Pee Dee (including the navigable oxbows and sloughs), Little Pee Dee (including the navigable oxbows and sloughs), Lumber, Lynches (including Clarks, Mill, and Muddy Creeks) and Waccamaw Rivers. However, it is unlawful for a person to have in possession more than the lawful creel limit of bream while fishing with nongame devices on these rivers.

(D) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than thirty days.”

Time effective

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

Ratified the 18th day of April, 2013.

Approved the 23rd day of April, 2013.

No. 17

(R24, H3579)

AN ACT TO AMEND SECTION 50-13-325, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TAKING OF NONGAME FISH IN GILL NETS, SO AS TO REDUCE THE MINIMUM DISTANCE REQUIRED BETWEEN NETS PLACED ON THE LITTLE PEE DEE RIVER UPSTREAM OF PUNCH BOWL LANDING.

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

Taking of nongame fish in gill nets

SECTION 1. Section 50-13-325 of the 1976 Code, as last amended by Act 114 of 2012, is further amended to read:

“Section 50-13-325. (A) The season for taking nongame fish other than American shad and herring in the freshwaters of this State with a gill net is from November first to March first inclusive. A gill net may be used or possessed in the freshwaters in which their use is authorized on Wednesdays, Thursdays, Fridays, and Saturdays only. A gill net used in the freshwaters must have a mesh size not less than four and one-half inches stretch mesh. A gill net measuring more than one hundred yards in length must not be used in the freshwaters and a gill net, cable, line or other device used for support of a gill net may not extend more than halfway across any stream or body of water. A gill net may be placed in the freshwaters on a first come first served basis but a gill net must not be placed within two hundred yards of another gill net. However, notwithstanding another provision of law, along the Little Pee Dee River upstream of Punch Bowl Landing, no net may be set within seventy-five feet of a gill net previously set, drifted within seventy-five feet of another drifting net, or placed or set within seventy-five feet of the confluence of a tributary. Use or possession of a gill net at any place or time other than those prescribed in this subsection is unlawful.

(B) Nongame fish taken in shad nets lawfully fished during the open season for taking shad may be kept. A sturgeon caught must be returned immediately to the waters from where it was taken.”

Time effective

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

Ratified the 18th day of April, 2013.

Approved the 23rd day of April, 2013.

No. 18

(R26, H3620)

AN ACT TO AMEND SECTION 38-90-160, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE EXEMPTION OF CAPTIVE INSURANCE COMPANIES FROM CERTAIN PROVISIONS OF TITLE 38, SO AS TO PROVIDE AN INDUSTRIAL INSURED CAPTIVE INSURANCE COMPANY IS SUBJECT TO CERTAIN REQUIREMENTS CONCERNING REPORTS FOR RISK-BASED CAPITAL, ACQUISITIONS DISCLOSURE, AND ASSET DISPOSITION, AND CEDED REINSURANCE AGREEMENTS, AND TO PROVIDE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE MAY ELECT NOT TO TAKE REGULATORY ACTION CONCERNING RISK-BASED CAPITAL IN SPECIFIC CIRCUMSTANCES.

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

Captive insurance company reporting requirements, regulations on risk-based capital limited

SECTION 1. Section 38-90-160 of the 1976 Code, as last amended by Act 217 of 2010, is further amended to read:

“Section 38-90-160. (A) No provisions of this title, other than those contained in this chapter or contained in specific references contained in this chapter and regulations applicable to them, apply to captive insurance companies.

(B) The director may exempt, by rule, regulation, or order, special purpose captive insurance companies, on a case by case basis, from provisions of this chapter that he determines to be inappropriate given the nature of the risks to be insured.

(C) The provisions of Sections 38-5-120(A)(3), 38-5-120(C), 38-5-120(D), 38-9-225, 38-9-230, 38-21-10, 38-21-30, 38-21-60, 38-21-70, 38-21-90, 38-21-95, 38-21-120, 38-21-130, 38-21-140, 38-21-150, 38-21-160, 38-21-170, 38-21-250, 38-21-270, 38-21-280, 38-21-310, 38-21-320, 38-21-330, 38-21-360, 38-55-75 and Chapters 44 and 46, Title 38 apply in full to a risk retention group licensed as an industrial insured captive insurance company and, if a conflict occurs between those code sections and chapters referenced in this subsection

and this chapter (Chapter 90, Title 38), then the code sections and chapters referenced in this subsection control.

(D) Except as provided elsewhere in this chapter, the provisions of Chapter 87, Title 38 apply to a risk retention group licensed as an industrial insured captive insurance company.

(E)(1) Except for Section 38-9-330(F) and Section 38-9-440, the provisions of Article 3 and Article 5, Chapter 9, Title 38 apply in full to a risk retention group licensed as an industrial insured captive insurance company, and if a conflict occurs between those provisions and this chapter, the provisions of this subsection control.

(2) The director may elect not to take regulatory action as otherwise required by Sections 38-9-330, 38-9-340, 38-9-350, and 38-9-360 if any of the following conditions exist:

(a) the director establishes that the risk retention group's members, sponsoring organizations, or both, are well-capitalized entities whose financial condition and support for the risk retention group is adequately documented. In making this determination, the director shall, at a minimum, require the filing of at least three years of historical, audited financial statements of the members, sponsor, or both, to assess the financial ability of the members', sponsor's, or both, support of the risk retention group. In addition, one year of projected financial information must be reviewed if available. The members, sponsor, or both, shall have:

(i) an investment grade rating from a nationally recognized statistical rating organization or A.M. Best rating of A- or better; or

(ii) equity equal to or greater than one hundred million dollars or equity equal to or greater than ten times the risk retention group's largest net retained per occurrence limit;

(b) each policyholder qualifies as an industrial insured in their state or this State, depending on which has the greater requirements, provided that if the policyholder's home state does not have an industrial insured exemption or equivalent, the policyholder must qualify under the industrial insured requirement of this State; or

(c) the risk retention group's certificate of authority date of issue was before January 1, 2011, and, based on a minimum five-year history of successful operations, is specifically exempted, in writing, from the requirements for mandatory risk-based capital action by the director."

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, 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, except the provisions of SECTION 1 are effective on January 1, 2014.

Ratified the 18th day of April, 2013.

Approved the 23rd day of April, 2013.

No. 19

(R27, H3621)

AN ACT TO AMEND SECTION 38-5-120, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REVOCATION OR SUSPENSION OF A CERTIFICATE OF AUTHORITY TO TRANSACT BUSINESS IN THIS STATE BY AN INSURER, SO AS TO REVISE PROVISIONS CONCERNING HAZARDOUS INSURERS.

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

Revocation or suspension of certificate of authority, requirements revised

SECTION 1. Section 38-5-120 of the 1976 Code, as last amended by Act 27 of 2009, is further amended to read:

“Section 38-5-120. (A) The director or his designee shall revoke or suspend certificates of authority granted to an insurer and its officers and agents if he is of the opinion upon examination or other evidence that one or more of the following exist:

(1) The insurer is in an unsound condition.

(2) The insurer has not complied with the law or with the provisions of its charter.

(3) The officers or agents of an insurer refuse to submit to examination or to perform a legal obligation relative to an examination.

(4) The insurer has not complied with a lawful order of the director or his designee.

(5) The condition of the insurer renders the continuance of its business hazardous to the general public, its creditors, or its policyholders. The director or his designee may consider one or more of the following standards to determine whether the continued operation of an insurer transacting insurance business in this State is hazardous to the general public, its creditors, or its policyholders:

(a) adverse findings reported in financial condition and market conduct examination reports, audit reports, and actuarial opinions, reports, or summaries;

(b) the National Association of Insurance Commissioners Insurance Regulatory Information System and its other financial analysis solvency tools and reports;

(c) whether the insurer has made adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the insurer, when considered in light of the assets held by the insurer with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts;

(d) whether the ability of an assuming reinsurer to perform and the reinsurance program of the insurer provides sufficient protection for the remaining surplus of the insurer after taking into account the cash flow of the insurer, the classes of business written, and the financial condition of the assuming reinsurer;

(e) whether the operating loss of the insurer in the immediately preceding twelve month period or less is greater than fifty percent of the remaining surplus of the insurer regarding policyholders in excess of the minimum required, provided that for the purposes of this section, the operating loss of an insurer includes, but is not limited

to, net capital gain or loss, change in nonadmitted assets, and cash dividends paid to shareholders;

(f) whether the operating loss, excluding net capital gains, of the insurer in the immediately preceding twelve month period or less is greater than twenty percent of the remaining surplus of the insurer regarding policyholders in excess of the minimum required;

(g) whether a reinsurer, obligor, or any entity within the insurance holding company system of the insurer is insolvent, threatened with insolvency, or delinquent in payment of its monetary or other obligations, and which in the opinion of the director or his designee may affect the solvency of the insurer;

(h) contingent liabilities, pledges, or guaranties which individually or collectively involve a total amount which in the opinion of the director or his designee may affect the solvency of the insurer;

(i) whether a controlling person of an insurer is delinquent in the transmitting to or payment of net premiums to the insurer;

(j) the age and collectability of receivables;

(k) whether the management of an insurer, including officers, directors, or other people who directly or indirectly control the operation of the insurer, fails to possess and demonstrate the competence, fitness, and reputation necessary to serve the insurer in that position;

(l) whether management of an insurer has failed to respond to inquiries relative to the condition of the insurer or has furnished false and misleading information concerning an inquiry;

(m) whether management of an insurer has filed a false or misleading sworn financial statement, released a false or misleading financial statement to lending institutions or to the general public, made a false or misleading entry, or omitted an entry of a material amount in the books of the insurer;

(n) whether the insurer has failed to meet financial and holding company filing requirements in the absence of a reason satisfactory to the director or his designee;

(o) whether the insurer has grown so rapidly and to an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner;

(p) whether the insurer has experienced or will experience in the foreseeable future cash flow or liquidity problems;

(q) whether management has established reserves that do not comply with minimum standards established by state insurance laws, regulations, statutory accounting standards, sound actuarial principles, and standards of practice;

(r) whether management persistently engages in material under reserving that results in adverse development;

(s) whether transactions among affiliates, subsidiaries, or controlling persons for which the insurer receives assets or capital gains, or both, do not provide sufficient value, liquidity, or diversity to assure the ability of the insurer to meet its outstanding obligations as they mature; and

(t) any other finding determined by the director or his designee to be hazardous to the insurer's policyholders, creditors, or general public.

(B) For the purposes of making a determination of the financial condition of an insurer under this section, the director or his designee may:

(1) disregard any credit or amount receivable resulting from transactions with a reinsurer that is insolvent, impaired, or otherwise subject to a delinquency proceeding;

(2) make appropriate adjustments including disallowance to asset values attributable to investments in or transactions with parents, subsidiaries, or affiliates consistent with the NAIC Accounting Policies and Procedures Manual, state laws, and state regulations;

(3) refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor; or

(4) increase the liability of the insurer in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken within the next twelve month period.

(C) The department must publish notice of revocation and suspension in a newspaper of general circulation in this State. The insurer and its agents may not conduct any new business in this State while the default or disability continues and until the director or his designee restore the authority of the insurer to transact business in this State.

(D)(1) The insurer may request a hearing on an order or a decision made by the director or his designee pursuant to the provisions of this title. The insurer or other parties must be served with notice of the hearing stating the time and place of the hearing and the grounds upon which the director based the order; the hearing must occur not less than ten days nor more than thirty days following the notice and must be conducted at the offices of the South Carolina Department of Insurance unless otherwise designated by the director. The director or his designee shall hold all hearings in private unless the insurer requests a

public hearing. After a hearing by the director or his designee, an order or a decision made, issued, or executed by the director or his designee is subject to review in accordance with Section 38-3-210 under the appellate procedures of the South Carolina Administrative Law Court, as provided by law.

(2) Notwithstanding the provisions of subsection (A), if the director or his designee determines that an insurer is in an unsound condition or in a hazardous condition as provided in subsection (A)(1) or (A)(5), he may issue an order requiring the insurer to:

(a) reduce the total amount of present and potential liability for policy benefits by reinsurance;

(b) reduce, suspend, or limit the volume of business being accepted or renewed;

(c) reduce general insurance and commission expenses by specified methods;

(d) increase the insurer's capital and surplus;

(e) suspend or limit the declaration and payment of dividends by an insurer to its stockholders or to its policyholders;

(f) file reports in a form acceptable to the director or his designee concerning the market value of an insurer's assets;

(g) limit or withdraw from certain investments or discontinue certain investment practices to the extent the director or his designee considers necessary;

(h) document the adequacy of premium rates in relation to the risks insured;

(i) file, in addition to regular annual statements, interim financial reports on the form adopted by the National Association of Insurance Commissioners or in a format approved by the director or his designee;

(j) correct corporate governance practice deficiencies, and adopt and utilize governance practices acceptable to the director or his designee;

(k) provide a business plan to the director or his designee in order to continue to transact business in the State; or

(l) adjust rates for any nonlife insurance product written by the insurer that the director or his designee considers necessary to improve the financial condition of the insurer, notwithstanding any other provision of law limiting the frequency or amount of premium rate adjustments.

(3) The order of the director or his designee may be limited to the extent provided by law if the insurer is a foreign insurer."

Time effective

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

Ratified the 18th day of April, 2013.

Approved the 23rd day of April, 2013.

No. 20

(R30, S295)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 6-11-2028 SO AS TO ALLOW THE GOVERNING BODY OF A SPECIAL PURPOSE DISTRICT CREATED BY ACT OF THE GENERAL ASSEMBLY, WHICH PROVIDES RECREATIONAL SERVICES AND HAS AS ITS BOUNDARY THE SAME AS THE COUNTY IN WHICH IT IS LOCATED, TO VOLUNTARILY DISSOLVE ITSELF AND TRANSFER ITS ASSETS AND LIABILITIES TO A COUNTY IF ACCEPTED BY RESOLUTION OF ITS GOVERNING BODY; TO REQUIRE A PUBLIC HEARING TO BE CONDUCTED BEFORE TAKING A SUPERMAJORITY VOTE OF ITS GOVERNING BODY AND THE GOVERNING BODY OF THE COUNTY; TO REQUIRE THE GOVERNING BODY OF THE COUNTY TO COMPLY WITH THE PROVISIONS OF SECTION 6-11-2140; TO PROVIDE FOR CALCULATING THE MILLAGE LIMITATION FOR A COUNTY WHEN A SPECIAL PURPOSE DISTRICT TRANSFERS ITS ASSETS AND LIABILITIES TO A COUNTY; AND TO PROVIDE THAT THIS SECTION DOES NOT APPLY TO A SPECIAL PURPOSE DISTRICT THAT PROVIDES BOTH RECREATIONAL AND AGING SERVICES OR THAT HAS A BOARD APPOINTED BY THE GOVERNOR UPON THE RECOMMENDATION OF THE COUNTY LEGISLATIVE DELEGATION.

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

Transfer of assets and liabilities of special purpose district to county

SECTION 1. Article 15, Chapter 11, Title 6 of the 1976 Code is amended by adding:

“Section 6-11-2028. (A) Notwithstanding the provisions of this article, the assets and liabilities of a special purpose district that:

(1) is created by act of the General Assembly that does not require a referendum;

(2) provides only recreational services; and

(3) has as its boundary the same as the county in which it is located, may be transferred to the governing body of the county in which the special purpose district is located if the governing body of the special purpose district and the governing body of the county each pass by a supermajority of two-thirds vote of members present and voting resolutions that transfer the special purpose district’s assets and liabilities to the governing body of the county in which the special purpose district is located. The governing body of the special purpose district must hold a public hearing prior to the passage by a supermajority of two-thirds vote of the resolutions by the governing body of the special purpose district and the governing body of the county. The provisions of this section are applicable only if the governing body of the county also adopts a resolution agreeing to follow the provisions of Section 6-11-2140.

(B) For purposes of calculating the millage limitation imposed pursuant to Section 6-1-320 for a county, any millage for operating purposes imposed by the dissolved special purpose district is considered to be imposed by the county.

(C) The provisions of this section do not apply to a special purpose district that: (1) provides both recreational and aging services; or (2) has a board appointed by the Governor upon the recommendation of the county legislative delegation.

(D) The provisions of this section expire two years from the effective date of this act.”

Time effective

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

Ratified the 2nd day of May, 2013.

Approved the 3rd day of May, 2013.

No. 21

(R31, H3011)

AN ACT TO AMEND SECTION 53-3-120, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF PURPLE HEART DAY IN SOUTH CAROLINA, SO AS TO MOVE THE DAY FROM THE THIRD SATURDAY IN FEBRUARY TO THE SEVENTH DAY OF AUGUST IN ORDER TO COINCIDE WITH THE DATE GENERAL GEORGE WASHINGTON ORIGINALLY AUTHORIZED THE AWARD.

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

Purple Heart Day date

SECTION 1. Section 53-3-120 of the 1976 Code, as added by Act 342 of 2000, is amended to read:

“Section 53-3-120. The seventh day of August of each year is designated as Purple Heart Day in South Carolina to honor the decoration itself and those men and women who have received it.”

Time Effective

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

Ratified the 2nd day of May, 2013.

Approved the 3rd day of May, 2013.

No. 22

(R33, H3560)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 10 TO CHAPTER 31, TITLE 23 SO AS TO REQUIRE THE JUDICIAL DEPARTMENT AND THE STATE LAW ENFORCEMENT DIVISION TO DEVELOP PROCEDURES FOR THE COLLECTION OF INFORMATION ON INDIVIDUALS WHO HAVE BEEN ADJUDICATED AS A MENTAL DEFECTIVE OR COMMITTED TO A MENTAL INSTITUTION AND FOR THE SUBMISSION OF THIS INFORMATION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM (NICS); TO PROVIDE THAT A PERSON PROHIBITED FROM SHIPPING, TRANSPORTING, POSSESSING, OR RECEIVING A FIREARM OR AMMUNITION PURSUANT TO FEDERAL OR STATE LAW MAY PETITION THE COURT ISSUING THE ORIGINAL ORDER TO REMOVE THE FIREARM AND AMMUNITION PROHIBITION, TO PROVIDE PROCEDURES TO SEEK THIS REMOVAL AND TO APPEAL THE DENIAL OF SUCH RELIEF; TO PROVIDE THAT IF THIS PROHIBITION IS REMOVED, NICS PROMPTLY MUST BE INFORMED OF THE COURT ACTION REMOVING THE PROHIBITION; TO PROVIDE THAT IT IS A FELONY FOR A PERSON WHO HAS BEEN ADJUDICATED AS A MENTAL DEFECTIVE OR COMMITTED TO A MENTAL INSTITUTION TO SHIP, TRANSPORT, POSSESS, OR RECEIVE A FIREARM OR AMMUNITION, TO PROVIDE CRIMINAL PENALTIES, AND TO REQUIRE CONFISCATION OF SUCH FIREARMS AND AMMUNITION, AND TO ESTABLISH PROCEDURES FOR THE RETURN OF FIREARMS AND AMMUNITION TO AN INNOCENT OWNER; TO AMEND SECTION 44-22-100, RELATING TO THE CONFIDENTIALITY AND RELEASE OF MENTAL HEALTH COMMITMENT AND TREATMENT RECORDS AND EXCEPTIONS, SO AS TO AUTHORIZE REPORTING INFORMATION IN THESE RECORDS TO NICS; AND TO ESTABLISH PROSPECTIVE AND RETROACTIVE REQUIREMENTS FOR COURTS TO SUBMIT MENTAL HEALTH ADJUDICATION AND COMMITMENT INFORMATION.

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

Mental health adjudications and commitments to be reported to the National Instant Criminal Background Check System, appeals to remove prohibition of possessing firearms and ammunition, felony for a person adjudicated as a mental defective or committed to a mental institution to possess firearms or ammunition, confiscation of such firearms or ammunition

SECTION 1. Chapter 31, Title 23 of the 1976 Code is amended by adding:

“Article 10

NICS: Mental Health Adjudication and Commitment Reporting

Section 23-31-1010. As used in this article:

(1) ‘Adjudicated as a mental defective’ means a determination by a court of competent jurisdiction that a person, as a result of marked subnormal intelligence, mental illness, mental incompetency, mental condition, or mental disease:

- (a) is a danger to himself or to others; or
- (b) lacks the mental capacity to contract or manage the person’s own affairs.

The term includes:

- (a) a finding of insanity by a court in a criminal case; and
- (b) those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to Articles 50a and 72b of the Uniform Code of Military Justice, 10 U.S.C. Sections 850(a) and 876(b).

(2) ‘Committed to a mental institution’ means a formal commitment of a person to a mental institution by a court of competent jurisdiction. The term includes a commitment to a mental institution involuntarily, and a commitment to a mental institution for mental defectiveness, mental illness, and other reasons, such as drug use. The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution.

(3) ‘Mental institution’ includes mental health facilities, mental hospitals, sanitariums, psychiatric facilities, and other facilities that provide diagnoses by licensed professionals of mental retardation or mental illness, including a psychiatric ward in a general hospital.

Section 23-31-1020. (A) The Judicial Department and the Chief of SLED, or the chief's designee, shall work in conjunction with a court of competent jurisdiction in developing procedures for the collection and submission of information of persons who have been adjudicated as a mental defective or who have been committed to a mental institution.

(B) When a court submits this information to SLED by court order, SLED shall transmit the information to the National Instant Criminal Background Check System (NICS) established pursuant to the Brady Handgun Violence Protection Act of 1993, Pub. L. (pg. 79) 103-159.

(C) The court shall submit the information to SLED by court order within five days from the filing of each order related to adjudications and commitments. Under no circumstances may the court or SLED submit information pursuant to this section relating to a person's diagnosis or treatment.

(D) SLED shall keep information submitted by the court confidential, and that information only may be disclosed to NICS pursuant to this section, for purposes directly related to the Brady Act, or as provided in subsection (E).

(E) If the court, by court order, has submitted a person's name and other identifying information to SLED to be transmitted to NICS, SLED shall review the state concealed weapons permit holders list, and if the review reveals that the person possesses a current concealed weapons permit, the permit must be revoked and surrendered to a sheriff, police department, SLED agent, or by certified mail to the Chief of SLED. If the permit holder fails to return the permit within ten days of being notified of the permit's revocation, SLED shall retrieve the permit from the permit holder.

(F) Information submitted by the court pursuant to this section, which is also contained in court orders or in other state or local agency records, is not affected by this section, and such court orders or other state or local agency records may be disclosed in accordance with existing laws and procedures.

Section 23-31-1030. (A) If a person is prohibited from shipping, transporting, possessing, or receiving a firearm or ammunition pursuant to 18 U.S.C. Section 922(g)(4) or Section 23-31-1040 as a result of adjudication as a mental defective or commitment to a mental institution, the person may petition the court that issued the original order to remove the prohibitions. The person may file the petition upon the expiration of any current commitment order; however, the

court only may consider petitions for relief due to adjudications and commitments that occurred in this State.

(B) The petition must be accompanied by an authorization and release signed by the petitioner authorizing disclosure of the petitioner's current and past medical records, including mental health records.

(C) If the petition is filed pro se, the court shall provide notice to all parties of record. If the petitioner is represented by counsel, counsel shall provide notice to all parties of record.

(D) Notwithstanding the exclusive jurisdiction of the court to preside over hearings initiated pursuant to this section, the case may be removed to the circuit court upon motion of the petitioner or on motion of the court, made not later than ten days following the date the petition is filed. Upon such motion, the case must be removed to the circuit court where the court shall proceed with the case de novo.

(E)(1) Within ninety days of receiving the petition, unless the court grants an extension upon request of the petitioner, the court shall conduct a hearing which must be presided over by a person other than the person who gathered evidence for use by the court in the hearing.

(2) At the hearing on the petition, the petitioner shall have the opportunity to submit evidence, and a record of the hearing must be made and maintained for review. The court shall consider information and records, which otherwise are confidential or privileged, relevant to the criteria for removing firearm and ammunition prohibitions and shall receive and consider evidence concerning the following:

(a) the circumstances regarding the firearm and ammunitions prohibitions imposed by 18 U.S.C. Section 922(g)(4) and Section 23-31-1040;

(b) the petitioner's record, which must include, at a minimum, the petitioner's mental health and criminal history records;

(c) evidence of the petitioner's reputation developed through character witness statements, testimony, or other character evidence; and

(d) a current evaluation presented by the petitioner conducted by the Department of Mental Health or a physician licensed in this State specializing in mental health specifically addressing whether due to mental defectiveness or mental illness the petitioner poses a threat to the safety of the public or himself or herself.

(F) The hearing must be closed to the public, and the petitioner's mental health records must be restricted from public disclosure. However, upon motion by the petitioner, the hearing may be open to the public, and the court may allow for the in camera inspection of the

petitioner's mental health records and for the use of these records, but these records must be restricted from public disclosure.

(G)(1) The court shall make findings of fact regarding the following and shall remove the firearm and ammunition prohibitions if the petitioner proves by a preponderance of the evidence that:

(a) the petitioner is no longer required to participate in court-ordered psychiatric treatment;

(b) the petitioner is determined by the Department of Mental Health or by a physician licensed in this State specializing in mental health to be not likely to act in a manner dangerous to public safety; and

(c) granting the petitioner relief will not be contrary to the public interest.

(2) Notwithstanding item (1), the court must not remove the firearm and ammunition prohibitions if, by a preponderance of the evidence, it is proven that the petitioner has engaged in acts of violence subsequent to the petitioner's last adjudication as a mental defective or last commitment to a mental institution, unless the petitioner, by clear and convincing evidence, proves that he is not likely to act in a manner dangerous to public safety.

(H) If the petitioner is denied relief and the firearm and ammunition prohibitions are not removed, the petitioner may appeal to the circuit court for de novo review. In conducting its review, the circuit court:

(1) shall review the record;

(2) may give deference to the decision of the court denying the petitioner relief; and

(3) may receive additional evidence as necessary to conduct an adequate review.

(I) Medical records, psychological reports, and other treatment records which have been submitted to the court or admitted into evidence under this section must be part of the record, but must be sealed and opened only on order of the court.

(J) If a court issues an order pursuant to this section that removes the firearm and ammunition prohibitions that prohibited the petitioner from shipping, transporting, possessing, or receiving a firearm or ammunition pursuant to 18 U.S.C. Section 922(g)(4) or Section 23-31-1040, arising from adjudication as a mental defective or commitment to a mental institution, the court shall provide SLED with a certified copy of the order that may be transmitted through electronic means. SLED promptly shall inform the NICS of the court action removing these firearm and ammunition prohibitions.

Section 23-31-1040. (A) It is unlawful for a person who has been adjudicated as a mental defective or who has been committed to a mental institution to ship, transport, possess, or receive a firearm or ammunition.

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

(C) In addition to the penalty provided in this section, the firearm or ammunition involved in the violation of this section must be confiscated. The firearm or ammunition must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated firearm or ammunition may use the firearm or ammunition within the agency, transfer the firearm or ammunition to another law enforcement agency for the lawful use of that agency, trade the firearm or ammunition with a retail dealer licensed to sell firearms or ammunition in this State for a firearm, ammunition, or any other equipment approved by the agency, or destroy the firearm or ammunition. A firearm or ammunition must not be disposed of in any manner until the results of any legal proceeding in which the firearm or ammunition may be involved are finally determined. If SLED seized the firearm or ammunition, SLED may keep the firearm or ammunition for use by SLED's forensic laboratory. Records must be kept of all confiscated firearms or ammunition received by the law enforcement agencies pursuant to this section. A law enforcement agency that receives a firearm or ammunition pursuant to this subsection may administratively release the firearm or ammunition to an innocent owner. If possession of the firearm or ammunition is necessary for legal proceedings, the firearm or ammunition must not be released to the innocent owner until the results of any legal proceedings in which the firearm or ammunition may be involved are finally concluded. Before the firearm or ammunition may be released, the innocent owner shall provide the law enforcement agency with proof of ownership and shall certify that the innocent owner will not release the firearm or ammunition to the person who has been charged with a violation of this subsection which resulted in the firearm's or ammunition's confiscation. The law enforcement agency shall notify the innocent owner when the firearm or ammunition is available for release. If the innocent owner fails to recover the firearm or ammunition within thirty days after notification of the release, the law enforcement agency may maintain or dispose of the firearm or ammunition as otherwise provided in this subsection.

(D) At the time the person is adjudicated as a mental defective or is committed to a mental institution, the court shall provide to the person or the person's representative, as appropriate, a written form that conspicuously informs the person or the person's representative, as appropriate, of the provisions of this section.

Section 23-31-1050. As used in Section 23-31-1030 and Section 23-31-1040:

(1) 'Ammunition' means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in a firearm other than an antique firearm. The term does not include:

(a) a shotgun shot or pellet not designed for use as the single, complete projectile load for one shotgun hull or casing; or

(b) an unloaded, nonmetallic shotgun hull or casing not having a primer.

(2) 'Antique firearm' means:

(a) a firearm, including a firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898; and

(b) a replica of a firearm described in subitem (a) if such replica:

(i) is not designed or redesigned for using rimfire or conventional centerfire-fixed ammunition; or

(ii) uses rimfire or conventional centerfire-fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

(3) 'Firearm' means a weapon, including a starter gun, which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of such weapon; a firearm muffler or firearm silencer; or a destructive device; but the term does not include an antique firearm. In the case of a licensed collector, the term means only curios and relics.

(4) 'Firearm frame or receiver' means that part of a firearm which provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.

(5) 'Firearm muffler or firearm silencer' means a device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

Section 23-31-1060. Nothing in this article affects a court's duty to conduct a hearing on the issue of a person's fitness to stand trial pursuant to Section 44-23-430. A solicitor shall not dismiss charges against a person prior to such hearing based solely on the person's fitness to stand trial."

Confidentiality of mental health records and exceptions

SECTION 2. Section 44-22-100 of the 1976 Code is amended to read:

"Section 44-22-100. (A) Certificates, applications, records, and reports made for the purpose of this chapter or Chapter 9, Chapter 11, Chapter 13, Chapter 15, Chapter 17, Chapter 20, Chapter 23, Chapter 24, Chapter 25, Chapter 27, or Chapter 52, and directly or indirectly identifying a mentally ill or alcohol and drug abuse patient or former patient or individual whose commitment has been sought, must be kept confidential, and must not be disclosed unless:

(1) the individual identified or the individual's guardian consents;

(2) a court directs that disclosure is necessary for the conduct of proceedings before the court and that failure to make the disclosure is contrary to public interest;

(3) disclosure is required for research conducted or authorized by the department or the Department of Alcohol and Other Drug Abuse Services and with the patient's consent;

(4) disclosure is necessary to cooperate with law enforcement, health, welfare, and other state or federal agencies, or when furthering the welfare of the patient or the patient's family;

(5) disclosure to a court of competent jurisdiction is necessary for the limited purpose of providing a court order to SLED in order to submit information to the federal National Instant Criminal Background Check System (NICS), established pursuant to the Brady Handgun Violence Prevention Act of 1993, Pub.L. 103-159, and in accordance with Article 10, Chapter 31, Title 23; or

(6) disclosure is necessary to carry out the provisions of this chapter or Chapter 9, Chapter 11, Chapter 13, Chapter 15, Chapter 17, Chapter 20, Chapter 23, Chapter 24, Chapter 25, Chapter 27, or Chapter 52.

(B) Nothing in this section:

(1) precludes disclosure, upon proper inquiry, of information as to a patient's current medical condition to members of the patient's family, or the Governor's Office of Ombudsman; or

(2) requires the release of records of which disclosure is prohibited or regulated by federal law.

(C) A person who violates this section is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than one year, or both.”

Prospective and retroactive requirements for courts to submit mental health adjudication and commitment information

SECTION 3. A court required to submit information to SLED pursuant to this act concerning individuals who have been adjudicated as a mental defective or who have been committed to a mental institution shall, from the effective date of this act forward, submit information by court order within five days from the filing of each order and in accordance with procedures developed as required by this act and have one year from this act’s effective date to submit retroactive information by court order on such individuals going back a minimum of ten years or, if records are not available as far back as ten years, as far back as records exist.

Severability

SECTION 4. 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 5. This act takes effect ninety days after approval by the Governor.

Ratified the 2nd day of May, 2013.

Approved the 3rd day of May, 2013.

No. 23

(R34, H3568)

AN ACT TO AMEND SECTION 16-13-385, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ALTERING, TAMPERING WITH, OR BYPASSING ELECTRIC, GAS, OR WATER METERS, SECTION 58-7-60, RELATING TO THE UNLAWFUL APPROPRIATION OF GAS, AND SECTION 58-7-70, RELATING TO THE WRONGFUL USE OF GAS AND INTERFERENCE WITH GAS METERS, ALL SO AS TO RESTRUCTURE THE PENALTIES AND PROVIDE GRADUATED PENALTIES FOR VIOLATIONS OF THE STATUTES.

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

Altering or tampering with electric, gas, or water meters, penalties restructured, graduated penalties created

SECTION 1. Section 16-13-385 of the 1976 Code is amended to read:

“Section 16-13-385. (A) It is unlawful for an unauthorized person to alter, tamper with, or bypass a meter which has been installed for the purpose of measuring the use of electricity, gas, or water.

A meter found in a condition which would cause electricity, gas, or water to be diverted from the recording apparatus of the meter or to cause the meter to inaccurately measure the use of electricity, gas, or water or the attachment to a meter or distribution wire of any device, mechanism, or wire which would permit the use of unmetered electricity, gas, or water or would cause a meter to inaccurately measure the use is prima facie evidence that the person in whose name the meter was installed or the person for whose benefit electricity, gas, or water was diverted caused the electricity, gas, or water to be diverted from going through the meter or the meter to inaccurately measure the use of the electricity, gas, or water.

(B) A person who violates the provisions of this section for a:

(1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days;

(2) second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than three years, or both; and

(3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than five years, or both.

(C) A person who violates the provisions of this section for profit or income on behalf of a person in whose name the meter was installed or a person for whose benefit electricity, gas, or water was diverted for a:

(1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

(2) second offense, is guilty of misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years or both; and

(3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

(D) A person who violates the provisions of this section and the violation results in property damage in excess of five thousand dollars or results in the risk of great bodily injury or death from fire, explosion, or electrocution for a:

(1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

(2) second offense, is guilty of misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years or both; and

(3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

(E) A person who violates the provisions of this section and the violation results in:

(1) great bodily injury to another person is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than fifteen years, or both. For purposes of this item, 'great bodily injury' means bodily injury which creates a substantial risk of death or which causes serious, permanent

disfigurement, or protracted loss or impairment of the function of any bodily member or organ; and

(2) the death of another person is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(F) This section does not apply to licensed and certified contractors while performing usual and ordinary service in accordance with recognized standards.

(G) A person who violates the provisions of this section for the purpose of growing or manufacturing controlled substances listed, or to be listed, in the schedules in Sections 44-53-190, 44-53-210, 44-53-230, 44-53-250, and 44-53-270 is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned for not more than ten years, or both.”

Unlawful appropriation of gas, penalties restructured, graduated penalties created

SECTION 2. Section 58-7-60 of the 1976 Code is amended to read:

“Section 58-7-60. (A) It is unlawful for a person who has no contract, agreement, license or permission with or from a person or corporation authorized to manufacture, sell or use gas for the purpose of light, heat, or power or with or from an authorized agent of a person or corporation for the use of gas belonging to, or produced or furnished by, a person or corporation who shall wilfully withdraw or cause to be withdrawn in any manner and appropriate gas from the pipes or conduits of a person or corporation for his own use or for the use of another person or corporation.

(B) A person who violates the provisions of this section for a:

(1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days;

(2) second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than three years, or both; and

(3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than five years, or both.

(C) A person who violates the provisions of this section and the violation results in property damage in excess of five thousand dollars or results in the risk of great bodily injury or death from fire, explosion, or electrocution for a:

(1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

(2) second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years or both; and

(3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

(D) A person who violates the provisions of this section and the violation results in:

(1) great bodily injury to another person is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than fifteen years, or both. For purposes of this item, 'great bodily injury' means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ; and

(2) the death of another person is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(E) Notwithstanding the provisions of this section, a person who aids, abets, or assists another person in withdrawing and appropriating gas from pipes or conduits to or for the use of another person or to or for the use of another person or corporation for a:

(1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

(2) second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years, or both; and

(3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

(F) This section does not apply to licensed and certified contractors while performing usual and ordinary service in accordance with recognized standards."

Wrongful use of gas and interference with gas meters, penalties restructured, graduated penalties created

SECTION 3. Section 58-7-70 of the 1976 Code is amended to read:

“Section 58-7-70. (A) It is unlawful for a person who has a contract, agreement, license or permission, oral or written, with or from a person or corporation authorized to manufacture, sell or use gas for the purpose of light, heat, or power or with or from an authorized agent of a person or corporation for the use of the gas belonging to, or produced or furnished by, a person or corporation for certain specified purposes who shall wilfully and intentionally withdraw, or cause to be withdrawn, gas in any manner and appropriate it to his own use or to the use of another person or corporation for purposes other than those specified.

(B) It is unlawful for a person to whom gas is furnished from or by means of a meter who shall wilfully and with intention to cheat and defraud a person or corporation alter or interfere with a meter or by any contrivance whatsoever withdraw or take off gas in any manner except through a meter shall be punished as provided in Section 58-7-60(B).

(C) A person who violates the provisions of this section for profit or income on behalf of a person in whose name the meter was installed or a person for whose benefit electricity, gas, or water was diverted for a:

(1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

(2) second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years or both; and

(3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

(D) A person who violates the provisions of this section and the violation results in property damage in excess of five thousand dollars or results in the risk of great bodily injury or death from fire, explosion, or electrocution for a:

(1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

(2) second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years or both; and

(3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

(E) A person who violates the provisions of this section and the violation results in:

(1) great bodily injury to another person is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than fifteen years, or both. For purposes of this item, 'great bodily injury' means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ; and

(2) the death of another person is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(F) This section does not apply to licensed and certified contractors while performing usual and ordinary service in accordance with recognized standards.”

Savings clause

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

Time effective

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

Ratified the 2nd day of May, 2013.

Approved the 3rd day of May, 2013.

No. 24

(R35, H3624)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 9-4-15 SO AS TO PROVIDE THAT THE STATE SHALL DEFEND MEMBERS OF THE BOARD OF DIRECTORS OF THE SOUTH CAROLINA PUBLIC EMPLOYEE BENEFIT AUTHORITY (PEBA) AGAINST CLAIMS AND SUITS ARISING OUT OF THE PERFORMANCE OF THEIR OFFICIAL DUTIES, AND REQUIRE THAT THE STATE INDEMNIFY THESE DIRECTORS FOR ANY LOSS OR JUDGMENT INCURRED BY THEM WITH RESPECT TO SUCH A CLAIM OR SUIT, TO PROVIDE THAT THE STATE SHALL DEFEND PEBA OFFICERS AND MANAGEMENT EMPLOYEES AGAINST CLAIMS AND SUITS ARISING OUT OF THE PERFORMANCE OF THEIR OFFICIAL DUTIES UNLESS THE OFFICER OR MANAGEMENT EMPLOYEE WAS ACTING IN BAD FAITH, AND REQUIRE THAT THE STATE INDEMNIFY PEBA OFFICERS AND MANAGEMENT EMPLOYEES FOR ANY LOSS OR JUDGMENT INCURRED BY THEM WITH RESPECT TO SUCH A CLAIM OR SUIT, AND TO EXTEND THE REQUIREMENT TO DEFEND AND INDEMNIFY MEMBERS OF THE BOARD OF DIRECTORS, OFFICERS, AND MANAGEMENT EMPLOYEES OF PEBA TO SUCH PERSONS AFTER LEAVING OFFICE OR EMPLOYMENT WITH PEBA FOR OFFICIAL DUTIES UNDERTAKEN BY THEM WHILE SERVING AS A DIRECTOR, OFFICER, OR MANAGEMENT EMPLOYEE OF PEBA.

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

South Carolina Public Employee Benefit Authority, obligation to defend and indemnify

SECTION 1. Article 1, Chapter 4, Title 9 of the 1976 Code is amended by adding:

“Section 9-4-15. The State shall defend the members of the Board of Directors of the South Carolina Public Employee Benefit Authority (PEBA) established pursuant to this article against a claim or suit that

arises out of or by virtue of their performance of official duties on behalf of the authority and must indemnify these directors for a 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 shall defend officers and management employees of PEBA against a claim or suit that arises out of or by virtue of performance of official duties unless the officer or management employee was acting in bad faith and must indemnify these officers, and management employees for a loss or judgment incurred by them as a result of such 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 PEBA directors, officers, and management employees after they have left their office or employment with PEBA, as applicable, if the claim or suit arises out of or by virtue of their performance of official duties on behalf of PEBA.”

Time effective

SECTION 2. This act takes effect upon approval by the Governor and applies with respect to any official duties undertaken by directors, officers, and management employees of the South Carolina Public Employee Benefit Authority after June 30, 2012.

Ratified the 2nd day of May, 2013.

Approved the 3rd day of May, 2013.

No. 25

(R36, H3973)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 53-3-115 SO AS TO PROVIDE THAT THE MONTH OF SEPTEMBER OF EVERY YEAR IS DESIGNATED AS “GOLDEN-SEPTEMBER CHILDHOOD CANCER AWARENESS MONTH” IN SOUTH CAROLINA.

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

Findings

SECTION 1. The General Assembly finds that:

- (1) cancer is a disease that affects Americans of every sex, gender, race, and ethnicity;
- (2) it is a particularly horrible disease when it strikes children; and
- (3) to declare the month of September of each year as 'Childhood Cancer Awareness Month' in South Carolina and to designate it as 'Golden-September' would honor and give courage to all those children in our State who are fighting this terrible disease.

Month designated

SECTION 2. Chapter 3, Title 53 of the 1976 Code is amended by adding:

“Section 53-3-115. The month of September of every year is declared 'Golden-September Childhood Cancer Awareness Month' in South Carolina to honor and give courage to all those children in our State who are fighting this terrible disease.”

Time effective

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

Ratified the 2nd day of May, 2013.

Approved the 3rd day of May, 2013.

No. 26

(R29, S163)

**AN ACT TO AMEND SECTION 12-62-50, AS AMENDED,
CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING
TO THE REBATE TO A MOTION PICTURE PRODUCTION
COMPANY OF CERTAIN SOUTH CAROLINA PAYROLL, SO
AS TO PROVIDE THAT THE REBATE FOR A QUALIFYING
MOTION PICTURE COMPANY MAY NOT EXCEED TWENTY**

PERCENT OF THE TOTAL AGGREGATE PAYROLL FOR PERSONS SUBJECT TO SOUTH CAROLINA INCOME TAX WITHHOLDINGS AND MAY NOT EXCEED TWENTY-FIVE PERCENT FOR RESIDENTS OF SOUTH CAROLINA; TO AMEND SECTION 12-62-60, AS AMENDED, RELATING TO THE REBATE OF CERTAIN EXPENDITURES OF A MOTION PICTURE PRODUCTION COMPANY, SO AS TO PROVIDE THAT THE DEPARTMENT OF PARKS, RECREATION AND TOURISM MAY REBATE UP TO THIRTY PERCENT OF THE EXPENDITURES IN SOUTH CAROLINA IF THERE IS A MINIMUM IN-STATE EXPENDITURE OF ONE MILLION DOLLARS; AND BY ADDING SECTION 12-62-95 SO AS TO PROVIDE THAT THE PROVISIONS OF THE SOUTH CAROLINA MOTION PICTURE INCENTIVE ACT DO NOT APPLY IF THE MOTION PICTURE OR TELEVISION PRODUCTION THAT IS MADE, IN WHOLE OR IN PART, IN SOUTH CAROLINA IS FOUND TO CONTAIN SCENES THE AVERAGE PERSON, APPLYING CONTEMPORARY STATE COMMUNITY STANDARDS WOULD FIND THAT THE WORK, TAKEN AS A WHOLE, APPEALS TO THE PRURIENT INTEREST, WHETHER THE WORK DEPICTS OR DESCRIBES, IN A PATENTLY OFFENSIVE WAY, SEXUAL CONDUCT, AND WHETHER THE WORK, TAKEN AS A WHOLE, LACKS SERIOUS LITERARY, ARTISTIC, POLITICAL, OR SCIENTIFIC VALUE.

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

Revision of payroll tax rebate

SECTION 1. Section 12-62-50(A)(1) of the 1976 Code, as last amended by Act 56 of 2005, is further amended to read:

“(A)(1) The South Carolina Film Commission may rebate to a motion picture production company a portion of the South Carolina payroll of the employment of persons subject to South Carolina income tax withholdings in connection with production of a motion picture. The rebate may not exceed twenty percent of the total aggregate South Carolina payroll for persons subject to South Carolina income tax withholdings, and may not exceed twenty-five percent for South Carolina residents, for persons employed in connection with the production when total production costs in South Carolina equal or

exceed one million dollars during the taxable year. The rebates in total may not annually exceed ten million dollars and shall come from the state's general fund. For purposes of this section, 'total aggregate payroll' does not include the salary of an employee whose salary is equal to or greater than one million dollars for each motion picture."

Revision of rebate based on expenditures

SECTION 2. Section 12-62-60(A)(1) of the 1976 Code, as last amended by Act 56 of 2005, is further amended to read:

"(A)(1) An amount equal to twenty-six percent of the general fund portion of admissions tax collected by the State of South Carolina for the previous fiscal year must be funded annually by September first to the department for the exclusive use of the South Carolina Film Commission. The department may rebate to a motion picture production company up to thirty percent of the expenditures made by the motion picture production company in the State if the motion picture production company has a minimum in-state expenditure of one million dollars. The distribution of rebates may not exceed the amount annually funded to the department for the South Carolina Film Commission from the admissions tax collected by the State."

Inapplicability of chapter for works appealing to the prurient interest

SECTION 3. Chapter 62, Title 12 of the 1976 Code is amended by adding:

"Section 12-62-95. The provisions of this chapter do not apply if the motion picture or television production that is made in whole or in part in South Carolina is found to contain scenes the average person, applying contemporary state community standards would find that the work, taken as a whole, appeals to the prurient interest, whether the work depicts or describes, in a patently offensive way, sexual conduct, and whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value. The department and the South Carolina Film Commission may not award any benefit offered by this chapter to a motion picture production company producing such motion picture."

Time effective

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

Ratified the 2nd day of May, 2013.

Approved the 8th day of May, 2013.

No. 27

(R37, S237)

AN ACT TO AMEND SECTION 10-1-161, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE FLYING OF FLAGS ATOP THE STATE CAPITOL BUILDING AT HALF-STAFF, SO AS TO PROVIDE THE LENGTH OF TIME THAT THESE FLAGS MAY BE FLOWN AT HALF-STAFF FOR MEMBERS OF THE UNITED STATES MILITARY SERVICES WHO WERE RESIDENTS OF SOUTH CAROLINA AND WHO LOST THEIR LIVES IN THE LINE OF DUTY WHILE IN COMBAT, TO PROVIDE THE PROCEDURE FOR HOISTING AND LOWERING THE FLAGS ATOP THE STATE CAPITOL BUILDING WHEN MORE THAN ONE INDIVIDUAL IS HONORED, AND TO PROVIDE THAT ON A DAY WHERE THE FLAGS ATOP THE STATE CAPITOL BUILDING ARE FLOWN AT HALF-STAFF, THE GOVERNOR SHALL IDENTIFY THE PERSON OR PERSONS WHO ARE HONORED ON THE GOVERNOR'S WEBSITE.

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

Flags flown at half-staff

SECTION 1. Section 10-1-161 of the 1976 Code is amended to read:

“Section 10-1-161. (A) On Memorial Day the flags, which are flown atop the State Capitol Building, must be displayed at half-staff until noon, then raised to the top of the staff.

(B) To honor and pay tribute to the following public officials and individuals, the flags which are flown atop the State Capitol Building

must be lowered to half-staff on the day on which funeral services are conducted for these public officials and individuals:

- (1) current and past members of the United States Congress from the State of South Carolina;
- (2) current constitutional officers of the State of South Carolina;
- (3) former Governors and Lieutenant Governors of the State of South Carolina;
- (4) current members of the South Carolina General Assembly;
- (5) current members of the South Carolina Supreme Court;
- (6) current and former Presidents of the United States; and
- (7) members of the United States military services who were residents of South Carolina and who lost their lives in the line of duty while in combat.

(C) As contained in this section, 'half-staff' means the position of the flag when it is one-half the distance between the top and bottom of the staff.

(D) The flags atop the State Capitol Building must be flown at half-staff for a period of thirty days from the date of death of the President or a former President; for a period of ten days from the date of death of the Vice President, the Chief Justice, or a retired Chief Justice of the United States Supreme Court, or the Speaker of the United States House of Representatives; for a period of five days before the day of the funeral through the date of the funeral for members of the United States military services who were residents of South Carolina and who lost their lives in the line of duty while in combat, for which the Division of Veterans' Affairs must notify the Office of the Governor of the scheduled funeral date; and from the date of death through the date of interment of an associate justice of the United States Supreme Court, or a secretary of a federal executive or military department, or a former Vice President.

(E) Upon the occurrence of an extraordinary event resulting in death or upon the death of a person of extraordinary stature, the Governor may order that the flags atop the State Capitol Building be lowered to half-staff at a designated time or for a designated period of time.

(F) The Governor may order the flags atop the State Capitol Building to be lowered to half-staff for the same designated time when an act of the United States Congress or a presidential order is issued to lower flags to half-staff over federal buildings.

(G) The flags atop the State Capitol Building, when flown at half-staff must first be hoisted to the peak for an instant and then

lowered to the half-staff position. The flags must be again raised to the peak before they are lowered for the day.

(H)(1) On any day where flags atop the State Capitol Building are flown at half-staff to honor and pay tribute to more than one individual listed in subsections (B) or (D), the flags must be hoisted and lowered pursuant to subsection (G) as many times as there are individuals to honor and pay tribute to that day.

(2) On any day where flags atop the State Capitol Building are flown at half-staff, the Governor shall, on a conspicuous place on the website maintained by the Governor, identify the person or persons to which such honor and tribute is being paid until the day of the funeral.”

Time effective

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

Ratified the 15th day of May, 2013.

Approved the 17th day of May, 2013.

No. 28

(R38, S448)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40-47-938 SO AS TO PROVIDE CIRCUMSTANCES IN WHICH A PHYSICIAN MAY ENTER A SUPERVISORY RELATIONSHIP WITH A PHYSICIAN ASSISTANT; TO AMEND SECTION 40-47-910, RELATING TO DEFINITIONS IN THE PHYSICIAN ASSISTANTS PRACTICE ACT, SO AS TO ADD AND REVISE CERTAIN DEFINITIONS; TO AMEND SECTION 40-47-940, RELATING TO APPLICATION FOR LICENSURE, SO AS TO PROVIDE AN APPLICATION MUST BE COMPLETE BEFORE A LICENSE MAY BE GRANTED; TO AMEND SECTION 40-47-945, RELATING TO CONDITIONS FOR GRANTING PERMANENT LICENSURE, SO AS TO DELETE REQUIREMENTS THAT A SUPERVISING PHYSICIAN MUST ACCOMPANY AN APPLICANT APPEARING BEFORE THE BOARD WITH HIS SCOPE OF PRACTICE GUIDELINES, AND

TO DELETE THE PROHIBITION AGAINST APPROVAL BY A SUPERVISING PHYSICIAN OF ON-THE-JOB TRAINING OR TASKS NOT LISTED ON THE APPLICATION FOR LIMITED LICENSURE AS A PHYSICIAN ASSISTANT; TO AMEND SECTION 40-47-950, RELATING TO REQUIREMENTS FOR LIMITED LICENSURE AS A PHYSICIAN ASSISTANT, SO AS TO DELETE REFERENCES TO SUPERVISING PHYSICIANS; TO AMEND SECTION 40-47-955, RELATING TO PHYSICAL PRESENCE REQUIREMENTS OF THE SUPERVISING PHYSICIAN OF A PHYSICIAN ASSISTANT, SO AS TO DELETE EXISTING REQUIREMENTS CONCERNING ON-SITE SETTINGS AND TO PROVIDE WHERE AND HOW A PHYSICIAN ASSISTANT MAY PRACTICE, TO REVISE PROVISIONS CONCERNING OFF-SITE SETTINGS, AND TO REVISE CERTAIN REQUIREMENTS OF A SUPERVISING PHYSICIAN; TO AMEND SECTION 40-47-960, RELATING TO SCOPE OF PRACTICE GUIDELINES FOR PHYSICIAN ASSISTANTS, SO AS TO INCLUDE AUTHORIZATION TO PRESCRIBE SCHEDULE II CONTROLLED SUBSTANCES AMONG SITUATIONS REQUIRING DIRECT EVALUATION OR IMMEDIATE REFERRAL BY THE SUPERVISING PHYSICIAN; TO AMEND SECTION 40-47-965, RELATING TO SCHEDULE II CONTROLLED SUBSTANCES AND SCOPE OF PRACTICE GUIDELINES OF A PHYSICIAN ASSISTANT, SO AS TO PROVIDE A PHYSICIAN ASSISTANT MAY RECEIVE AND DISTRIBUTE PROFESSIONAL SAMPLES OF THESE SUBSTANCES AND MAY PRESCRIBE THESE SUBSTANCES IN CERTAIN CIRCUMSTANCES; TO AMEND SECTION 40-47-970, RELATING TO THE PRESCRIBING OF DRUGS BY A PHYSICIAN ASSISTANT, SO AS TO AS TO DELETE A PROHIBITION AGAINST PRESCRIBING SCHEDULE II CONTROLLED SUBSTANCES; TO AMEND SECTION 40-47-995, RELATING TO THE TERMINATION OF A SUPERVISORY RELATIONSHIP BETWEEN A PHYSICIAN AND PHYSICIAN ASSISTANT, SO AS TO PROVIDE THAT UPON THIS TERMINATION THE PRACTICE OF THE PHYSICIAN ASSISTANT MUST CEASE UNTIL NEW SCOPE OF PRACTICE GUIDELINES, RATHER THAN A NEW APPLICATION, ARE SUBMITTED BY A NEW SUPERVISING PHYSICIAN TO THE BOARD; AND TO REPEAL SECTION 40-47-975 RELATING TO ON-THE-JOB TRAINING AND SECTION 40-47-980 RELATING TO THE TREATMENT OF

PATIENTS IN CHRONIC CARE AND LONG-TERM CARE FACILITIES.

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

Supervisory relationships

SECTION 1. Article 7, Chapter 47, Title 40 of the 1976 Code is amended by adding:

“Section 40-47-938. (A) A physician currently possessing an active, unrestricted permanent license to practice medicine under the provisions of this chapter, who accepts the responsibility to supervise a physician assistant’s activities, must enter into a supervisory relationship with a physician assistant licensed pursuant to this article, subject to approval of scope of practice guidelines by the board. The physician must notify the board, in writing, of the proposed supervisory relationship and include the proposed scope of practice guidelines for the relationship. Upon receipt of board approval, the physician assistant may begin clinical practice with the named supervising physician and alternate physicians.

(B) A supervising physician may determine that there are additional medical acts, tasks, or functions for which a physician assistant under the physician’s supervision needs additional training or education to meet the needs of the physician’s practice and that the physician would like to incorporate into the physician assistant’s scope of practice guidelines. The physician must determine, in consultation with the physician assistant, the means of educating the physician assistant, which may include training under the direct supervision of the physician, education, or certification of proposed practices or other appropriate educational methods. The physician must notify the board in writing of the requested changes to the physician assistant’s scope of practice guidelines and must provide documentation to the board of the competence of the physician assistant to perform the additional medical acts, tasks, or functions. Upon receipt of board approval of the requested changes, the physician assistant may incorporate these additional medical acts, tasks, or functions into practice.

(C) The board shall review and determine whether to approve these proposed scope of practice guidelines or requested changes to the scope of practice guidelines within ten business days after receipt of notice from the supervising physician as required by subsections (A) and (B). If the board needs additional information or clarification, a physician

member of the board must contact the supervisory physician within ten business days of receipt of the physician's notice. If the board requests additional information or clarification to consider approval of scope of practice guidelines or changes to these guidelines, the supervising physician shall provide it in a timely manner; and upon receipt, a determination regarding approval must be made within ten business days."

Definitions

SECTION 2. Section 40-47-910 of the 1976 Code is amended to read:

"Section 40-47-910. As used in this article:

(1) 'Alternate physician supervisor' or 'alternate supervising physician' means a South Carolina licensed physician currently possessing an active, unrestricted permanent license to practice medicine in South Carolina who accepts the responsibility to supervise a physician assistant's activities in the absence of the supervising physician and this physician is approved by the physician supervisor in writing in the scope of practice guidelines.

(2) 'Board' means the Board of Medical Examiners of South Carolina.

(3) 'Committee' means the Physician Assistant Committee as established by this article as an advisory committee responsible to the board.

(4) 'Immediate consultation' means a supervising physician must be available for direct communication by telephone or other means of telecommunication.

(5) 'NCCPA' means the National Commission on Certification of Physician Assistants, Inc., the agency recognized to examine and evaluate the education of physician assistants, or its successor organization as recognized by the board.

(6) 'Physician assistant' means a health care professional licensed to assist in the practice of medicine with a physician supervisor.

(7) 'Physician supervisor' or 'supervising physician' means a South Carolina licensed physician currently possessing an active, unrestricted permanent license to practice medicine in South Carolina who is approved to serve as a supervising physician for no more than three full-time equivalent physician assistants. The physician supervisor is the individual who is responsible for supervising a physician assistant's activities.

(8) ‘Supervising’ means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant as part of a physician-led team in a manner approved by the board.”

Applications for licensure

SECTION 3. Section 40-47-940(A) of the 1976 Code is amended to read:

“(A)An application must be submitted to the board on forms supplied by the board. The application must be complete in every detail before licensure may be granted and must be accompanied by a nonrefundable fee. As part of the application process, the supervising physician and physician assistant must specify clearly in detail those medical acts, tasks, or functions for which approval is being sought. The specific medical acts, tasks, or functions must be included in the scope of practice guidelines, and the scope of practice guidelines must accompany the application.”

Grants of permanent licensure

SECTION 4. Section 40-47-945 of the 1976 Code is amended to read:

“Section 40-47-945. (A) Except as otherwise provided in this article, an individual shall obtain a permanent license from the board before the individual may practice as a physician assistant. The board shall grant a permanent license as a physician assistant to an applicant who has:

- (1) submitted a completed application on forms provided by the board;
- (2) paid the nonrefundable application fees established in this article;
- (3) successfully completed an educational program for physician assistants approved by the Accreditation Review Commission on Education for the Physician Assistant or its predecessor or successor organization;
- (4) successfully completed the NCCPA certifying examination and provide documentation that the applicant possesses a current, active, NCCPA certificate;
- (5) certified that the applicant is mentally and physically able to engage safely in practice as a physician assistant;

(6) no licensure, certificate, or registration as a physician assistant under current discipline, revocation, suspension, probation, or investigation for cause resulting from the applicant's practice as a physician assistant;

(7) good moral character;

(8) submitted to the board other information the board considers necessary to evaluate the applicant's qualifications;

(9) appeared before a board member or board designee with all original diplomas and certificates and demonstrated knowledge of the contents of this article. A temporary authorization to practice may be issued as provided in Section 40-47-940 pending completion of this requirement and subject to satisfactory interview as provided below; and

(10) successfully completed an examination administered by the committee on the statutes and regulations regarding physician assistant practice and supervision.

(B) Not later than ninety days from the date a temporary authorization is issued, each applicant shall appear before a board member or board designee and demonstrate knowledge of the contents of this article. Failure to appear within the prescribed time automatically results in the immediate invalidation of the authorization to practice pending compliance and further order of the board. If approved, a permanent license may be issued immediately. If not approved, the application must be reviewed by the committee and may be recommended to the board for approval as presented to or modified by the committee.

(C) The supervising physician of a limited licensee physically must be present on the premises at all times when the limited licensee is performing a task."

Appearance before board for temporary licensure

SECTION 5. Section 40-47-950(A)(9) of the 1976 Code is amended to read:

"(9) appeared before a board member or board designee with all original diplomas and certificates and demonstrated knowledge of the contents of this article; and"

On-the-job training for temporary licensure

SECTION 6. Section 40-47-950(C) of the 1976 Code is amended to read:

“(C) The supervising physician of a limited licensee physically must be present on the premises at all times when the limited licensee is performing a task.”

Physical presence requirements of supervising physicians

SECTION 7. Section 40-47-955 of the 1976 Code is amended to read:

“Section 40-47-955. (A) The supervising physician is responsible for all aspects of the physician assistant’s practice. Supervision must be continuous but must not be construed as necessarily requiring the physical presence of the supervising physician at the time and place where the services are rendered, except as otherwise required for limited licensees. The supervising physician shall identify the physician assistant’s scope of practice and determine the delegation of medical acts, tasks, or functions. Medical acts, tasks, or functions must be defined in written scope of practice guidelines which must be appropriate to the physician assistant’s ability and knowledge.

(B) Pursuant to scope of practice guidelines, a physician assistant may practice in a public place, a private place, or a facility where the supervising physician regularly sees patients, may make house calls, perform hospital duties, and perform any functions performed by the supervising physician if the physician assistant is also qualified to perform those functions.

(C) A physician assistant must have six months of clinical experience with the current supervising physician before being permitted to practice at a location off site from the supervising physician, except that a physician assistant who has at least two years continuous practice in the same specialty may practice at a location off site from the supervising physician after three months clinical experience with the supervising physician and upon request of the supervising physician. This three-month requirement may be waived for experienced physician assistants and supervisors upon recommendation of the committee and approval by the board. The off-site location may not be more than sixty miles of travel from the supervising physician or alternate supervising physician without written approval of the board. Notice of off-site practice must be filed

with the administrative staff of the board before off-site practice may be authorized. The supervising physician or alternate must review, initial, and date the off-site physician assistant's charts periodically as provided in the written scope of practice guidelines, provided the supervising physician must review and verify the adequacy of clinical practice of ten percent of these charts monthly.

(D) A supervising physician may simultaneously supervise no more than three physician assistants providing clinical service at one time.

(E) Upon written request, and recommendation of the committee, the board may authorize exceptions to the requirements of this section.”

Scope of practice, Schedule II drugs

SECTION 8. Section 40-47-960 of the 1976 Code is amended to read:

“Section 40-47-960. A physician assistant practicing at all sites shall practice pursuant to written scope of practice guidelines signed by all supervisory physicians and the physician assistant. Copies of the guidelines must be on file at all practice sites. The guidelines shall include at a minimum the:

(1) name, license number, and practice addresses of all supervising physicians;

(2) name and practice address of the physician assistant;

(3) date the guidelines were developed and dates they were reviewed and amended;

(4) medical conditions for which therapies may be initiated, continued, or modified;

(5) treatments that may be initiated, continued, or modified;

(6) drug therapy, if any, that may be prescribed with drug-specific classifications; and

(7) situations that require direct evaluation by or immediate referral to the physician, including Schedule II controlled substance prescription authorization as provided for in Section 40-47-965.”

Permissible medical samples, Schedule II drugs

SECTION 9. Section 40-47-965 of the 1976 Code is amended to read:

“Section 40-47-965. (A) If the written scope of practice guidelines authorizes the physician's assistant to prescribe drug therapy:

(1) prescriptions for authorized drugs and devices shall comply with all applicable state and federal laws;

(2) prescriptions must be limited to drugs and devices authorized by the supervising physician and set forth in the written scope of practice guidelines;

(3) prescriptions must be signed by the physician assistant and must bear the physician assistant's identification number as assigned by the board and all prescribing numbers required by law. The preprinted prescription form shall include both the physician assistant's and physician's name, address, and phone number and shall comply with the provisions of Section 39-24-40;

(4) drugs or devices prescribed must be specifically documented in the patient record;

(5) the physician assistant may request, receive, and sign for professional samples of drugs authorized in the written scope of practice guidelines and may distribute professional samples to patients in compliance with appropriate federal and state regulations and the written scope of practice guidelines;

(6) the physician assistant may authorize prescriptions for an orally administered Schedule II controlled substance, as defined in the federal Controlled Substances Act, pursuant to the following requirements:

(a) the authorization to prescribe is expressly approved by the supervising physician as set forth in the physician assistant's written scope of practice guidelines;

(b) the physician assistant has directly evaluated the patient;

(c) the authority to prescribe is limited to an initial prescription and must not exceed a seventy-two hour supply;

(d) any subsequent prescription authorization must be in consultation with and upon patient examination and evaluation by the supervising physician, and must be documented in the patient's chart; and

(e) any prescription for continuing drug therapy must include consultation with the supervising physician and must be documented in the patient's chart;

(7) the physician assistant may authorize a medical order for parenteral administration of a Schedule II controlled substance, as defined in the federal Controlled Substances Act, pursuant to the following requirements:

(a) the authorization to write a medical order is expressly approved by the supervising physician as set forth in the physician assistant's written scope of practice guidelines;

(b) the physician assistant is providing patient care in a hospital setting, including emergency and outpatient departments affiliated with the hospital;

(c) an initial patient examination and evaluation has been performed by the supervising physician, or his delegate physician, and has been documented in the patient's chart; however, in a hospital emergency department, a physician assistant may authorize such a medical order if the supervising or delegate physician is unavailable due to clinical demands, but remains on the premises and is immediately available, and the supervising or delegate physician conducts the patient evaluation as soon as practicable and is documented in the patient's chart;

(d) the physician assistant has directly evaluated the patient; and

(e) the written medical order may not exceed a one-time administration within a twenty-four hour period.

(B) When applying for controlled substance prescriptive authority, the applicant shall comply with the following requirements:

(1) the physician assistant shall provide evidence of completion of sixty contact hours of education in pharmacotherapeutics acceptable to the board before application;

(2) the physician assistant shall provide at least fifteen contact hours of education in controlled substances acceptable to the board;

(3) every two years, the physician assistant shall provide documentation of four continuing education contact hours in prescribing controlled substances acceptable to the board;

(4) the physician assistant must have a valid Drug Enforcement Administration (DEA) registration and prescribe in accordance with DEA rules; and

(5) the physician assistant and supervising physician must read and sign a document approved by the board describing the management of expanded controlled substances prescriptive authority for physician assistants in South Carolina which must be kept on file for review. Within the two-year period, the physician assistant and the supervising physician periodically shall review this document and the physician assistant's prescribing practices to ensure proper prescribing procedures are followed. This review must be documented in writing with a copy kept at each practice site.

(C) A physician assistant's prescriptive authorization may be terminated by the board if the physician assistant:

(1) practices outside the written scope of practice guidelines;

(2) violates any state or federal law or regulation applicable to prescriptions; or

(3) violates a state or federal law applicable to physician assistants.”

Prohibited medical acts, Schedule II drugs

SECTION 10. Section 40-47-970 of the 1976 Code is amended to read:

“Section 40-47-970. A physician assistant may not:

(1) perform a medical act, task, or function which has not been listed and approved on the scope of practice guidelines;

(2) prescribe drugs, medications, or devices not specifically authorized by the supervising physician and documented in the written scope of practice guidelines;

(3) prescribe, under any circumstances, controlled substances in Schedule II except as authorized in Section 40-47-965;

(4) perform a medical act, task, or function that is outside the usual practice of the supervising physician.”

Scope of practice, termination

SECTION 11. Section 40-47-995 of the 1976 Code is amended to read:

“Section 40-47-995. If the supervisory relationship between a physician assistant and the supervising physician is terminated for any reason, the physician assistant and the supervising physician shall inform the board immediately in writing of the termination, including the reasons for the termination. The approval of the practice setting terminates coterminous with the termination of the relationship, and practice shall cease until new scope of practice guidelines are submitted by a supervising physician and are approved by the board.”

Repeal

SECTION 12. Sections 40-47-975 and 40-47-980 of the 1976 Code are repealed.

Time effective

SECTION 13. This act takes effect upon approval by the Governor.

Ratified the 15th day of May, 2013.

Approved the 21st day of May, 2013.

No. 29

(R40, H3087)

AN ACT TO AMEND SECTION 59-40-50, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO VARIOUS REQUIREMENTS, POWERS, AND DUTIES OF CHARTER SCHOOLS, SO AS TO PROVIDE A PUBLIC CHARTER SCHOOL SHALL ALLOW ENROLLMENT PREFERENCE TO RETURNING STUDENTS AND THAT THESE RETURNING STUDENTS MAY NOT ENTER A LOTTERY FOR CHARTER SCHOOL ENROLLMENT, AND TO PROVIDE THAT A CHARTER SCHOOL LOCATED ON A FEDERAL MILITARY INSTALLATION OR BASE WHERE THE APPROPRIATE AUTHORITIES HAVE MADE BUILDINGS, FACILITIES, AND GROUNDS ON THE INSTALLATION OR BASE AVAILABLE FOR USE BY THE CHARTER SCHOOL AS ITS PRINCIPAL LOCATION ALSO MAY GIVE ENROLLMENT PRIORITY TO OTHERWISE ELIGIBLE STUDENTS WHO ARE DEPENDENTS OF MILITARY PERSONNEL LIVING IN MILITARY HOUSING ON THE BASE OR INSTALLATION OR WHO ARE CURRENTLY STATIONED AT THE BASE OR INSTALLATION NOT TO EXCEED FIFTY PERCENT OF THE TOTAL ENROLLMENT OF THE CHARTER SCHOOL.

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

Charter school powers and duties

SECTION 1. Section 59-40-50(B)(8) of the 1976 Code, as last amended by Act 164 of 2012, is further amended to read:

“(8) not limit or deny admission or show preference in admission decisions to any individual or group of individuals, except in the case of an application to create a single gender charter school, in which case gender may be the only reason to show preference or deny admission to the school; a charter school may give enrollment priority to a sibling of a pupil currently enrolled and attending, or who, within the last six years, attended the school for at least one complete academic year. A public charter school shall give enrollment preference to students enrolled in the public charter school the previous school year. An enrollment preference for returning students excludes those students from entering into a lottery. A charter school also may give priority to children of a charter school employee and children of the charter committee, if priority enrollment for children of employees and of the charter committee does not constitute more than twenty percent of the enrollment of the charter school. In addition, a charter school located on a federal military installation or base where the appropriate authorities have made buildings, facilities, and grounds on the installation or base available for use by the charter school as its principal location also may give enrollment priority to otherwise eligible students who are dependents of military personnel living in military housing on the base or installation or who are currently stationed at the base or installation not to exceed fifty percent of the total enrollment of the charter school. This priority is in addition to the other priorities provided by this item, but no child may be counted more than once for purposes of determining the percentage makeup of each priority;”

Time effective

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

Ratified the 15th day of May, 2013.

Approved the 21st day of May, 2013.

No. 30

(R41, H3097)

AN ACT TO AMEND ARTICLE 4, CHAPTER 56, TITLE 44, CODE OF LAWS, 1976, RELATING TO THE DRYCLEANING FACILITY RESTORATION TRUST FUND, SO AS TO SPECIFY THE USE AND PURPOSE OF THE FUND, AUTHORIZE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO EXPEND MONIES FROM THE FUND FOR ASSESSMENT OF POTENTIAL SITES PRIOR TO OBTAINING EVIDENCE OF CONTAMINATION AT THE SITE, AND CLARIFY WHAT FACILITIES ARE EXCLUDED FROM PARTICIPATING IN THE FUND AND THE EFFECT OF PARTICIPATING IN THE FUND IF A FACILITY IS SEEKING EXEMPTION FROM THE FUND; AND TO DELETE OBSOLETE PROVISIONS, REORGANIZE PROVISIONS, AND MAKE TECHNICAL CORRECTIONS.

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

Drycleaning restoration trust fund revised

SECTION 1. Article 4, Chapter 56, Title 44 of the 1976 Code is amended to read:

“Article 4

Drycleaning Facility Restoration Trust Fund

Section 44-56-405. The purpose of the South Carolina Drycleaning Facility Restoration Trust Fund is to collect and manage funds for the investigation and remediation of environmental contamination arising from the operation of eligible drycleaning facilities and eligible wholesale supply facilities. The Department of Revenue shall collect, and enforce the payment of surcharges and fees, which constitute the fund, as required by this article. The Department of Health and Environmental Control shall administer the fund to ensure that the sites that pose the greatest threat to human health and the environment are remediated first and that the remediation is accomplished in compliance with this article.

Section 44-56-410. As used in this article:

(1) 'Contaminated site' means any drycleaning facility or wholesale supply facility and surrounding area where drycleaning solvent has been deposited, stored, disposed of, released, placed, or otherwise come to be located; but does not include any consumer product in consumer use or any container. In order for a site to be a contaminated site it must have documented evidence of contamination from drycleaning solvent.

(2) 'Department' means the Department of Health and Environmental Control.

(3) 'Drycleaning facility' means a professional commercial establishment located in this State for the purpose of cleaning clothing and other fabrics utilizing a process that involves the use of drycleaning solvent. In the case of a retail establishment, the establishment is one that operates or has at sometime in the past operated in whole or in part for the purpose of cleaning clothing and other fabrics for members of the public, other drycleaning facilities, and dry drop-off facilities. In the case of a wholesale establishment, the establishment is one that operates or has at sometime in the past operated in whole or in part for the purpose of cleaning clothing and other fabrics for other drycleaning facilities or dry drop-off facilities. 'Drycleaning facility' includes laundry facilities that are using or have used drycleaning solvent as part of their cleaning process but does not include textile mills, uniform rental and linen supply facilities, or drycleaning facilities owned or operated by a local, state, or federal government.

(4) 'Drycleaning solvent' means nonaqueous solvents used in the cleaning of clothing and other fabrics and includes halogenated drycleaning fluids and nonhalogenated drycleaning fluids, and their breakdown products. 'Drycleaning solvent' includes solvent that has been recycled for use at a drycleaning facility and applies only to those solvents used at a drycleaning facility or handled by a wholesale supply facility.

(5) 'Dry drop-off facility' means a commercial retail business (including routes) that receives clothing and other fabrics, from customers, for drycleaning or laundering at an off-site drycleaning facility.

(6) 'Employee' means a natural person employed and paid by the owner of a drycleaning facility for thirty-five or more hours a week for forty-five or more weeks a year and on whose behalf the owner contributes payments to the South Carolina Department of Employment and Workforce or Department of Revenue as required by

law. Excluded from the meaning of the term 'employee' are owners of drycleaning facilities and family members of owners, regardless of the level of consanguinity, if the family members are not employed and not compensated pursuant to the definition of the term 'employee' contained in this item. Part-time employees who are employed and paid for fewer than thirty-five hours a week for fewer than forty-five weeks a year must not be deemed to be employees unless their hours and weeks of employment, when combined with the hours and weeks of employment of another or other part-time employee or employees, total thirty-five or more hours a week for forty-five or more weeks a year.

(7) 'Existing drycleaning facility' means a drycleaning facility that started operation before November 24, 2004.

(8) 'Former drycleaning facility' means a drycleaning facility that ceased to be operated as a drycleaning facility before July 1, 1995.

(9) 'Fund' means Drycleaning Facility Restoration Trust Fund.

(10) 'Halogenated drycleaning fluid' means any nonaqueous solvent formulated, in whole or in part, with ten percent or more by volume of any of the halogenated compounds including, but not limited to, chlorine, bromine, fluorine, or iodine. Halogenated drycleaning fluids include, but are not limited to, the known solvents perchloroethylene (also known as tetrachloroethylene or perc), n-propyl bromide, and any breakdown components of them.

(11) 'New drycleaning facility' means a drycleaning facility that started operation on or after November 24, 2004.

(12) 'Nonaqueous solvent' means any cleaning formulation designed to minimize swelling of fabric fibers and containing less than fifty-one percent of water by volume.

(13) 'Nonhalogenated drycleaning fluid' means any nonaqueous solvent used in a drycleaning facility that contains less than ten percent by volume of any halogenated drycleaning fluid. Nonhalogenated drycleaning fluid includes petroleum based drycleaning solvents and any breakdown components of them.

(14) 'Person' means an individual, partnership, corporation, association, trust, estate, receiver, company, limited liability company, or another entity or group.

(15) 'Property owner' means a person who is vested with ownership, dominion, or legal or rightful title to the real property or who has a ground lease interest in the real property on which a drycleaning or wholesale supply facility is or has ever been located.

(16) 'Release' means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping,

leaching, dumping, or disposing into the environment of drycleaning solvent.

(17) 'Route' means a commercial business that receives by mobile means clothing and other fabrics, from customers, for drycleaning or laundering at an off-site drycleaning facility.

(18) 'Wholesale supply facility' means a commercial establishment that supplies drycleaning solvent to drycleaning facilities.

Section 44-56-420. (A) There is created in the state treasury a separate and distinct account called the 'Drycleaning Facility Restoration Trust Fund', revenue for which must be collected and enforced by the Department of Revenue, and the fund must be administered by the department and expended for the purposes of this article. However, the department may contract for the administration of the fund or any part of the administration of the fund. Judgments, recoveries, reimbursements, loans, surcharges and fees imposed and collected pursuant to this article except for administrative costs retained by the Department of Revenue, and other fees and charges related to the implementation of this article must be credited to the fund. Payments made out of the fund must be made in accordance with the provisions of this article. The State accepts no financial responsibility as a result of the creation of the fund. The creation of the fund creates no burden upon the State to provide monies for the fund by any mechanisms other than as provided in this article. The State may recover to the fund any disbursements from the fund which were not utilized in accordance with this article.

(B) The board of the Department of Health and Environmental Control shall establish a moratorium on administrative and judicial actions by the department concerning drycleaning facilities and wholesale supply facilities resulting from the release of drycleaning solvent to soil or waters of the State. This moratorium applies only to those sites deemed eligible as defined in Section 44-56-470. The board may review and determine the appropriateness of the moratorium as needed. The review by the board must include, but is not limited to, consideration of these factors:

- (1) the solvency of the fund as described in this article;
- (2) prioritization of the sites;
- (3) public health concerns related to the sites;
- (4) eligibility of the sites; and
- (5) corrective action plans submitted to the department. After review, the board may suspend all or a portion of the moratorium if necessary.

(C) If incidents of contamination by drycleaning solvent related to the operation of an eligible contaminated site pose a threat to the environment or the public health, safety, or welfare, the department may expend monies available in the fund to provide for:

(1) the prompt investigation and assessment of the contaminated sites; however, the owner or operator of a drycleaning facility or wholesale supply facility or a property owner shall pay for the cost of the investigation and assessment up to the amount of the owner's, operator's, or property owner's deductible, and the department only shall provide monies that exceed the owner's, operator's, or property owner's deductible;

(2) the expeditious treatment, restoration, or replacement of potable water supplies;

(3) the remediation including the operation maintenance and monitoring of eligible contaminated sites, which consist of remediation of affected soil, groundwater, and surface waters, using the most cost-effective alternative that is reliable and feasible technologically and that provides adequate protection of the public health, safety, and welfare and minimizes environmental damage in accordance with the site selection;

(4) the expenses of administering the fund by the department including the employment of department staff to carry out the department's duties described in this article; however, the department may exclude five percent of the average annual collections of the fund or the amount required to fund four employees and the administrative costs associated with these employees, whichever is greater.

(D) The fund may not be used to:

(1) pay for activities in subsection (C) if the activities at a site are or were not related to the operation of a drycleaning facility or wholesale supply facility;

(2) pay for activities in subsection (C) if the activities are for a contaminated site that is proposed for listing or is listed on the State Priority List or on the National Priority List pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, or any site that is required to obtain a permit pursuant to the Resource Conservation and Recovery Act, as amended;

(3) pay any costs associated with a fine, penalty, or action brought against the owner or operator of a drycleaning facility or wholesale supply facility or a property owner under local, state, or federal law;

(4) pay for activities in subsection (C) if the costs were incurred before July 1, 1995;

(5) pay any costs to landscape or otherwise artificially improve a contaminated site;

(6) pay for activities in subsection (C) where the costs were incurred before the actual date of the first payment of registration fees for the site pursuant to Section 44-56-440(B);

(7) pay any costs for work not approved by the department in accordance with this article or regulations promulgated pursuant to this article;

(8) pay for activities in subsection (C) at sites that are uniform rental and linen supply facilities unless the site was operated on or after July 1, 1995, as a drycleaning facility for garments or fabrics belonging to the public and has participated in the fund;

(9) pay for activities in subsection (C) at sites that are no longer operated as drycleaning facilities or coin-operated drycleaning facilities unless they qualify pursuant to Section 44-56-470(C);

(10) pay any costs that may be associated with, but are not integral to, site assessment and/or remediation; and

(11) pay for activities in subsection (C) at a drycleaning facility that has been contaminated as a result of a release by a wholesale supplier during the delivery of drycleaning solvent until it has first been remediated by the full amount of the wholesale supplier's insurance.

Section 44-56-425. (A) Notwithstanding another provision of this article, this article does not apply to a drycleaning facility that possesses a drycleaning facility exemption certificate issued by the Department of Revenue on or after July 1, 2009. A drycleaning facility exemption certificate may be issued by the Department of Revenue only if the drycleaning facility meets all of the following requirements:

(1) the drycleaning facility was in existence on July 1, 1995;

(2)(a) the drycleaning facility has only drycleaned with nonhalogenated drycleaning fluids; or

(b) the drycleaning facility drycleaned with halogenated drycleaning fluids and nonhalogenated drycleaning fluids and elected to remove the site from the requirements of this article by notification made to the Department of Revenue before October 1, 1995;

(3)(a) the drycleaning facility never participated in the fund through payment of any surcharges or fees imposed pursuant to this article; or

(b) paid an initial registration fee in 1995 and operated as an exempt drycleaning facility the following year and subsequent years up until 2009. A drycleaning facility described pursuant to subsection (A)(3)(b) of this section shall have any payments made after July 1, 2009, refunded by the Department of Revenue;

(4) the drycleaning facility requested a drycleaning facility exemption certificate from the Department of Revenue by December 31, 2009; and

(5) the department has verified that the drycleaning facility has met the requirements contained in items (1) through (4) for the issuance of the drycleaning facility exemption certificate to the drycleaning facility.

(B) If the ownership or operation of a drycleaning facility that possesses a drycleaning facility exemption certificate is transferred to another person after December 31, 2009, the new owner or operator shall request and must be provided an updated drycleaning facility exemption certificate from the Department of Revenue; otherwise the certificate remains current.

(C) The drycleaning facility exemption certificate authorized pursuant to this section only applies to the physical location at which the drycleaning took place and is not transferable to any other physical location.

(D)(1) This article does not apply to dry drop-off facilities where the clothing or other fabrics are cleaned only by a drycleaning facility that meets all of the following conditions:

(a) the drycleaning facility is owned or operated by the same person that owns or operates the dry drop-off facility and the drycleaning facility has been issued a drycleaning facility exemption certificate pursuant to this section;

(b) the owner or operator of the drycleaning facility, or related entity, does not own or operate a drycleaning facility that is required to participate in the fund through payment of surcharges or fees imposed pursuant to this article; and

(c) the owner or operator of the drycleaning facility, or related entity, does not own any property on which a drycleaning facility is protected by the moratorium pursuant to Section 44-56-420(B).

(2) This article does not apply to dry drop-off facilities where the clothing or other fabrics are cleaned only by a drycleaning facility that complies with subsection (D)(1), and the dry drop-off facility is not being operated at a property on which a drycleaning facility is protected by the moratorium pursuant to Section 44-56-420(B).

(3) If an owner or operator of a drycleaning facility, or related entity, who complies with subsection (D)(1), purchases the business of a drycleaning facility that participates in the fund, and the owner or operator uses that location only as a dry drop-off facility, this article will not apply to that dry drop-off facility if the drycleaning business was closed and not operating when it was purchased.

(E) A drycleaning facility that is in possession of a drycleaning facility exemption certificate is permanently barred from receiving monies from the fund, and the moratorium provided for in Section 44-56-420(B) does not apply.

(F) The department may direct the Department of Revenue in writing to allow a property owner to register if the property owner can demonstrate to the department that they have not been notified pursuant to Section 44-56-435(A) and did not have reason to know of this article for more than ninety days prior to requesting registration. The property owner registering pursuant to this subsection is liable for payment of all taxes or fees, including interest, from the later of July 1, 1995, or the date the drycleaning facility began operating; however, the registering property owner is not liable for penalties.

Section 44-56-430. (A) The department is required to report each January fifteenth the current financial position of the fund to the General Assembly. In addition, the department shall include projected information that would enable the General Assembly to determine the solvency of the fund. At a minimum this must include a five-year budget projection. This report also must review and comment on the adequacy of the current program in resolving contamination problems at both operating and closed drycleaning facilities and wholesale supply facilities in this State.

(B) The department shall promulgate regulations to establish priorities for assessment and remediation at eligible contaminated sites. The department shall provide for the assessment and remediation of eligible contaminated sites consistent with these regulations and other provisions of this article.

(C) The department shall administer the assessment and remediation portions of the program through direct payments to contractors actually accomplishing the site assessment and remediation and not through reimbursement to drycleaning or wholesale supply facility owners, operators, or property owners. All services related to site assessment and remediation must be preapproved by the department before performance in order to receive payment for services rendered.

(D) The department may not expend more than five hundred fifty thousand dollars from the fund annually to pay for the costs at any one contaminated site for the activities described in Section 44-56-420(C).

(E) The department in its sole discretion may use other funds to pay the cost of a cleanup if the department declares a contaminated site is an emergency and if the committed money in the fund exceeds the current balance or the amount committed to a contaminated site has reached the maximum allowable expenditure as required in subsection (D). However, once the fund has an available uncommitted balance, the department's other sources of money that paid for the approved emergency cleanup may be reimbursed for the costs incurred through annual payments that may not exceed five percent of the total fund's average annual balance. The fund may not obligate itself for more than it is estimated to generate through surcharges and fees.

(F) Nothing in this article subjects the department to liability for any action that may be required of the owner, operator, or person by a private party or a local, state, or federal governmental entity.

(G) Nothing in this article may restrict the department from temporarily postponing rehabilitation work on a site in order to make funds available to perform work on another contaminated site with a higher priority.

Section 44-56-435. (A) The Department of Revenue shall distribute registration forms to owners and operators of drycleaning and wholesale supply facilities and to property owners. The Department of Revenue shall use reasonable efforts to identify and notify owners, operators, and property owners of drycleaning and wholesale supply facilities of the registration requirements by certified mail, return receipt requested. The Department of Revenue shall provide to the department a copy of each applicant's registration materials within thirty working days of the receipt of the materials.

(B) The Department of Revenue shall administer, collect, and enforce the surcharges and fees in Sections 44-56-440, 44-56-450, and 44-56-460 in the manner that the sales and use taxes are administered, collected, and enforced under Chapter 36, Title 12, except that no timely payment discount or exemptions or exclusions are allowed. The provisions of Title 12 apply to the collection and enforcement of the surcharges and fees by the Department of Revenue.

(C) The Department of Revenue shall retain funds for the costs incurred to collect and enforce the fund that may include a part-time employee with the related expenses for audit purposes. The funds withheld must not exceed the actual costs to administer, collect, and

enforce the fund. The proceeds of the registration fee and surcharges, after deducting the costs incurred by the Department of Revenue in auditing, collecting, distributing, and enforcing payment of the registration fee and the surcharges, must be remitted to the State Treasurer and credited to the fund. For the purposes of this article, the proceeds of the registration fee and the surcharges include all funds collected and received by the Department of Revenue, including interest and penalties on delinquent fees and surcharges.

(D) The Department of Revenue may establish audit procedures and assess delinquent registration fees and surcharges.

(E) The Department of Revenue, in addition to all other penalties authorized by this article and in addition to the provisions of Section 12-54-90, may revoke one or more certificates of registration of any owner or operator of a drycleaning facility for failure to remit any taxes, surcharges, or fees due by the owner or operator pursuant to this article or Title 12 or when the owner or operator fails, neglects, violates, or refuses to comply with the provisions of Section 44-56-440.

(F) The Department of Revenue shall create and update an annual report of all drycleaning facilities in the State. This report must identify those that have a drycleaning facility exemption certificate and must provide the status of the annual certificates of registration for those in the fund. The Department of Revenue shall publicize the report and distribute it as widely as practical on October thirtieth of each year to interested parties including, but not limited to, wholesale suppliers, dry cleaners, the department, and other interested parties.

Section 44-56-440. (A)(1) The owner or operator of a drycleaning facility shall register with and pay initial registration fees to the Department of Revenue for each drycleaning facility in operation, and pay annual or quarterly renewal registration fees as established by the Department of Revenue. The fee must be accompanied by a notarized certification from the owner or operator of the drycleaning facility, on a form provided by the Department of Revenue, certifying the number of employees employed by the owner or operator of the drycleaning facility for the twelve-month period preceding payment of the fee.

(2)(a) The property owner of the drycleaning facility may register the site if the owner or operator of the drycleaning facility does not register a site under the provisions of this section. Upon registration by the property owner, the owner or operator of the drycleaning facility must be notified by the Department of Revenue of the registration, and the owner or operator of the drycleaning facility shall comply with all

applicable provisions of this article, including the payment of subsequent renewal fees imposed under subsection (B).

(b) The property owner shall obtain a notarized certification from the owner or operator of the drycleaning facility, on a form provided by the Department of Revenue, certifying the number of employees employed by the owner or operator of the drycleaning facility and his dry drop-off facilities for the twelve-month period preceding payment of the fee and shall remit the fee imposed pursuant to subsection (B). If the property owner is unable to obtain information as to the number of employees at the site, the property owner shall remit the fee imposed pursuant to subsection (B)(3) in order to register the site.

(B) An initial and annual registration fee for each drycleaning facility with:

- (1) up to four employees is seven hundred fifty dollars;
- (2) five to ten employees is one thousand five hundred dollars;
- (3) eleven or more employees is two thousand two hundred fifty dollars.

A drycleaning facility that possesses a drycleaning facility exemption certificate issued pursuant to Section 44-56-425 is exempt from the fee imposed pursuant to this section.

(C) Each drycleaning facility registered in accordance with this section must be issued an annual drycleaner's certificate of registration by the Department of Revenue. The certificate of registration authorized pursuant to this section is valid beginning the first day of October following the registration and ending on the last day of the following September. In the case of a new drycleaning facility registered in accordance with this section, the certificate of registration authorized pursuant to this section is valid beginning on the day it is issued and ending on the last day of the following September.

(D) In order to purchase or receive drycleaning solvent from a wholesale supply facility or another drycleaning facility, a drycleaning facility shall provide the supplier of drycleaning solvent a copy of its current certificate of registration or drycleaning facility exemption certificate issued pursuant to Section 44-56-425, whichever is applicable.

(E) Drycleaning solvent only must be purchased from a solvent supplier who is registered pursuant to Section 44-56-460(B).

(1) A wholesale supply facility is prohibited from selling or transferring drycleaning solvent to any drycleaning facility not in possession of a current certificate of registration or a drycleaning facility exemption certificate issued pursuant to Section 44-56-425.

(2) A drycleaning facility is prohibited from selling or transferring drycleaning solvent to any other drycleaning facility not in possession of a current certificate of registration or a drycleaning facility exemption certificate issued pursuant to Section 44-56-425. This prohibition applies even if the same person owns or operates both drycleaning facilities.

(3) A drycleaning facility not in possession of a current certificate of registration or a drycleaning facility exemption certificate issued pursuant to Section 44-56-425, is prohibited from purchasing or receiving drycleaning solvent.

Section 44-56-450. (A)(1) An environmental surcharge equal to one percent of the gross proceeds of sales of laundering and drycleaning services is imposed upon every owner or operator of a retail drycleaning facility or a dry drop-off facility.

Exempt from the environmental surcharge imposed in this section are:

(a) drycleaning facilities that possess a drycleaning facility exemption certificate issued pursuant to Section 44-56-425;

(b) dry drop-off facilities exempt pursuant to Section 44-56-425(D); and

(c) wholesale sales of drycleaning services provided to another drycleaning facility or a dry drop-off facility.

(2) At any time the uncommitted balance of the fund account exceeds five million dollars, the one percent of the gross proceeds of sales of drycleaning surcharge is suspended until that time the uncommitted balance of the trust fund account becomes less than one million dollars. The department is responsible for notifying the Department of Revenue when these amounts have been reached. The suspension of the environmental surcharge occurs at the end of the month in which the Department of Revenue is notified by the department. The lifting of the suspension occurs on the first day of the month following the month in which the Department of Revenue is notified by the department.

(B) The surcharge imposed by this section is due and payable on the twentieth day of each month for the preceding month. The Department of Revenue may authorize the quarterly, semiannual, or annual payment of this surcharge. The surcharge must be reported on forms and in the manner determined by the Department of Revenue.

Section 44-56-460. (A) Beginning July 1, 1995, an environmental surcharge is assessed on the privilege of producing in, importing into, or causing to be imported into the State drycleaning solvent. A

surcharge of ten dollars per gallon on halogenated drycleaning fluid and two dollars per gallon on nonhalogenated drycleaning fluid is levied on each gallon to be used for drycleaning purposes when imported into or produced in the State. Nonhalogenated drycleaning fluids purchased, produced, or transported in a nonliquid physical state must be assessed a surcharge of twenty cents per pound. Exempt from the surcharge imposed pursuant to this section are sales or distributions to, or purchases or receipts by, drycleaning facilities that possess a drycleaning facility exemption certificate issued pursuant to Section 44-56-425.

(B) A person producing in, importing into, or causing to be imported into this State drycleaning solvent for sale, use, or otherwise shall register with the Department of Revenue and become licensed for the purposes of remitting the surcharge pursuant to this section. The person shall register as a producer or importer of drycleaning solvent. Persons operating as a producer or importer of drycleaning solvent at more than one location only are required to have a single registration. The fee for registration is thirty dollars.

(C) The surcharge imposed by this section is due and payable on or before the twentieth day of the month succeeding the month of production, importation, or removal from a storage site. The surcharge must be reported on forms and in the manner determined by the Department of Revenue. The surcharge report must include the name, address, and quantity of solvent sold to each drycleaning facility during the month. This information is not subject to the Freedom of Information Act and is not available for distribution to the Drycleaning Advisory Council.

(D) All drycleaning solvent to be used for drycleaning purposes which are imported, produced, or sold in this State are presumed to be subject to the surcharge imposed by this section. An owner or operator of a drycleaning facility participating in the fund who has purchased drycleaning solvent for use, consumption, resale, or distribution in this State shall document that the surcharge imposed by this section has been paid or shall pay the surcharge directly to the Department of Revenue in accordance with subsection (C). The solvent dealer may pass the costs of the surcharge to any owner or operator of a drycleaning facility who has purchased drycleaning solvent for use, consumption, resale, or distribution in this State, except no surcharge may be imposed on drycleaning solvent supplied to a drycleaning facility that possesses a drycleaning facility exemption certificate issued pursuant to Section 44-56-425.

(E) The surcharge imposed by this section must be remitted to the Department of Revenue. The payment must be accompanied by the forms prescribed by the Department of Revenue.

(F) Drycleaning solvent exported out of State from the storage site at which the producer or importer holds it in this State is exempt from the surcharge authorized pursuant to this section. Anyone exporting drycleaning solvent on which the surcharge has been paid may apply for a refund or credit. A person who sells drycleaning solvent that is exempt from the collection of the surcharge pursuant to subsection (D) may apply for a credit or refund. The Department of Revenue may require information it considers necessary in order to approve the refund or credit.

(G) The Department of Revenue may authorize:

(1) a quarterly return and payment when the surcharge remitted by the licensee for the preceding quarter did not exceed one hundred dollars;

(2) a semiannual return and payment when the surcharge remitted by the licensee for the preceding six months did not exceed two hundred dollars;

(3) an annual return and payment when the surcharge remitted by the licensee for the preceding twelve months did not exceed four hundred dollars.

Section 44-56-470. (A) In order for the department to expend fund money, a wholesale supply facility or drycleaning facility must be deemed eligible under this section and stay in compliance with this article and regulations promulgated pursuant to this section to remain eligible. In order for the department to determine eligibility, the owner, operator, or the property owner shall submit a timely application on forms developed by the department for this purpose.

(B) A wholesale supply facility, new drycleaning facility, or existing drycleaning facility is deemed eligible under this section only if:

(1) the owner, operator, or property owner of the drycleaning facility, has registered with and has paid all annual fees, surcharges, and solvent fees as required by the Department of Revenue;

(2) the wholesale supply facility or drycleaning facility, is determined by the department to be in compliance with this article and department regulations governing drycleaning facilities or wholesale supply facilities;

(3) the drycleaning facility is covered by third-party liability insurance when and if the insurance becomes available at a reasonable

cost, as determined by the Department of Insurance, and if the insurance covers liability for contamination that occurred both before and after the effective date of the policy;

(4) the owner, operator, or property owner of the wholesale supply facility or drycleaning facility submitted an application for determination of eligibility;

(5) the wholesale supply facility or drycleaning facility has not been operated in a grossly negligent manner at any time after November 18, 1980; and

(6) the owner, operator, or property owner of the wholesale supply facility or drycleaning facility submits documented evidence of contamination to the department within six months of discovery if discovery was after November 24, 2004.

(C) A former drycleaning facility is deemed eligible under this section when:

(1) the owner or operator submitting an application for determination of eligibility has an operating drycleaning facility in the fund and every drycleaning facility under their control since July 1, 1995, meets the requirements of subsection (B); and

(2) the owner or operator submits documented evidence of contamination to the department within six months of discovery.

(D) Deductibles will be set as follows:

(1) When an owner, operator, or property owner of a wholesale supply facility, existing drycleaning facility, or former drycleaning facility submits an application for determination of eligibility:

(a) by November 24, 2005, the deductible is one thousand dollars;

(b) after November 24, 2005 and before December 31, 2014, the deductible is twenty-five thousand dollars; and

(c) on or after December 31, 2014, no applications will be accepted.

(2) When an owner, operator, or property owner of a new drycleaning facility submits an application for determination of eligibility, the deductible is twenty-five thousand dollars.

(E) The department shall review the application for determination of eligibility and request any additional information within ninety days of the date of receipt of the application. The department shall notify the applicant regarding the department's determination of eligibility status within one hundred eighty days of the date the department deems the application complete.

(F) Eligibility under this section applies to the site where the drycleaning facility or wholesale supply facility is located. Eligibility is

not affected by the subsequent conveyance of the ownership of the business or the property on which the business is located. The new owner or operator shall remain in compliance with this article and department regulations governing drycleaning facilities or wholesale supply facilities to maintain eligibility.

(G) A drycleaning facility or wholesale supply facility is permanently barred from receiving monies from the fund, and the moratorium described in Section 44-56-420(B) does not apply if:

(1) the owner, operator, or the property owner does not submit an application for determination of eligibility in accordance with subsection (B) or subsection (C);

(2) the owner, operator, or the property owner does not provide documented evidence of contamination to the department within six months of discovery if the discovery was after November 24, 2004;

(3) the owner, operator, or the property owner of a drycleaning facility or wholesale supply facility denies the department access to the property; or

(4) the owner, operator, or the property owner of a drycleaning facility misrepresents the number of employees upon which the registration fee described in Section 44-56-440 is based.

(H) A report of drycleaning solvent contamination at a drycleaning facility made to the department by a person in accordance with this article or department regulations governing drycleaning facilities may not be used directly as evidence of liability for the release in a civil or criminal trial arising out of the release.

Section 44-56-480. (A) Owners or operators of existing drycleaning facilities shall install dikes or other containment structures around each machine or item of equipment in which drycleaning solvent is used and around an area in which solvents or waste containing solvents are stored. Owners or operators of new drycleaning facilities shall install containment structures before the commencement of operations and before delivery of any drycleaning solvent to the drycleaning facility. Owners or operators of operating drycleaning facilities shall maintain all containment structures while the drycleaning facility remains in operation and shall certify every five years, that the conditions at their drycleaning facility meet the requirements of subsection (A) by completing a certification form as required by the department. The containment must meet the following criteria:

(1) dikes or containment structures around machines:

(a) for existing drycleaning facilities the dikes or containment structures must be capable of containing one-third of the total tank

capacity of each machine that does not have a rigid and impermeable containment vessel capable of containing one hundred percent of the volume of the largest single tank in the machine or piece of equipment or one-third of the total tank capacity of each machine, whichever is greater;

(b) for new drycleaning facilities, the owners or operators shall install beneath each machine or item of equipment in which drycleaning solvent is used a rigid and impermeable containment vessel capable of containing one hundred percent of the volume of the largest single tank in the machine or piece of equipment or one-third of the total tank capacity of each machine, whichever is greater;

(2) dikes or containment structures around areas used for storage of solvents or waste containing solvents must be capable of containing one hundred percent of the volume of the largest container stored or retained in the containment structure;

(3) all diked containment areas must be sealed or otherwise made impervious to the drycleaning solvent in use at the drycleaning facility, including floor surfaces, floor drains, floor joints, and inner dike walls;

(4) to the extent practicable, an owner or operator of a drycleaning facility or property owner shall seal or otherwise render impervious those portions of all floor surfaces upon which any drycleaning solvent may leak, spill, or otherwise be released;

(5) containment devices must provide for the temporary containment of accidental spills or leaks until appropriate response actions are taken by the owner/operator to abate the source of the spill and remove the product from all areas on which the product has accumulated; and

(6) materials used in constructing the containment structure or sealing the floors must be capable of withstanding permeation by drycleaning solvent in use at the drycleaning facility for not less than seventy-two hours.

(B) The property owner or the owner or operator of a drycleaning facility or wholesale supply facility at which there is a spill of more than the federally mandated reportable quantity of drycleaning solvent outside of a containment structure, after July 1, 1995, shall report the spill to the department immediately upon the discovery of the spill and comply with existing emergency response regulations.

(C) Effective January 1, 2010, all halogenated solvents must be delivered by a closed-loop delivery system.

(D) Failure to comply with the requirements of this section constitutes gross negligence that may permanently bar the drycleaning facility from receiving monies from the fund, and the moratorium

provided for in Section 44-56-420(B) does not apply to this drycleaning facility.

Section 44-56-485. The department may promulgate regulations to carry out the provisions of this article.

Section 44-56-490. (A) If the department finds that a person is in violation of a provision of this article or a regulation promulgated pursuant to this article, the department may issue an order requiring the person to comply with this article or regulation promulgated pursuant to this article or the department may bring civil action for injunctive relief in an appropriate court of competent jurisdiction.

(B) A person who violates a provision of this article, a regulation promulgated pursuant to this article, or an order of the department issued pursuant to this article or regulation promulgated pursuant to this article is subject to a civil penalty not to exceed ten thousand dollars for each day of violation.

(C) A person who wilfully violates a provision of this article, a regulation promulgated pursuant to this article, or an order of the department issued pursuant to this article is guilty of a misdemeanor and, upon conviction, may be fined not more than twenty-five thousand dollars for each day of violation or imprisoned for not more than one year, or both.

(D) A wholesale supply facility selling or providing drycleaning solvent in violation of the provisions of Section 44-56-440 is subject to a civil penalty of up to ten thousand dollars for each violation. Each sale or transfer constitutes a separate violation.

(E) A drycleaning facility selling or providing solvent to another drycleaning facility in violation of the provisions of Section 44-56-440 is subject to a civil penalty of up to ten thousand dollars for each violation. Each sale or transfer constitutes a separate violation.

(F) A drycleaning facility purchasing or receiving drycleaning solvent in violation of the provisions of Section 44-56-440 is subject to a civil penalty of up to ten thousand dollars for each violation. Each purchase or receipt constitutes a separate violation.

(G) Failure to register as a producer or importer of drycleaning solvent pursuant to Section 44-56-460(B) before importing or producing drycleaning solvent into this State is a misdemeanor and, upon conviction, the person may be fined up to twenty-five thousand dollars or imprisoned up to thirty days.

Section 44-56-495. (A) There is created the Drycleaning Advisory Council to advise the department on matters relating to regulations and standards that affect drycleaning and related industries.

(B) The council is composed of the following members:

- (1) eight owners or operators of drycleaning facilities who are participating in this article;
- (2) one representative of a wholesale supply facility;
- (3) one representative of the drycleaners who have a Drycleaning Exemption Certificate issued by the Department of Revenue; and
- (4) one representative from the department, who is an administrator.

(C) Members enumerated in subsections (B)(1) through (B)(3) are appointed by the board of the Department of Health and Environmental Control and shall serve terms of two years and until their successors are appointed. The chairman of the council is elected by the members of the council at the first meeting of each new term.

(D) An employee of the Department of Revenue shall attend meetings of the council to provide the council informal assistance as to matters involving the surcharges and fees that are imposed pursuant to this article and which are administered and collected by the Department of Revenue.

(E) The Department of Revenue may disclose to the department information on a return filed with the Department of Revenue pursuant to the provisions of Section 44-56-450.

The Department of Revenue and the department may not disclose to the members enumerated in subsections (B)(1) through (B)(3) or to the public specific information on a return filed with the Department of Revenue pursuant to the provisions of Section 44-56-450; however, the Department of Revenue and the department may provide these members available statistical information concerning the surcharge imposed pursuant to Section 44-56-450.”

Time effective

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

Ratified the 15th day of May, 2013.

Approved the 21st day of May, 2013.

No. 31

(R42, H3223)

AN ACT TO AMEND SECTIONS 1-11-55, AS AMENDED, 1-11-425, 1-23-120, AS AMENDED, 2-1-230, 2-3-75, 2-13-60, 2-13-180, 2-13-190, AS AMENDED, 2-13-200, 2-13-210, 11-35-310, 11-53-20, AND 29-6-250, CODE OF LAWS OF SOUTH CAROLINA, 1976, ALL RELATING, IN WHOLE OR IN PART, TO THE OFFICE OF LEGISLATIVE PRINTING, INFORMATION AND TECHNOLOGY SYSTEMS (LPITS), SO AS TO CHANGE THE NAME OF THIS OFFICE TO THE LEGISLATIVE SERVICES AGENCY (LSA).

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

Name changed

SECTION 1. Section 1-11-55(1) of the 1976 Code is amended to read:

“(1) ‘Governmental body’ means a state government department, commission, council, board, bureau, committee, institution, college, university, technical school, legislative body, agency, government corporation, or other establishment or official of the executive, judicial, or legislative branches of this State. Governmental body excludes the General Assembly, Legislative Council, the Legislative Services Agency, and all local political subdivisions such as counties, municipalities, school districts, or public service or special purpose districts.”

Name changed

SECTION 2. Section 1-11-425 of the 1976 Code is amended to read:

“Section 1-11-425. All agencies using appropriated funds shall print on the last page of all bound publications the following information:

- (1) total printing cost;
- (2) total number of documents printed; and
- (3) cost per unit.

The President Pro Tempore of the Senate, the Speaker of the House, the Legislative Services Agency, the presidents of each institution of higher education, and the State Board for Technical and

Comprehensive Education may exempt from this requirement documents published by their respective agencies. Agency publications which are produced for resale are also exempt from this requirement.

Publications of public relations nature produced by Parks, Recreation and Tourism and the Division of State Development are exempt from this requirement.”

Name changed

SECTION 3. Section 1-23-120(C) of the 1976 Code is amended to read:

“(C) Upon receipt of the regulation, the President and Speaker shall refer the regulation for review to the standing committees of the Senate and House which are most concerned with the function of the promulgating agency. A copy of the regulation or a synopsis of the regulation must be given to each member of the committee, and Legislative Council shall notify all members of the General Assembly when regulations are submitted for review either through electronic means or by addition of this information to the website maintained by the Legislative Services Agency, or both. The committees to which regulations are referred have one hundred twenty days from the date regulations are submitted to the General Assembly to consider and take action on these regulations. However, if a regulation is referred to a committee and no action occurs in that committee on the regulation within sixty calendar days of receipt of the regulation, the regulation must be placed on the agenda of the full committee beginning with the next scheduled full committee meeting.”

Name changed

SECTION 4. Section 2-1-230 of the 1976 Code, as added by Act 119 of 2005, is amended to read:

“Section 2-1-230. (A) With the exception of the Governor’s Executive Budget and related documents and telephone directories, an agency, a department, or an entity of state government required by law to report to the General Assembly shall prepare its report and transmit its report electronically to the Legislative Services Agency (LSA) and to the State Library as provided in Section 60-2-30. LSA shall notify the members of the General Assembly that the report is available. An

agency, a department, or an entity of state government may not provide the General Assembly with hard copies of a publication whether or not the publication, report, or other document is required by law to be furnished to the General Assembly, and a publication only may be provided to a member of the General Assembly if the member requests the publication.

(B) The agency, department, or entity of state government shall transmit these publications to the Legislative Services Agency (LSA) by electronic medium in a format and form pursuant to technical standards as may be established by LSA. LSA shall make information transmitted available through its network.

(C) A report governed by the requirements of this section may be published in hard copy form for distribution to the General Assembly if authorized by the Speaker of the House and the President Pro Tempore of the Senate.”

Name changed, references conformed

SECTION 5. Section 2-3-75 of the 1976 Code is amended to read:

“Section 2-3-75. (A) The name of the Office of Legislative Printing, Information and Technology Systems (LPITS) on the effective date of this subsection is hereby changed to the Legislative Services Agency (LSA). All references to the former Office of Legislative Printing, Information and Technology Systems (LPITS) in the 1976 Code, or other provisions of law are considered to be and must be construed to mean the Legislative Services Agency (LSA).

(B) The Legislative Services Agency (LSA) is established under the joint direction and management of the Clerk of the Senate and the Clerk of the House. The clerks shall employ a director to carry out the business of the office, who shall have authority to hire and discharge staff with the approval of the clerks, with funds as may be authorized by the General Assembly. The Legislative Services Agency has the following authority and duties:

(1) The Legislative Services Agency shall provide printing and technical services to the House of Representatives, the Senate, the Legislative Council, and the Code Commissioner. The Director of LSA, with the approval of the clerks shall contract for all legislative printing requirements not otherwise provided for by law. LSA also shall contract for the printing requirements of the Code Commissioner as contained in Section 2-13-60(4).

(2) Any materials which have been printed or paid for under the LSA printing contract may be sold to other state agencies and private persons. All funds received for this service must be deposited in the state treasury to the credit of the general fund of the State. Before any funds are paid into the state treasury, all necessary expenses incurred by LSA in the production and distribution of materials in accordance with this section may be first deducted and retained by LSA. Payment for these expenses may be made on order of the Director of the Legislative Services Agency and approval of the Clerks of the House and Senate.

(3) Legislative Services Agency may sell by means of electronic transmission or by other means as it considers appropriate any legislative document or report which may be obtained under the provisions of Chapter 4, Title 30. This sale is with the approval of the Clerks of the House and Senate upon their prior consultation with the Speaker of the House and the President Pro Tempore of the Senate.”

Name changed

SECTION 6. Section 2-13-60(5) of the 1976 Code is amended to read:

“(5) annually prepare for publication, to be printed by the Legislative Services Agency, the statutes and joint resolutions passed at the preceding session;”

Name changed

SECTION 7. Section 2-13-180 of the 1976 Code is amended to read:

“Section 2-13-180. The Code Commissioner, from time to time during any session of the General Assembly, shall furnish the Legislative Services Agency (LSA) with all acts and joint resolutions of a general and permanent nature which have become law. The Legislative Services Agency (LSA) as soon as practicable after delivery of these acts and joint resolutions, shall furnish the Code Commissioner with page proofs of all acts and joint resolutions.”

Name changed

SECTION 8. Section 2-13-190 of the 1976 Code, as last amended by Act 10 of 2009, is further amended to read:

If the last act shown on the opposite page is not complete, it will be continued in the next Advance Sheet.

JAMES H. HARRISON
Code Commissioner
P. O. Box 11489
Columbia, S.C. 29211