



Human Resources Legal Fact Sheet: South Carolina

Updated June 2020

Disclaimer: This factsheet summarizes state laws and regulations on a variety of human resource issues for dairy farms, including wages, paystubs, deductions, child labor, and more. It is not intended to provide legal advice. The factsheet is simply an overview of select issues with a high-level explanation of key requirements for each one, with links to more information and resources throughout the document. This factsheet does not include all legal requirements for dairies. It was created in October 2020, and while it will be periodically updated, it may not reflect the current state of the law on every topic covered. Dairies should also review the federal factsheet because employers—depending on size—may be required to comply with some or all of the applicable federal laws and regulations as well. By using this factsheet you understand that there is no attorney-client relationship between you and the attorneys who were involved in developing the factsheet. This factsheet should not be used as a substitute for competent legal advice from a licensed attorney.

Are there South Carolina state laws for dairy farms about the following?

Hiring

Topic	Answer	Summary
Notice of Payday / Pay Rate ¹	YES	<p>An employer must notify each employee in writing at the time of hire of:</p> <ul style="list-style-type: none"> • their normal hours, • wages agreed upon, • the time and place of payment, and • the deductions that will be made from the wages, including payments to insurance programs. <p>An employer can satisfy this notification requirement by posting the terms conspicuously at or near the employee’s place of work. An employer must provide an employee at least seven (7) days’ notice of any changes in the above listed terms, except for wage increases.</p>
Reporting ²	YES	<p>All new hires and all rehires of former employees must be reported to the S.C. Department of Social Services within 20 days of the date of hire or rehire.</p> <p>“New hire” includes an individual newly employed or an individual who has been rehired who was separated for at least sixty consecutive days or has returned to work after being laid off, furloughed, separated, granted leave without pay, or terminated from employment for at least sixty consecutive days.</p>

Wages

Topic	Answer	Summary
Payday ³	YES / NO	<p>South Carolina law does not have any laws dictating when or how often an employer must pay employees their wages.</p> <p>However, employers with 5 or more employees are required to give written notice at the time of hiring to all employees advising them of their wages agreed upon, and the time and place of payment along with their expected hours of work. The employer must pay on the normal time and at the place of payment established by the employer.</p>
Final Pay ⁴	YES / NO	<p>When an employer separates an employee from the payroll for any reason, the employer shall pay all wages due to the employee within forty-eight (48) hours of the time of separation or the next regular payday which may not exceed thirty days.</p>



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Overtime	NO	South Carolina law does not govern overtime, federal rules may apply. Refer to the federal factsheet.
Minimum Wage	NO	South Carolina law does not govern minimum wage, federal rules may apply. Refer to the federal factsheet.
Hours Worked	NO	South Carolina wage payment law does not explicitly define hours worked for the purpose of calculating compensable time. Employers should refer to the federal factsheet.
Reporting Time Pay	NO	South Carolina law does not require reporting time pay, i.e. an employee is only required to be paid for actual hours worked.
Pay Stub ⁵	YES	Employers with five or more employees must furnish each employee with an itemized statement showing his/her gross pay and the deductions made from his wages for each pay period.
Taxes and Withholding ⁶	YES / NO	<p>Employees engaged in agricultural activities on a farm in connection with:</p> <ul style="list-style-type: none"> • cultivating the soil, or raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, training, and management of livestock, bees, poultry, fur-bearing animals and wildlife; • the operation, management, conservation, improvement, or maintenance of a farm and its tools and equipment; or • salvaging timber or clearing land of brush and other debris left by a hurricane if the major part of the service is performed on a farm <p>are exempt from state income tax.</p> <p>Agricultural employers must pay unemployment insurance taxes if:</p> <ol style="list-style-type: none"> during any calendar quarter in either the current or preceding calendar year paid remuneration in cash of twenty thousand dollars or more to individuals employed in agricultural labor, or for some portion of a day in each of twenty different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor ten or more individuals, regardless of whether they were employed at the same moment of time.
Deductions and Allowances ⁷	YES	<p>An employer may not withhold, deduct, or divert any portion of an employee's wages unless:</p> <ul style="list-style-type: none"> • permitted by state or federal law, or • the employer has given the employee written notice of the withholding or deduction at the time of hire, or • the employer has given the employee at least seven (7) days written notice of the withholding or deduction. <p>Employers may deduct dues to a labor organization, provided the employee authorizes the deduction in writing and the written authorization may be revoked after 1 year or upon the termination date of the applicable collective bargaining agreement, whichever comes first</p>



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Bonuses	<p>YES / NO</p>	<p>South Carolina wage law does not explicitly address bonuses. Generally, discretionary bonuses are not considered wages, while nondiscretionary bonuses paid under an agreement are considered wages and protected under wage law.</p> <p>Employers should follow any written policy they have about paying bonuses as a best practice.</p> <p>A nondiscretionary bonus is one where the amount and criteria for getting the bonus are announced in advance. For example, performance goals (like meeting somatic cell count goals) that workers know about in advance. Discretionary bonuses are ones that are not announced in advance, not expected by the employee, and not an incentive for the employee. For example, when the farm reaches a certain financial goal and decides to give all employees a bonus.</p> <p>The South Carolina Court of Appeals has held that an employer violated the South Carolina Wage Payment Act when it did not set time for the payment of bonuses but relied on “target dates.” <i>Ross v. Ligand Pharms., Inc.</i>, 371 S.C. 464 (2006). Thus, if an employer provides non-discretionary bonuses to employees, the employer should provide employees a reasonably firm timeframe on when that bonus will be paid.</p>
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Recordkeeping

Topic	Answer	Summary
Payroll ⁸	YES	Every employer shall keep records of names and addresses of all employees and of wages paid each payday and deductions made for three years.
Personnel File – Employee Access	NO	South Carolina law does not explicitly grant private sector employees access to their personnel files.
Unemployment Insurance ⁹	YES	<p>Each employing unit shall preserve for five years existing records with respect to individuals in its employ indicating the data hereinafter set forth:</p> <ol style="list-style-type: none"> 1. For each pay period: <ol style="list-style-type: none"> a. The beginning and ending dates of such period. b. The largest number of workers in employment during each calendar week of such pay period. 2. For each individual employed during such period: <ol style="list-style-type: none"> a. His name and social security account number. b. Number of hours worked each week, if less than full time. c. His monetary wages (including special payments) paid for employment. d. Reasonable cash value of remuneration paid by the employer in any medium other than cash. (See 47-1). e. The date on which he was hired, rehired, or returned to work after temporary layoff, and the date and reason he was separated from employment. <p><u>Records in Regard to Benefits:</u></p>



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		<p>Additionally, each employer shall keep his payroll records in such form, with respect to each worker that would be possible from an inspection thereof to determine:</p> <ol style="list-style-type: none"> 1. Wages earned, by weeks. 2. Whether any week was in fact a week of less than full-time work. 3. Time lost, if any, by each such worker, due to his unavailability for work.
<p>Workers' Compensation¹⁰</p>	<p>YES</p>	<p>Every employer shall keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment on forms approved by the commission.</p> <p>If the injury requires minimal medical attention at a cost not to exceed an amount specified by regulation of the Workers' Compensation Commission, and does not cause more than one lost workday or permanency, the employer is not required to make a written report to the commission or the employer's insurance carrier, provided the employer maintains a record as prescribed by the commission and pays directly the incurred cost of the resulting medical attention.</p> <p>All other injuries must be reported in writing to the commission according to the following guidelines:</p> <ol style="list-style-type: none"> (1) An injury for which there is no compensable lost time or permanency and the medical treatment does not exceed an amount specified by regulation of the Workers' Compensation Commission must be reported annually on a form and at a time prescribed by the commission. (2) An injury involving compensable lost time, medical attention in excess of the limit established by commission regulation in item (1), or the possibility of permanency must be reported within ten business days after the occurrence and knowledge of it, as provided in Section 42-15-20, on a form or in an electronic format prescribed by the commission. <p>Additionally, all employers operating under the Act, whether by law or by election, shall post publicly and keep posted in their place of business a Form 2, Employer's Notice of Being Subject to the Act.</p> <p>The notice shall state, substantially, the following: "We are operating under and subject to the Workers' Compensation Act of South Carolina. In case of accidental injury or death to an employee, the injured employee, or someone acting on his or her behalf, shall give immediate notice to the employer or general authorized agent. Failure to give immediate notice may be the cause of serious delay in the payment of compensation to the injured employee or his or her beneficiaries and may result in failure to receive any compensation benefits whatsoever."</p>
<p>OSHA¹¹</p>	<p>YES</p>	<p>South Carolina has adopted the federal requirements for injury and illness recordkeeping and maintenance of employee medical records by reference (R. 71-300 to 71-346), including the requirements for reporting fatalities and certain severe</p>



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		injuries and the requirements for electronic submission of injury and illness data. Please refer to federal fact sheet for additional information.
Federal	YES	There are numerous federal rules about recordkeeping. Employers should review the federal factsheet.

Working Conditions

Topic	Answer	Summary
Bathrooms ¹²	YES	South Carolina has incorporated the federal Pasteurized Milk Ordinance (PMO). The PMO rules specify that dairy farms have one or more toilets that are conveniently located, properly constructed, properly operated, and maintained in a sanitary manner.
Working Hours	NO	There are no state or federal laws regarding how many hours employees may work each week, unless they are under the age of 20.
Rest and Meal Breaks	NO	South Carolina law does not govern meals and rest breaks, federal rules may apply. Refer to the federal factsheet.
Labor Relations ¹³	YES / NO	Workers have the right to organize and the right to designate representatives of their own choosing to negotiate the terms and conditions of employment. No employer may discharge or discriminate in the payment of wages against any person because of his or her membership in a labor organization. An employer may not require an employee to become a member of a union, abstain from membership in a union, or pay dues to a union as a condition of employment or continuance of employment.
Whistleblower Protection ¹⁴	NO	South Carolina law does not provide a general protection for private sector employees in whistleblower cases. However, employees are protected when filing a complaint or testifying in or instituting a proceeding for violations of occupational safety or health rules.
Paid Sick and Vacation Leave ¹⁵	YES / NO	<p>South Carolina employers are not required to provide employees with vacation benefits or sick leave, either paid or unpaid. If an employer chooses to provide such benefits, it must comply with the terms of its established policy or employment contract. SC Dept. of Labor FAQs.</p> <p>An employer is required to pay accrued vacation to an employee upon separation from employment if its policy or contract requires it.</p> <p>An employer in South Carolina may be required to provide an employee unpaid sick leave in accordance with the Family and Medical Leave Act or other federal laws. See federal fact sheet for further information.</p>
Breaks for Nursing Mothers ¹⁶	YES	There is no specific state law governing breaks for nursing mothers in the workplace. However, employers with 15 or more employees are required to provide reasonable accommodations to employees for medical needs arising from pregnancy, childbirth, or other related medical conditions (including lactation), unless the employer can demonstrate the accommodation would impose an undue hardship on the operation of the business



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<p>Pregnancy Accommodations and Leave¹⁷</p>	<p>YES</p>	<p>Employers with 15 or more employees are required to provide reasonable accommodations to employees for medical needs arising from pregnancy, childbirth, or other related medical conditions (including lactation), unless the employer can demonstrate the accommodation would impose an undue hardship on the operation of the business.</p> <p>Specific examples of reasonable accommodations an employer may be required to provide to a covered employee. These include:</p> <ul style="list-style-type: none"> • making existing facilities accessible; • providing a private place, other than a bathroom stall, for the purpose of expressing milk (although the employer is not required to construct a permanent, dedicated space for expressing milk); • modifying food or drink policies; • providing seating or allowing the employee to sit more frequently if the job requires the employee to stand; • providing more frequent or longer break periods; • providing assistance with manual labor and limits on lifting; • temporarily transferring the employee to a less strenuous or hazardous vacant position, if qualified; • providing job restructuring or light duty, if available; • acquiring or modifying equipment or devices necessary for performing essential job functions; and • modifying work schedules.
<p>Family and Medical Leave</p>	<p>YES / NO</p>	<p>South Carolina law does not have a state specific family and medical leave law, but there are such requirements under the federal law (FMLA). Employers should refer to the federal factsheet.</p>
<p>Military and other Service Leave¹⁸</p>	<p>YES</p>	<p>An employee who leaves work to serve in the South Carolina State or National Guard must be reinstated to his or her previous position or to a position of like seniority, status, and salary, provided the employee:</p> <ul style="list-style-type: none"> • Receives an honorable discharge • Applies in writing to the employer within 5 days of discharge from duty or from hospitalization continued after release from active duty • Is still qualified for his or her previous position <p>If the employee is no longer qualified for the previous position, the employer must offer an alternative position for which the employee is qualified and will give the employee appropriate seniority, status, and salary. An employer is not required to reinstate an employee if, under the circumstances, it would be unreasonable to do so.</p> <p>Federal rules may also apply. Please see federal fact sheet for more details.</p>
<p>Crime Victim and Witness Leave¹⁹</p>	<p>NO</p>	<p>Employers of victims and witnesses must not retaliate against or suspend or reduce the wages and benefits of a victim or witness who lawfully responds to a subpoena.</p>
<p>Jury Duty Leave²⁰</p>	<p>YES</p>	<p>Employees may take leave, whether paid or unpaid, to serve on a jury or comply with a valid subpoena to appear in a court or an administrative proceeding.</p>



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		<p>An employer who dismisses an employee for taking jury duty or subpoena compliance leave may be liable in a civil action for one of the following:</p> <ul style="list-style-type: none"> • up to a maximum of one year's salary • 52 weeks of wages, based on a 40-hour week in the amount the employee was receiving at the time of the receipt of the subpoena. <p>An employee who is demoted for taking leave to serve on a jury or comply with a subpoena may seek damages limited to the difference for 1 year between:</p> <ul style="list-style-type: none"> • the salary or wages, based on a 40-hour week, which the employee received before the demotion. • The amount he receives after the demotion.
Bone Marrow Donation Leave ²¹	YES	<p>Employers who employ 20 or more employees at any site within South Carolina may, but is not required, to provide up to 40 hours of paid leave to an eligible employee who undergoes procedures to donate bone marrow. An employer may require a medical verification of the purpose and length of the leave.</p> <p>An eligible employee is an employee who performs services for hire for an employer for an average of twenty (20) or more hours a week and includes all individuals employed at a site owned or operated by an employer but does not include an independent contractor.</p> <p>An employer may not retaliate against an employee for requesting or obtaining a paid leave of absence.</p>
Voting Leave	NO	South Carolina does not have a law that requires an employer to grant its employees leave, either paid or unpaid, to vote.
School Activity Leave	NO	South Carolina law does not address leave for private sector employees to attend a child's school activity.

Human Rights

Topic	Answer	Summary
Employment Discrimination ²²	YES	<p>The South Carolina Human Affairs Law (SCHAL) prohibits employment discrimination based on the following protected classes:</p> <ul style="list-style-type: none"> • Race • Religion • Color • Sex, to include pregnancy, childbirth, or related medical conditions, including, but not limited to, lactation • Age, if 40 or older • National origin • Disability • Tobacco use (outside of the workplace) <p>The SCHAL covers private employers with 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and their agents.</p>



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		<p>The SCHAL prohibits employers, employment agencies, and labor unions from:</p> <ul style="list-style-type: none"> • refusing to hire, terminating, or discriminating against any person in compensation or other terms and conditions of employment or training because of their protected status. • discriminating against a protected class in job referrals, advertisements, or applications. • discriminating against an individual because the individual has: <ul style="list-style-type: none"> ○ opposed an unlawful employment practice; or ○ made a charge, testified, assisted, or participated in an investigation, proceeding, or hearing under the SCHAL. <p>Furthermore, an employer cannot retaliate against an individual because the individual has:</p> <ul style="list-style-type: none"> • Opposed an unlawful employment practice; • Made a charge, testified, assisted, or participated in an investigation, proceeding, or hearing under the SCHAL; • Complied with a subpoena and serving on a jury; • Exercised political rights or having political opinions; • Used tobacco products outside the workplace; • Took or asked for leave of employment to donate bone marrow, where the employer grants paid bone marrow donation leave; • Filed a complaint or testifying in or instituting a proceeding for violations of occupational safety or health rules <p>For more information, see the SCHAC website.</p>
<p>Harassment / Sexual Harassment²³</p>	<p>YES</p>	<p>Workplace harassment is prohibited by the South Carolina Human Affairs Law (SCHAL). Although not specifically defined in the SCHAL, harassment is generally considered a type of employment discrimination. Harassment is unwelcome conduct. It becomes illegal when (1) employees have no choice but to tolerate the harassment if they want to keep their job; (2) it is so severe that a regular person would see it as intimidating, hostile, or abusive.</p> <p>Sexual harassment includes unwelcome sexual advances, requests for sexual favors and verbal or physical conduct of a sexual nature when:</p> <ul style="list-style-type: none"> • Engaging in such conduct is made an implicit or explicit term or condition of employment. Example: A newly hired milker is told that sexual jokes, touching and nude posters are just part of farm life and she should try to ignore it. • Acceptance or rejection of such conduct is used as the basis for an employment decision affecting an employee. Example: A manager tells a worker applying for a promotion that the job would be his if he just “treated her right.” • The conduct interferes with an employee's work or creates an intimidating, hostile or offensive work environment. Example: One worker experiences



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		<p>repeated advances from another asking her for dates or “just to go out for drinks after work.” The worker says she isn’t interested, but the co-worker won’t take ‘no’ for an answer.</p> <p>It is illegal to retaliate against employees for filing or otherwise aiding with a complaint or opposing a discriminatory practice or assisting in any manner in an investigation, proceeding or hearing.</p>
Forced Labor ²⁴	YES	<p>South Carolina law prohibits involuntary labor servitude, and a person may be guilty of trafficking if he or she:</p> <ol style="list-style-type: none"> 1. recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, knowing that the victim will be subjected to, or for the purposes of, sex trafficking, forced labor or services, involuntary servitude or debt bondage through any means or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in this subsection, is guilty of trafficking in persons; 2. aids, abets, or conspires with another person to violate the criminal provisions of this section; or 3. knowingly gives, agrees to give, or offers to give anything of value so that any person may engage in commercial sexual activity with another person when he knows that the other person is a victim of trafficking in persons. <p>A business owner who uses his business in a way that participates in a violation of this article, upon conviction, must be imprisoned for not more than ten years in addition to the penalties provided in this section for each violation.</p> <p>Employers should ensure they are carefully following all visa requirements or work agreements to avoid any inadvertent violations.</p>

Child Labor

Topic	Answer	Summary
Child Labor ²⁵	YES	<p>Generally, no person in the state under the age of sixteen may be employed subject to certain exemptions, which include agricultural employees.</p> <p>South Carolina child labor laws do not apply to employees employed in agricultural <i>outside of school hours</i> for the school district where such employee is living if such employee is fourteen years or older or is twelve or thirteen years of age and the employment is with the consent of his or her parent or person standing in the place of his or her parent.</p> <p>However, minors below the age of sixteen may not participate in the following hazardous agricultural activities:</p> <ol style="list-style-type: none"> 1. Operating a tractor of over 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor.



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2. Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:
 - i. Corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner;
 - ii. Feed grinder, crop dryer, forage blower, auger conveyor, or the unloading mechanism of a non-gravity-type self-unloading wagon or trailer; or
 - iii. Power post-hole digger, power post driver, or non-walking type rotary tiller.
3. Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:
 - i. Trencher or earthmoving equipment;
 - ii. Fork lift;
 - iii. Potato combine; or
 - iv. Power-driven circular, band, or chain saw.
4. Working on a farm in a yard, pen, or stall occupied by a:
 - i. Bull, boar, or stud horse maintained for breeding purposes; or
 - ii. Sow with suckling pigs, or cow with newborn calf (with umbilical cord present).
5. Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than six inches.
6. Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of over 20 feet.
7. Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.
8. Working inside:
 - i. A fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere;
 - ii. An upright silo within 2 weeks after silage has been added or when a top unloading device is in operating position;
 - iii. A manure pit; or
 - iv. A horizontal silo while operating a tractor for packing purposes.
9. Handling or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft applying) agricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. § 135 *et seq.*) as Category I of toxicity, identified by the word “poison” and the “skull and crossbones” on the label; or Category II of toxicity, identified by the word “warning” on the label;
10. Handling or using a blasting agent, including but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord; or
11. Transporting, transferring, or applying anhydrous ammonia.



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However, these restrictions do not apply to a minor below the age of sixteen employed by his parent or by a person standing in the place of his parent on a farm owned or operated by such parent or person.

Health and Safety

Topic	Answer	Summary
Workers Compensation ²⁶	YES / NO	Workers' Compensation is not required for agricultural employees and employers in South Carolina, however it is best practice to obtain coverage.
OSHA ²⁷	YES	South Carolina is a state plan state, but it has adopted identically federal OSHA standards and regulations applicable to private sector employment . Please see federal fact sheet for additional information.
Housing	NO	South Carolina law does not explicitly address standards for farm-provided permanent agricultural housing, though general landlord/tenant or public health laws may apply. Employers should follow best practices when providing housing – which includes, at minimum, a written housing agreement and properly maintaining the facilities. The FARM HR Manual has guidance around best practices for agricultural worker housing.

¹ S.C. Code Ann. § 41-10-30

² S.C. Code Ann. § 43-5-598

³ S.C. Code Ann. § 41-10-30

⁴ S.C. Code Ann. § 41-10-50

⁵ S.C. Code Ann. § 41-10-30; § 41-10-40

⁶ S.C. Code Ann. § 12-8-520(D)(1); S.C. Code Ann. § 41-27-230.

⁷ S.C. Code Ann. § 41-10-40(C); S.C. Code Ann. § 41-7-40

⁸ S.C. Code Ann. § 41-10-30(B)

⁹ S.C. Code Regs. § 47-14

¹⁰ S.C. Code Ann. § 42-19-10

¹¹ S.C. Code Regs. §§ 71-300 *et seq.*

¹² S.C. Code Regs. §§ 61-34.1, Section I

¹³ S.C. Code Ann. § 41-1-20; 41-7-10 *et seq.*

¹⁴ S.C. Code Ann. §§ 41-15-510; 41-15-520

¹⁵ S.C. Code Ann. § 41-10-10(2).

¹⁶ S.C. Code Ann. § 1-13-30(t).

¹⁷ S.C. Code Ann. § 1-13-30(t)(2)(b).

¹⁸ S.C. Code Ann. § 25-1-2310, 2320.

¹⁹ S.C. Code Ann. § 16-3-1550(A).

²⁰ S.C. Code Ann. § 41-1-70.

²¹ S.C. Code Ann. § 44-43-80.

²² S.C. Code Ann. §§ 1-13-30(c), (l); § 1-13-80; § 41-1-70; § 16-17-560; § 41-1-85; § 44-43-80(C); §§ 41-15-510 and 41-15-520; §§ 41-1-10 to 41-1-120

²³ S.C. Code Ann. §§ 1-13-10 to 1-13-110.

²⁴ S.C. Code Ann. § 16-3-2020.

²⁵ S.C. Code Ann. §§ 41-13-5 *et seq.*; S.C. Code Regs. §§ 71-3105; 71-3108.

²⁶ S.C. Code Ann. §§ 42-1-360(4).

²⁷ S.C. Code Ann. §§ 41-15-80; S.C. Code Regs. §§ 71; Sub article 8.