COMMITTEE REPORT

January 26, 2017

**H. 3340**

Introduced by Reps. Ott and Cobb‑Hunter

S. Printed 1/26/17--H. [SEC 1/30/17 3:37 PM]

Read the first time January 10, 2017.

**THE COMMITTEE ON AGRICULTURE, NATURAL**

**RESOURCES AND ENVIRONMENTAL AFFAIRS**

To whom was referred a Bill (H. 3340) to amend the Code of Laws of South Carolina, 1976, by adding Section 49-11-235 so as to provide that the owner of a dam which fails, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking Section 49-11-235(A), as contained in SECTION 1, page 1, beginning on line 37, and inserting:

/ (A) In the interest of public health and safety, the owner of a dam which failed or fails or suffered or suffers a breach on or after October 1, 2015, which has a public road or highway in the state highway system running across the top of it, must provide a written notification to the State Department of Transportation and the Department of Health and Environmental Control within one year after the failure or breach, if the failure or breach occurs after the effective date of this section, indicating whether or not the owner intends to repair the dam to appropriate standards and the date by which the repairs are anticipated to be completed. However, the owner of the dam which failed or suffered a breach between October 1, 2015, and the effective date of this section must provide the notification within sixty days after the effective date of this section. The anticipated completion date in the notice must be a date certain with no contingencies which cannot extend more than two years from the date the notification was provided. If the owner fails to give notice, this shall constitute and be construed as a negative intention on the part of the dam owner to fix or repair the dam, in which case the Department of Transportation shall proceed as though a negative response was contained in the notice. /

Amend further, Section 49-11-235, by striking subsection (C), page 2, beginning on line 20, and inserting:

/ (C) If the dam owner in the notice indicates the owner does not intend to repair the dam, the Department of Transportation shall proceed with the process of repairing the public road or highway if suitable rights of way or easements afford the state or the Department of Transportation the right to do so without the necessity of saving or repairing the dam. /

Renumber sections to conform.

Amend title to conform.

DAVID R. HIOTT for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 49‑11‑235 SO AS TO PROVIDE THAT THE OWNER OF A DAM WHICH FAILS OR FAILED ON OR AFTER OCTOBER 1, 2015, WHICH HAS A PUBLIC ROAD OR HIGHWAY IN THE STATE HIGHWAY SYSTEM RUNNING ACROSS THE TOP OF IT, MUST PROVIDE WRITTEN NOTIFICATION TO THE STATE DEPARTMENT OF TRANSPORTATION AND THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL INDICATING WHETHER OR NOT THE OWNER INTENDS TO REPAIR THE DAM AND THE DATE BY WHICH THE REPAIRS ARE ANTICIPATED TO BE COMPLETED, TO PROVIDE THE TIMELINES IN WHICH THIS NOTIFICATION MUST BE PROVIDED, AND TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO PROCEED UNDER CERTAIN CONDITIONS AND IN A SPECIFIED MANNER WITH THE PROCESS OF REPAIRING THE PUBLIC ROAD OR HIGHWAY, IF THE DAM OWNER INDICATES THE OWNER DOES NOT INTEND TO REPAIR THE DAM.

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

SECTION 1. Article 3, Chapter 11, Title 49 of the 1976 Code is amended by adding:

“Section 49‑11‑235. (A) In the interest of public health and safety, the owner of a dam which failed or fails or suffered or suffers a breach on or after October 1, 2015, which has a public road or highway in the state highway system running across the top of it, must provide a written notification to the State Department of Transportation and the Department of Health and Environmental Control within one year after the failure or breach, if the failure or breach occurs after the effective date of this section, indicating whether or not the owner intends to repair the dam to appropriate standards and the date by which the repairs are anticipated to be completed. However, the owner of the dam which failed or suffered a breach between October 1, 2015, and the effective date of this section must provide the notification within sixty days after the effective date of this section. The anticipated completion date in the notice must be a date certain with no contingencies which cannot extend more than two years from the date the notification was provided.

(B) With the assistance of the Department of Health and Environmental Control, if necessary, the Department of Transportation shall attempt to inform in writing all such dam owners affected by the provisions of this section of the provisions and requirements of this section requiring action on the owner’s part. Failure to receive such a written communication from the department is not a defense against failure to provide the required notification.

(C) If the dam owner in the notice indicates the owner does not intend to repair the dam to appropriate standards, the Department of Transportation shall proceed with the process of repairing the public road or highway if suitable rights of way or easements afford the State or the Department of Transportation the right to do so without the necessity of saving or repairing the dam.

(D) If the dam owner in the notice indicates that the owner intends to repair the dam and fails to do so by the anticipated date stated in the notice, this shall constitute and be construed as a negative intention on the part of the dam owner to fix or repair the dam, in which case the Department of Transportation shall proceed as though a negative response was contained in the notice. If suitable rights of way or easements do not exist over which the public road or highway shall be constructed, the Department of Transportation shall begin the process of acquiring them by all available lawful means so that the public road or highway can be put back into service for the use of the general public as soon as possible.”

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

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