

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Samuel L. Johnson, Administrative Law Judge

Appellate Case No. 2026-000947

South Carolina Department of Insurance,

Respondent,

v.

Joyce Freeman,

Appellant.

RECORD ON APPEAL
VOLUME I

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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Insurance,)
)
Petitioner,)
)
vs.)
)
Joyce Freeman,)
)
Respondent.)
_____)

Docket No. 25-ALJ-09-0270-CC

**ORDER GRANTING SOUTH
CAROLINA DEPARTMENT OF
INSURANCE'S MOTION FOR
SUMMARY JUDGMENT**

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a Request for Contested Case Hearing filed by Joyce Freeman (Respondent) on September 2, 2025, relating to a determination by Petitioner South Carolina Department of Insurance (DOI or the Department) that Respondent is liable for a \$25,000 administrative fine due to misconduct related to Respondent's licensure as a resident producer and surety bondsman. The parties filed cross-motions for summary judgment on January 9, 2026 pursuant to Rule 19 of the South Carolina Administrative Law Court Rules (SCALC Rules) and Rule 56(c) of the South Carolina Rules of Civil Procedure (SCRCPP). In the Department's Motion, it argues that the \$25,000 administrative fine should be imposed upon Respondent for her failure to collect a minimum fee of \$100 or 10% of the bond amount, whichever was greater (in this case, the latter), prior to the execution of certain surety bonds, as required by S.C. Code Ann. § 38-53-170(e) (Supp. 2025). In her Motion, Respondent argues that Section 38-53-170(e) does not require a bondsman to charge and collect up front a minimum of \$100 or 10% of the bond amount, whichever is greater, prior to the execution of the bond where, as here, the bondsman has entered into a payment agreement whose terms meet certain statutory requirements, including a minimum downpayment of \$100 and a maximum term of eighteen months. For the reasons set forth below, the Court grants DOI's Motion and denies Respondent's Motion.

CONSIDERATION OF DEPARTMENT'S EXHIBITS 1, 2, 3, and 7

In her January 23, 2026 response to the Department's Motion, Respondent objects to Exhibits 1, 2, 3, and 7 thereto, asking that the exhibits be stricken and disregarded by the Court. Respondent argues that the Department neither produced nor otherwise identified the documents

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comprising these exhibits in discovery or its prehearing statement, nor did it identify Mark Keel (whose affidavit comprises Exhibit 1) or Ricky Hill (whose affidavit comprises Exhibit 2) as potential witnesses for the Department. Respondent argues that the Department failed to comply with SCALC Rule 21(A) and Rule 26(e), SCRCP, and did not seek to expand, reopen, or supplement discovery to identify these witnesses and documents prior to including the exhibits in its Motion. Respondent also argues the exhibits are irrelevant to the sole issue before the Court: the interpretation of Section 38-53-170(e) of the South Carolina Code. Specifically, Respondent contends the affidavits presented as Exhibits 1 and 2 and the compilation of news articles comprising Exhibit 3 seek to establish legislative intent, which cannot be properly ascertained through these sources, and further argues that the affiants can neither offer legal opinions nor testify to the state of mind of members of the Legislature when enacting the statutory provision at issue.

Also on January 23, 2026, the Department emailed the Court to provide a courtesy copy of its response to Respondent's Motion and to seek an opportunity to address Respondent's argument regarding the Court's consideration of the exhibits. The Court gave the Department until January 30, 2026 to provide a limited reply addressing the issue. On January 30, 2026, the Department filed a limited reply. The Department argues the exhibits were not submitted to prove Respondent failed to charge and collect the greater of \$100 or 10% of the face of the bond amount (as none of these facts are in dispute) but only to support the Department's interpretation of Section 38-53-170(e). The Department also argues that Exhibits 1 and 2 to its Motion (i.e., the affidavits) were not obtained until January 8 and 9, 2026, respectively, while the news articles comprising Exhibit 3 were not reviewed until January 7, 2026 and were not compiled into an exhibit until January 9, 2026. Thus, these materials were provided to Respondent, by way of the Department's Motion, within 36 hours of being obtained, constituting prompt transmittal in compliance with Rule 26, SCRCP, and it would have been futile to resend the same documents via updated discovery responses. The Department further argues that the news articles in Exhibit 3 were public information available to Respondent, as was DOI Order No. 2024-07, the transmittal of which to licensees is memorialized in Exhibit 7 of the Department's Motion.¹ The Department further

¹ Order No. 2024-07 is included as Exhibit 6 to the Department's Motion and is not among the exhibits Respondent objects to. Exhibit 7 includes documentation of the transmittal of Order No. 2024-07 to licensees, including Respondent by mail and email. However, as discussed *infra*, Exhibit 7 also includes documentation related to the transmittal of an earlier, unrelated Department order to licensees.

argues that the affidavits in its Exhibits 1 and 2 meet the criteria of Rule 701 of the South Carolina Rules of Evidence (SCRE) as testimony of lay witnesses, and that they were offered “in furtherance of bringing swift resolution to this matter as is the goal of summary judgment.”

After considering the arguments on this issue, the Court will not, in rendering its opinion, give any consideration to Exhibits 1, 2, and 3 of the Department’s Motion, nor to the portions of Exhibit 7 that are unrelated to this matter.

With respect to the affidavits attached to the Department’s Motion as Exhibits 1 and 2, the opinions or inferences of lay witnesses may be admissible, pursuant to Rule 701, SCRE, where they are “(a) are rationally based on the perception of the witness, (b) are helpful to a clear understanding of the witness’ testimony or the determination of a fact in issue, and (c) do not require special knowledge, skill, experience or training.” However, “[t]o be acceptable at summary judgment stage, the evidence presented in the affidavit must be evidence that would be admissible if presented at trial through the testimony of the affiant as a sworn witness.” *Scosche Indus., Inc. v. Visor Gear, Inc.*, 121 F.3d 675, 682 (Fed. Cir. 1997) (quoting 11 James Wm. Moore, Moore’s Federal Practice § 56.14[1][d], at 56–162 (3d ed.1997); see also note to Rule 701, SCRE (acknowledging that with the exception of subsection (c) and “minor grammatical changes, this rule is identical to the federal rule.”).

Here, the Court concludes that the content of the affidavits would not be admissible through the live witness testimony of the affiants if the matter presently before the Court were a trial (as opposed to cross-motions). First, the affiants were not included in the Department’s witness list, so their knowledge and opinions were not subject to discovery. Although the Department’s prompt transmittal of the affidavits would mitigate the element of surprise if this contested case were scheduled for trial weeks or months after the disclosure, here the parties agreed to seek resolution of this matter—an issue of law—via cross-motions for summary judgment to be filed by January 9, 2026. Thus, the Department’s disclosure of the witnesses and the affidavits by way of filing and serving its January 9, 2026 Motion is roughly analogous to a previously undisclosed witness being called to testify at trial. Also, Exhibit 1 contains inadmissible hearsay by quoting other individuals, and otherwise sets out a legal interpretation of the statutory language at issue—matters that would be inadmissible as testimony from Chief Keel even if he testified at trial. See Rule 802, SCRE (hearsay is generally inadmissible); *Dawkins v. Fields*, 354 S.C. 58, 66, 580 S.E.2d 433, 437 (2003) (expert testimony on issues of law is generally inadmissible). Similarly, Exhibit 2 contains

inadmissible hearsay, such as alleged concerns from other bail bondsmen, seeks to establish legislative intent for the enactment of the statutory language at issue,² and sets forth the affiant's view of consistency between the Department's position in this case and the relevant statutory language. As the Department itself noted in its response to Respondent's Motion:

[T]he best evidence of legislative intent is the language of the statute itself... Anecdotal reports and testimony about a legislator's or interested parties' intent is not competent evidence of the intent of the legislative body enacting the measure.... *Creswick v. University of South Carolina*, 434 S.C. 77, 83, 862 S.E.2d 706, 709 (2021); *see also Bowaters Carolina Corp. v. Smith*, 257 S.C. 563, 572, 186 S.E.2d 761, 764 (1972) (holding the testimony of members of the legislative delegation who authored the statute as to its meaning was inadmissible).

(Pet.'s Response, p. 13) (citation omitted and other citations in original).³ Thus, the Court finds that Exhibits 1 and 2 are insufficient as evidence of legislative intent. Moreover, even if the Court concluded the affidavits were admissible (at least in part), the Court would find the affidavits are more prejudicial than probative in determining the legal issue presently before the Court.

Similarly, with respect to Exhibit 3, the news articles compiled therein constitute hearsay which is neither admissible nor probative of legislative intent, and more prejudicial than probative in determining the meaning of Section 38-53-170(e).

Finally, as to Exhibit 7, the Court will consider the transmittal memorandum emailed and mailed from DOI Director Wise to Respondent and other licensees on December 11, 2024 because these transmittal records relate to the bonds and statutory language at issue in this contested case, and Respondent does not dispute that she had notice of the Department's Order No. 2024-07. However, the Court will not consider the transmittal memorandum and email sent to Respondent from Director Wise on October 20, 2022, which involved compliance issues unrelated to the statutory provision at issue in this case,⁴ was not cited by the Department's Motion, and does not implicate any violation on the part of Respondent. Because the October 20, 2022 materials are not of consequence to the determination of this matter, these materials are not relevant and are therefore inadmissible. *See* Rules 401, 402, SCRE.

² Exhibit 2 sets forth anecdotal testimony about "reports" of inappropriate monitoring and "concerns" of members of the General Assembly prompting the amendment of the statute.

³ Exhibit 2 also appears to characterize the "administrative history" behind the Department's issuance of Order 2024-07, beyond what is set forth in the order itself.

⁴ Indeed, the October 20, 2022 transmittal memorandum was issued before the statutory language at issue was even enacted.

For the foregoing reasons, the Court, in rendering its opinion in this matter, will not consider Petitioner's Exhibits 1, 2, 3, or the portion of Exhibit 7 relating to the Department's October 20, 2022 transmittal memorandum.

FACTS/PROCEDURAL HISTORY

The facts in this case are not in dispute. Respondent is currently licensed as a producer and surety bondsman in South Carolina, specifically with Allegheny Casualty Company, Bankers Insurance, and Palmetto Surety Corporation. After receiving a complaint on or about June 2, 2025 that Respondent had failed to collect the full 10% minimum fee when a bond was posted in court, the Department investigated and concluded that on June 1, 2025, Respondent had been the surety bondsman who executed a \$35,000 bond for Defendant Buff, charging a premium of \$3,500 but only collecting \$500 prior to the bond's execution, according to the payment agreement and payment receipts. Respondent allowed the balance of the 10% premium to be paid via a payment agreement.

On June 5, 2025, the Department issued Respondent a Notice of Investigation, in response to which Respondent, through counsel, contended that the law allowed her to collect less than 10% of the premium when the bond was posted because she had created a payment plan to receive the remainder of that premium. In support of this position, Respondent included in her response a copy of a South Carolina Attorney General Opinion dated June 17, 2024, which had adopted the same interpretation of Section 38-53-170(e).⁵ Respondent also provided to the Department copies of the payment agreements and receipts for ten surety bond transactions (for bonds posted between May 2, 2025 and June 1, 2025) in which she charged a premium of 10% but collected substantially less than the 10% premium before executing the bond, entering payment agreements with the principals instead. This is illustrated in the following chart:

Defendant:	Date Posted:	Bond Amount:	Premium Charged:	Premium Collected:	Payment Agreement:
Defendant Myers	5/29/2025	\$25,000.00	\$2,500.00	\$480.00	Yes
Defendant Byrd	5/28/2025	\$2,500.00	\$250.00	\$150.00	Yes
Defendant Keldsen	5/27/2025	\$2,100.00	\$710.00	\$200.00	Yes
	5/27/2025	\$5,000.00			

⁵ See Op. S.C. Att'y Gen., 2024 WL 3186557 (June 17, 2024).

Defendant Williams	5/27/2025	\$2,840.00	\$1,284.00 ⁶	\$400.00	Yes
	5/27/2025	\$10,000.00			
Defendant Womack	5/28/2025	\$25,000.00	\$2,500.00	\$360.00	Yes
Defendant Anderson	5/02/2025	\$47,000.00	\$4,700.00	\$600.00	Yes
Defendant Turnipseed	5/02/2025	\$5,000.00	\$500.00	\$200.00	Yes
Defendant Myers	5/06/2025	\$22,500.00	\$2,500.00	\$350.00	Yes
Defendant Johnson	5/06/2025	\$15,000.00	\$1,500.00	\$300.00	Yes
Defendant Buff	6/01/2025	\$35,000.00	\$3,500.00	\$500.00	Yes

Prior to these bond transactions—on December 11, 2024—the Department issued SCDOI Order No. 2024-07 (Order 2024-07), which was distributed to Respondent and all licensed surety bondsmen, professional bondsmen, and runners authorized to conduct bail bond business in South Carolina.⁷ This order, which refuted the position held by the South Carolina Attorney General (SCAG) as to the interpretation of Section 38-53-170(e), informed licensees that, among other things, South Carolina law requires the payment of a minimum fee in the amount of \$100 or 10% of the bond’s face amount, whichever is greater, and that this premium is to be charged and collected prior to execution of the bond as a minimum fee.⁸ On December 11, 2024, the Department emailed a copy of this order to Respondent to the email address Respondent had provided to the Department, and the Department mailed a hard copy of the same order to

⁶ This chart comes from the Department’s Administrative Order issued August 18, 2025, but the premium charged for Defendant Williams has been corrected from the amount stated in the original Administrative Order. The bond amount figure listed in the Department’s chart for Defendant Williams totals \$12,840.00 with a premium charged amount of “\$1,280.” However, Respondent notes in her Motion that the premium charged for Defendant Williams should have read “\$1,284.00,” based on receipts and payment agreements she had provided to the Department. In its response to Respondent’s Motion, the Department agreed its chart contained a scrivener’s error and that the premium charged to Defendant Williams was “1,284.00,” which was 10% of the total bond amount. The Department states it is willing to issue an amended order accordingly but that this error was immaterial, as Respondent only collected \$400 of the premium prior to the execution of the bond in violation of Section 38-53-170(e).

⁷ A “runner” is defined under Section 38-53-10(10) (2015), in pertinent part, as follows: “a person employed by a bail bondsman for the purpose of assisting the bail bondsman in presenting the defendant in court when required, assisting in the apprehension and surrender of the defendant to the court, keeping the defendant under necessary surveillance, and executing bonds on behalf of the licensed bondsman when the power of attorney has been recorded. ‘Runner’ does not include an attorney or a law enforcement officer assisting a bondsman.”

⁸ In a subsequent SCAG Opinion, which responded to a letter from general counsel for DOI requesting modification or withdrawal of the June 17, 2024 SCAG opinion, the SCAG declined to alter its interpretation of Section § 38-53-170(e) but did state the following: “[W]e defer to the interpretation of the Department of Insurance as the agency with regulatory authority ... Further, we advise any bail bondsmen and runners to follow the [DOI’s] instructions and orders regarding the issue pending any judicial or legislative clarification.” *See* Op. S.C. Att’y Gen., 2025 WL 2369635 (July 31, 2025). This opinion was issued after the bonds at issue in this case had been executed.

Respondent via certified mail to Respondent's physical address of record. Neither communication was returned to the Department as undeliverable, and indeed the Department received a return receipt from the United States Postal Service reflecting that Respondent had signed for receipt of the correspondence.

On August 18, 2025, the Department issued an "Administrative Order Imposing Fine and Notice of Opportunity for Hearing" (Administrative Order) finding that Respondent violated Section 38-53-170(e) in the above ten instances by failing to collect the full amount of the 10% premium prior to bond execution and imposing a \$25,000 fine on Respondent accordingly. The Department also warned in its order that "[i]f the total fine amount is not timely paid as required by this Order, Respondent's bail bondsman and producer licenses will be revoked without any further disciplinary proceedings by this agency."

On September 2, 2025, Respondent filed a request for a contested case hearing with this Court, and this matter was assigned to the undersigned Judge on September 10, 2025. On January 9, 2026, the Department and Respondent filed cross-motions for summary judgment. On January 23, 2026, the parties filed responses to each other's motions. On January 30, 2026, the Department filed a limited reply addressing Respondent's objection to certain exhibits to its Motion, discussed *supra*.

STANDARD OF REVIEW

This Court has jurisdiction to hear this matter pursuant to S.C. Code Ann. §§ 1-23-600(A) (Supp. 2025), 38-53-150 (2015), and 38-53-160 (2015).

Rule 68 of the Rules of Procedure for the ALC provides that "[t]he South Carolina Rules of Civil Procedure . . . may, in the discretion of the presiding administrative law judge, be applied in proceedings before the Court to resolve questions not addressed by these rules." Pursuant to Rule 56(c), SCRCP, a trial court may grant a motion for summary judgment where "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." "In determining whether any triable issue of fact exists, the evidence and all inferences which can reasonably be drawn therefrom must be viewed in the light most favorable to the nonmoving party." *Quail Hill, LLC v. Cnty. of Richland*, 387 S.C. 223, 235, 692 S.E.2d 499, 505 (2010). Where the only question before a court is one of statutory interpretation, summary judgment is appropriate because it is an issue of law. *See Hock RH, LLC*

v. S.C. Dep't of Revenue, 423 S.C. 208, 212, 813 S.E.2d 540, 542 (Ct. App. 2018) (“A question of statutory interpretation is one of law for the court to decide.”) (quoting *Alltel Commc'ns, Inc. v. S.C. Dep't of Revenue*, 399 S.C. 313, 316, 731 S.E.2d 869, 870-71 (2012)).

DISCUSSION

Both parties in this case seek summary judgment based on differing interpretations of Section 38-53-170(e). Therefore, the Court will begin by looking at this statute. Section 38-53-170 of the South Carolina Code (2015 & Supp. 2025) provides, in pertinent part, that no bail bondsman or runner may:

(e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond. Conditions of the bond which expressly or implicitly require payment of monies in excess of the premium, as a cost of satisfying the condition of the bond, shall not be considered part of the bondsman's premium, and are not affected by this code provision. The bondsman may collect these fees from the defendant and is not limited by any language requirements of this code provision.

However, the bondsman is permitted to enter into a payment agreement by attaching a statement of bondsman to the bond proceeding form and this agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars. This payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed...

The Department's authority to administratively sanction licensed bail bondsmen for misconduct is discussed in Section 38-43-130 of the South Carolina Code (2015) and Section 38-53-150 of the South Carolina Code (2015). Section 38-43-130 provides, in pertinent part:

(A) The director or his designee may place on probation, revoke, or suspend a producer's license after ten days' notice ... when it appears that a producer has ... violated this title or any regulation promulgated by the department, or has wilfully deceived or dealt unjustly with the citizens of this State.

(C) The words “deceived or dealt unjustly with the citizens of this State” include, but are not limited to, action or inaction by the producer as follows:

(2) violating insurance laws, or violating any regulation, subpoena, or order of the director or of another state's director or his designee[.]

Section 38-53-150 provides, in pertinent part:

(A) The director or his designee may deny, suspend, revoke, or refuse to renew any license issued under this chapter for any of the following causes:

(2) violation of any laws of this State relating to bail in the course of dealings under the license issued to a bondsman or runner by the director or his designee;

(7) failure to comply with or violation of the provisions of this chapter or of any order of the director or his designee or regulation of the department[.]

(B) The director or his designee, in lieu of revoking or suspending a license in accordance with the provisions of this chapter, in any one proceeding, by order, may require the licensee to pay to the director or his designee to be deposited in the general fund of the State a monetary penalty as provided in Section 38-2-10[(A)](2) for each offense....

Section 38-2-10 of the South Carolina Code (Supp. 2025) discusses the Department's imposition of administrative penalties against licensees, providing in pertinent part:

(A) Unless otherwise specifically provided by law, the following administrative penalties apply for each violation of the insurance laws of this State or federal insurance laws subject to enforcement by the Department of Insurance:

(2) If the violator is a person, other than an insurer, pharmacy benefits manager, or a health maintenance organization, licensed by the director or his designee in this State, the director or his designee shall fine the person in an amount not to exceed two thousand five hundred dollars, suspend or revoke the license of the person, or both. If the violation is wilful, the director or his designee shall fine the person in an amount not to exceed five thousand dollars, suspend or revoke the license of the person, or both.

Because the Department is seeking to impose an administrative penalty against a licensee in this matter, the Department has the burden of proof. SCALC Rule 29(B) (stating that the agency has the burden of proof in "the assessment of civil penalties, the imposition of sanctions, or the enforcement of administrative orders"). Accordingly, in order for this Court to impose a penalty, the Department must prove each element of the alleged Section 38-53-170(e) violations by a preponderance of the evidence. However, based on the facts in this case are not in dispute, this case turns on the interpretation of Section 38-53-170(e).

In this case, the parties disagree as to the interpretation of Section 38-53-170(e). The Department argues that a bondsman must charge and collect a minimum premium of \$100.00 or 10% of a bond, whichever is greater, before the execution of the bond and may thereafter enter

into a payment agreement to collect any remaining amount of the bond premium, i.e. any amount of the bond premium that was not collected before the execution of the bond. Respondent, on the other hand, interprets the second paragraph of subsection (e), beginning with the word “However,” as providing an alternative under which bondsmen may—instead of collecting 10% of the bond’s face amount prior to its execution—enter into a payment agreement “subject to enumerated statutory requirements.”⁹

“[A] court must determine whether the language of a statute or regulation directly speaks to the issue. If so, the court must utilize the clear meaning of the statute or regulation.” *Kiawah Dev. Partners, II v. S.C. Dep’t of Health & Env’t. Control*, 411 S.C. 16, 32, 766 S.E.2d 707, 717 (2014) (citing *Brown v. Bi-Lo, Inc.*, 354 S.C. 436, 440, 581 S.E.2d 836, 838 (2003)). “Where the statute’s language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning.” *Id.* at 85, 533 S.E.2d at 581; *Grier v. AMISUB of S.C., Inc.*, 397 S.C. 532, 535, 725 S.E.2d 693, 695 (2012) (“What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will” and “courts are bound to give effect to the expressed intent of the legislature.”). “If a statute is ambiguous, the court must construe its terms in accordance with the rules of statutory construction.” *McInnis v. McInnis*, 348 S.C. 585, 592, 560 S.E.2d 632, 636 (Ct. App. 2002) (citing *Lester v. S.C. Workers’ Comp. Comm’n*, 334 S.C. 557, 561, 514 S.E.2d 751, 752 (1999)). Thus, the Court first examines whether Section 38-53-170(e) is ambiguous.

In determining whether an undefined statutory term creates an ambiguity, courts must consider the terms’ meanings in conjunction with the entire statute. *See Branch v. City of Myrtle Beach*, 340 S.C. 405, 410, 532 S.E.2d 289, 292 (2000) (“When faced with an undefined statutory term ... Courts should consider not merely the language of the particular clause being construed, but the undefined word and its meaning in conjunction with the purpose of the whole statute and the policy of the law.”) (citing *Whitner v. State*, 328 S.C. 1, 492 S.E.2d 777 (1997)); *Ray Bell Const. Co. v. Sch. Dist. of Greenville Cnty.*, 331 S.C. 19, 25–26, 501 S.E.2d 725, 729 (1998) (court of appeals erred in determining statute unambiguous by focusing solely on language of one subsection without considering the intended purpose of statute).

⁹ Respondent’s interpretation is shared by the SCAG’s office, which rendered an opinion in response to a question submitted by a municipal judge following that judge’s disagreement with the Greenwood Clerk of Court over the interpretation of Section 38-53-170(e), the latter having interpreted Section 38-53-170 as the Department has. Thus, reasonable and intelligent minds have interpreted this statutory provision differently.

Here, the second paragraph of Section 38-53-170(e) begins with the word, “However,” a word whose varied usage can signify an exception, alternative or limitation to preceding language, as discussed in more detail *infra*. Based on the language of the two paragraphs of the subsection, the Court concludes that the use of “However” in the second paragraph renders the meaning of the subsection as a whole ambiguous; therefore, statutory construction is required.

“The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature.” *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). “A court should not consider a particular clause in a statute in isolation, but should read it in conjunction with the purpose of the entire statute and the policy of the law.” *S.C. Dep’t of Consumer Affs. v. Cash Ctr. of S.C., LLC*, 435 S.C. 192, 202, 865 S.E.2d 789, 794 (Ct. App. 2021) (quoting *Peake v. S.C. Dep’t of Motor Vehicles*, 375 S.C. 589, 599, 654 S.E.2d 284, 290 (Ct. App. 2007). A statute should therefore be read “as a whole [and must] must receive practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of lawmakers. In interpreting a statute, the language of the statute must be read in a sense that harmonizes with its subject matter and accords with its general purpose.” *Id.* (quoting *Sparks v. Palmetto Hardwood, Inc.*, 406 S.C. 124, 128, 750 S.E.2d 61, 63 (2013).

It is also well-recognized that courts “generally give[] deference to an administrative agency’s interpretation of an applicable statute or its own regulation.” *Kiawah Dev. Partners, II v. S. C. Dep’t of Health & Env’t Control*, 411 S.C. 16, 32, 766 S.E.2d 707, 717 (2014) (*Kiawah*) (quoting *Brown v. Bi-Lo, Inc.*, 354 S.C. 436, 440, 581 S.E.2d 836, 838 (2003)) (internal quotation marks omitted); *see also State v. Sweat*, 379 S.C. 367, 384, 665 S.E.2d 645, 655 (Ct. App. 2008), *aff’d as modified*, 386 S.C. 339, 688 S.E.2d 569 (2010)) (“It is true that agencies charged with enforcing statutes usually receive deference from the courts as to their interpretation of those laws.”) (citation omitted). Our state Supreme Court has found that interpreting and applying statutes and regulations administered by an agency is a two-step process. *Kiawah*, 411 S.C. at 32, 766 S.E.2d at 717. “First, a court must determine whether the language of a statute or regulation directly speaks to the issue. If so, the court must utilize the clear meaning of the statute or regulation.” *Id.* (citation omitted). In the event that “the statute or regulation ‘is silent or ambiguous with respect to the specific issue,’ the court then must give deference to the agency’s interpretation of the statute or regulation assuming the interpretation is worthy of deference.” *Id.* at 33, 766 S.E.2d at 717 (quoting *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837, 843,

(1984)). An agency's interpretation of a silent or ambiguous statute that it is charged with administering is worthy of deference unless it is "arbitrary, capricious, or manifestly contrary to the statute," or unless there is a compelling reason to differ. *Id.* at 34-35, 766 S.E.2d at 718 (citing *Chevron*, 467 U.S. at 844); *but see S.C. Coastal Conservation League v. S.C. Dep't of Health & Env't Control*, 363 S.C. 67, 75, 610 S.E.2d 482, 486 (2005) (finding the agency's reviewing body, "not [agency] staff, is entitled to deference from the courts.").

In this case, the Department interprets Section 38-53-170(e) as *requiring* bondsmen to charge and collect a minimum fee of \$100.00 or 10% of a bond before the execution of the bond, and—if the bond premium exceeds the foregoing mandatorily collected amount—*permitting* bondsmen to collect that remaining, uncollected amount through a payment agreement, the terms of which must include a downpayment of \$100 and full payment of the remaining bond premium within eighteen (18) months. The Court agrees.

Prior to its amendment in 2023, Section 38-53-170(e) provided that no bondsman or runner may:

(e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of twenty-five dollars. However, the bondsman is permitted to accept collateral security or other indemnity from the principal which must be returned upon final termination of liability on the bond. The bondsman shall identify who is paying the premium and shall represent that the collateral security or other indemnity has not been obtained from any person who has a greater interest in the principal's disappearance than appearance for trial. The collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond[.]

See S.C. Code Ann. § 38-53-170(e) (2015).

While maintaining a cap on bond premiums at 15% of the bond's face amount, the General Assembly amended subsection (e) by raising the minimum bond premium fee and also requiring it to be charged and collected before the execution of the bond, providing that no bondsman or runner may:

(e) accept anything of value from a principal except the premium, ... with a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond...

S.C. Code Ann. § 38-53-170(e) (Supp. 2025). Thus, it appears that the General Assembly intended to impose a higher minimum-premium standard charged to those seeking bond and to ensure that

that amount is actually collected by the bondsman before the bond is executed. But this language was then followed up with additional language that the General Assembly added to subsection (e):

However, the bondsman is permitted to enter into a payment agreement by attaching a statement of bondsman to the bond proceeding form and this agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars. This payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed...

Id.

At first blush, this second paragraph, with its use of the term “However” at the beginning, could seem to suggest, as Respondent argues, that the second paragraph presents an alternative to the requirements in the first paragraph. But in reading the statutory provision as a whole, taking into account what purpose the General Assembly intended to serve with this provision, the Court does not find this to be so.

Where a word is not defined in a statute, our appellate courts have looked to the usual dictionary meaning to supply its meaning. *Lee v. Thermal Eng'g Corp.*, 352 S.C. 81, 91-92, 572 S.E.2d 298, 303 (Ct. App. 2002); *see also Hernandez-Zuniga v. Tickle*, 374 S.C. 235, 248, 647 S.E.2d 691, 697 (Ct. App. 2007) (“Dictionaries can be helpful tools during the initial stages of legal research for the purpose of defining statutory terms.”) (citation omitted). With respect to the General Assembly’s use of the word “However” in the second paragraph of subsection (e), the Court turns to the common understanding of the word “however” as the best indication of legislative intent. *State v. Adams*, 430 S.C. 420, 433, 845 S.E.2d 217, 224 (Ct. App. 2020) (“In discussing legislative intent, we begin, as always, with the words of the statute.”). The word “however” can have several meanings, depending on the context in which it is used. Webster’s Dictionary defines “however,” when used as an adverb, as follows: “1 a: in whatever manner or way[;] b: to whatever degree or extent[;] 2 in spite of that: on the other hand[;] 3 how in the world.”¹⁰

The Court concludes that the term “However” as used at the beginning of the second paragraph of Section 38-53-170(e) means “in spite of that,” which is how Respondent also defines the use of the word in this case, according to her response to the Department’s Motion. But this is

¹⁰ Merriam-Webster.com Dictionary, <https://www.merriam-webster.com/dictionary/however> (last accessed February 10, 2026).

where the agreement ends. In this case, the Court interprets the use of “However” at the beginning of the second paragraph to mean that in spite of any statutory language in the first paragraph suggesting otherwise, a bondsman who charges a premium exceeding the minimum fee that must be collected before bond execution may enter a payment agreement with the principal or an indemnitor for collection of the remaining amount. This usage makes clear that—despite language in the preceding paragraph that could be read to suggest otherwise¹¹—collection of the *entire* bond premium before bond execution is not required where the entire premium exceeds the minimum. This usage also makes clear that, despite the preceding paragraph’s prohibition on a bondsman accepting “anything of value” from the bond’s principal after execution of the bond, the collection of additional premium (in excess of the statutory minimum) is permissible—if such collection occurs pursuant to a payment agreement meeting the requirements of the statute.¹² This interpretation harmonizes the two paragraphs of subsection (e) and reflects the General Assembly’s purpose in stiffening the requirements to post bond—requirements only applicable where the bond court has determined the defendant’s reappearance for trial is not reasonably assured and/or that the defendant’s release may pose an unreasonable danger to the community or an individual.¹³ By making the burden of posting bond commensurate with the bond amount determined by the bond court—whose determination as to the amount of bond must include consideration of factors such as a defendant’s criminal record, other pending charges, incident reports of underlying offense, gang affiliation and alienage, et al.¹⁴—subsection (e) reflects how serious the General Assembly views crimes alleged to have been committed in this State, the criminal proceedings occasioned

¹¹ The first paragraph could be read to say that a bondsman may not “accept anything of value from a principal except the premium ... that must be charged and collected by the bondsman before the execution of the bond.”

¹² The use of “However” in this current version of subsection (e) is similar to the use of “However” in the prior version of the subsection, which read, in pertinent part: “No bondsman or runner may: ... (e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of twenty-five dollars. However, the bondsman is permitted to accept collateral security or other indemnity from the principal which must be returned upon final termination of liability on the bond....” The use of “However” under that prior version of the subsection did not provide for an alternative to requiring the payment of the minimum premium amount but was simply providing that in spite of the fact that a minimum premium had to be paid and could not exceed 15%, a bondsman was allowed, in addition to that requirement, to also accept collateral security or indemnity to secure the premium.

¹³ See S.C. Code § 17-15-10(A) (Supp. 2025). Accused criminal defendants facing non-capital charges may be released on their own recognizance if the bond court does not determine they represent a flight risk or danger to others. *Id.*

¹⁴ See S.C. Code § 17-15-30(B) (Supp. 2025) (listing factors a court must consider in determining conditions of release where criminal defendant’s appearance not reasonably assured and/or release would constitute unreasonable danger to community or individuals)

thereby, and public safety. Thus, the General Assembly sought to reform the bail bond industry to ensure that the statutory regime in place—to determine whether bond is necessary to secure a criminal defendant’s release, and, if so, to establish the amount of bond—cannot be undermined by business practices of bail bondsmen, including posting bond based on collecting a fee that is incommensurate with the bond court’s determination. *S.C. Workers’ Comp. Comm’n v. WestPoint Home, LLC*, 446 S.C. 625, 633, 922 S.E.2d 231, 235 (Ct. App. 2025) (“In interpreting a statute, the language of the statute must be read in a sense that harmonizes with its subject matter and accords with its general purpose...[S]tatutes must be read as a whole and sections which are part of the same general statutory scheme must be construed together and each given effect, if it can be done by any reasonable construction.”) (citations and quotation marks omitted).

While the Court agrees with the SCAG and Respondent that the South Carolina Constitution provides a conditional right to bail (S.C. Const. Art. I § 15 (2009)), and that the General Assembly sought to strike a balance between “its desire to increase and standardize premiums” and “defendants’ ability to pay those premiums and ensuring compliance with defendants’ constitutional rights,”¹⁵ one scale cannot negate the other scale and maintain a just balance. In this case, to interpret the second paragraph of Section 38-53-170(e) as providing for an alternative to the first paragraph’s requirement for pre-execution collection of the minimum bond fee would eviscerate and render ineffective the first paragraph’s very specific requirement regarding the minimum premium to be charged **and collected prior to the execution of the bond**. Such an interpretation would also beg the question as to why the General Assembly would have included the minimum, pre-execution collection requirements in the first paragraph at all instead of just requiring a minimum downpayment of \$100 with the remainder of the premium to be paid and collected over eighteen months, i.e. through a payment plan. Had the General Assembly intended to provide an alternative for bailees who could not afford to pay the 10% minimum bond fee up front, it would not have included the 10% figure and the “whichever is greater” language in the first paragraph of subsection (e) and required this premium to be paid in full up front **and collected prior to the execution of the bond**, or, at the very least, would have provided a standard for determining whether a defendant qualified for the “financial assistance” alternative that

¹⁵ As the Department correctly notes in its Reply in Opposition to Respondent’s Motion for Summary Judgment, in making the above statement, the SCAG Opinion did not discuss a criminal defendant’s constitutional right against excessive bail (or any other constitutional right, for that matter).

Respondent argues is offered in the second paragraph.¹⁶ Though the Court agrees that the General Assembly did intend to provide some flexibility to not overburden the right to bail by maintaining the premium cap of 15% and allowing a third of that maximum amount to be collected over time via payment agreement, such flexibility was not intended to negate the clear added requirement that the greater of \$100 or 10% of the bond's face amount must be charged and collected before the execution of a bond.¹⁷

¹⁶ Respondent's argument would be more persuasive had the General Assembly not included the phrase "must be ... collected by the bondsman before the execution of the bond." Without that phrase, the provisions in subsection (e) could reasonably be interpreted as imposing a stiffer requirement for bond by raising the minimum premium to be paid while allowing for a payment agreement as an alternative means of paying for that higher minimum premium rather than paying it all up front. However, the Court must read the subsection as a whole and cannot ignore the requirement in the first provision that requires the bondsman to not only charge the bond premium minimum (which was done in this case) but also to collect it before the execution of the bond. In light of that phrase in the first provision, taken together with the second provision, Respondent's interpretation would create a contradiction that would render the prior-collection requirement in the first provision meaningless and ineffectual; the exception would swallow up the rule.

In her Response to DOI's Motion for Summary Judgment, Respondent further argues that if Section 38-53-170(e) was interpreted to require a defendant to pay the full 10% premium up front, this "would not serve to keep violent or dangerous criminals from achieving bail" but "would serve only to keep incarcerated those criminal defendants who cannot afford to pay 10% of their bond immediately[,] and that "[t]he result would be our jails filled to the brim not with the most violent criminals, but with the poorest." First, it is for the General Assembly, not this Court, to set policy, and this Court must assume that the General Assembly was aware of the possible ramifications of its policies.

Second, while the Court agrees with Respondent that "the minimum payment provisions of § 38-53-170(e) do not depend upon the nature of the crime that was committed," that subsection does not operate in a vacuum. The nature of the criminal charge(s) affects the bond court's determination as to whether a surety bond will be required for a defendant's pre-trial release because it impacts the likelihood of a defendant to reappear and/or whether his release threatens the community. See S.C. Code Ann. § 17-15-10(A). The nature of the criminal charge also impacts the amount of any such surety bond, e.g., the bond court must consider incident reports related to the charged offense. See *id.* § 17-15-30(B)(3). Thus, Respondent's opinion that mandatory collection of the minimum bond premium before bond execution would have no effect on violent criminals achieving bail appears to be based on the language of Section 38-53-170(e) alone, without considering the broader statutory scheme surrounding bail and pre-trial release. Moreover, Respondent's suggestion that the Department's interpretation of Section 38-53-170(e) would affect only the poorest defendants also fails to account for other statutes surrounding bail. Specifically, the bond court is permitted to consider a criminal defendant's financial resources when setting the bond amount. S.C. Code Ann. § 17-15-30(A)(3) (Supp. 2025). If the judge setting bond is aware that the law requires the collection of 10% of the bond's face amount from the defendant up front, the judge can take the defendant's financial status into account when determining the appropriate amount of bond to set. Indeed, Section 38-53-170(e) itself envisions that some bonds would be set at low amounts when it included the phrase "with a minimum fee of one hundred dollars or 10% of the bond, whichever is greater," language that contemplates surety bonds set at amounts below \$1,000. Therefore, the argument that our jails will be "filled to the brim ... with the poorest [defendants]" is speculation and not a foregone conclusion.

¹⁷ In the June 17, 2024 SCAG opinion discussed above, the SCAG resorted to legislative history, specifically 2023 Senate Journal, p. 2047 (April 11, 2023), which included a proposed amendment to Section 38-53-170(e) which, if enacted, would mirror the existing subsection, except that the payment agreement would be required to have a downpayment of \$100 or 5% of the bond's face amount, whichever is greater. The SCAG opinion reasons that the proffered amendment would have treated the payment agreement as an alternative to pre-execution collection of the bond premium because otherwise, the payment agreement would be fully performed as soon as the down payment was made, because the amount collected before bond execution (10%) and the downpayment pursuant to the payment agreement (5%) would total the 15% bond premium cap, leaving nothing left to be repaid through a payment plan.

Moreover, this interpretation of Section 38-53-170(e) is consistent with the Department's interpretation, as expressed in Order No. 2024-07. The Department is the agency charged with regulating bondsmen and runners in the area at issue and with enforcing Section 38-53-170(e) and related provisions. Also, the Court concludes, for the reasons given above, that the Department's interpretation of subsection (e) is not arbitrary, capricious, or manifestly contrary to the statute, and there is no compelling reason to differ with its interpretation of subsection (e). For these reasons, the Court will defer to the Department's interpretation of Section 38-53-170(e). *See Kiawah Dev. Partners, II v. S. C. Dep't of Health & Env't Control*, 411 S.C. 16, 32-33, 766 S.E.2d 707, 718 (2014) (citing *Chevron, U.S.A., Inc. v. Natural Res. Def. Council, Inc.*, 467 U.S. 837, 843 (1984), overruled by *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024)).¹⁸

While this is a logical construction of the proffered amendment, it is misapplied because this proposed legislation was not adopted in the final version of the statute—which may have been because it would have produced the absurd result that the SCAG highlights in its argument. In other words, the proposed amendment to the language in the second paragraph cited by SCAG may have been rejected because the General Assembly *shared* the Department's interpretation of the statute.

Similarly, legislative history subsequent to the issuance of the SCAG's and the Department's conflicting opinions appears to support the Department's interpretation. In S.C. House Bill No. 4512, which was introduced, given a first reading, and referred to the House Judiciary Committee on May 6, 2025, would have maintained the 15% bond premium cap and still have required the charge and collection of a minimum fee of \$100 or 10% of the face value of the bond, whichever is greater, prior to the execution of the bond—though it would move these provisions to a newly created Section 38-53-175—but it would have added to the newly created Section 38-53-175 the following subsection: **"Payment agreements are permitted for amounts in excess of ten percent of the bond but are otherwise prohibited."** (Emphasis added). (2025 House Journal, p. 227 (May 6, 2025)). Also, the disputed language at the beginning of the second paragraph of the current Section 38-53-170(e), beginning with "However" and ending with "before or at the motion hearing for the principal to be released on bond[.]" would be eliminated. The reason for S.C. House Bill No. 4512, as it relates to the current statutory language, is debatable. It could reasonably be argued that this proposed legislation constitutes a clarifying amendment intended to resolve ambiguity in the present statute by more carefully spelling out the Legislature's intent consistent with the Department's position. By the same token, it could be argued that the provisions in the proposed legislation carry a different meaning than the existing statute and seek to change the meaning thereof, which would bolster Respondent's argument with respect to the meaning of the existing statute. However, like the proposed Senate amendment offered prior to the enactment of the existing Section 38-53-170(e), this recently proposed House amendment has not been enacted. *See Tallevast v. Kaminski*, 146 S.C. 225, 236, 143 S.E. 796, 799-800 (1928) ("The law as it is passed is the will of the majority of both houses, and the only mode in which that will is spoken is in the act itself, and the rule that the intention of the Legislature is the primary consideration in the construction of a statute does not permit the courts to consider statements made by the author of a bill or by those interested in its passage, or by members of the Legislature adopting the bill, showing the meaning or effect of the language used in the bill as understood by the person or persons making such statements." (quoting 25 R. C. L. 1037, 1038)).

Based on the foregoing, the Court does not give weight to the legislative history discussed in the SCAG's June 17, 2024 opinion.

¹⁸ The Court agrees with the Department's analysis regarding agency deference at the state level and adopts another Administrative Law Judge's reasoning in *Friends of Horse Creek Valley v. S.C. Dep't of Env't Servs. & Rabbit Hill Class 2 Landfill*, S.C. Admin. Law Ct., 2025 WL 3045193, at *7 n. 17 (October 14, 2025) upholding the continuance of agency deference at the state level pursuant to *Kiawah Dev. Partners, II*, *supra* and South Carolina cases predating *Chevron* that applied similar deference principles.

As the Department observed in its Order No. 2024-07 and argues in its Motion, had the General Assembly sought to create an exception to the minimum pre-execution collection requirement set forth in the first paragraph of subsection (e), it would have done so using exception-creating language, as it did in multiple other places throughout the statute; but it did not.¹⁹ Rather, it included the language in the second paragraph to provide bondsmen who charge a premium amount above that minimum (though not exceeding 15% of the bond's face amount) and their bailees the opportunity to finance any premium amounts exceeding the minimum. It appears that the General Assembly wished to increase the defendant's minimum fee amount for posting a bail bond and ensure that this amount was charged and collected before executing the bond in order to make the burden of obtaining a bail bond commensurate with the amount of bond determined by the bond court based on that court's mandatory consideration of statutorily prescribed factors, while at the same time recognizing that imposing these tougher restrictions on bond may require alleviation should a bondsman decide, especially for a large bond amount, to charge more than 10% of the bond value, up to 15%, and thus allowed for a payment plan option for any remaining amount charged above 10% of the bond value. This is also the interpretation shared by the Department, and the Court concludes that it is a reasonable one supported by the text and purpose of the statute.

Respondent argues that it would be absurd to interpret the statute as requiring an additional minimum up-front downpayment of at least \$100 to be added as part of the payment plan for the remaining amount after already paying the higher of \$100 or 10% of the bond amount, with both the minimum premium *and* the minimum downpayment due prior to execution of the bond. As a preliminary matter, Respondent's argument ignores that Section 38-53-170(e) contemplates that the payment agreement may be entered with (and the downpayment paid by) an indemnitor other than the defendant, a possibility that is reflected by references to an "indemnitor" later in the second paragraph.²⁰ Relatedly, and more importantly, the two paragraphs represent two different

¹⁹ In footnote 12 of its Order No. 2024-07, the Department provides examples of exceptions created throughout chapter 53 of Title 38 including in Sections 38-53-80, -160, -170, and -190. In each of these examples, the General Assembly uses the term "except" to provide for exceptions.

²⁰ For example, the second paragraph in Section 38-53-170(e) provides in pertinent part that a payment agreement with a bondsman "shall require the principal on the bail bond **or any indemnitor** to make a minimum down payment of one hundred dollars...If the payment has not been made for two consecutive months, the bondsman must send a certified notice to the last known address of the principal **and indemnitor** demanding payment be made within ten days to bring the agreement current." (Emphasis added).

obligations relating to the bond. The first paragraph governs the terms of the execution of the bond, specifically the amount to be charged and collected as a mandatory prerequisite to the execution of the bond, whereas the second paragraph provides for the terms of a contractual agreement (i.e., a payment plan) between the bail bondsman and the principal and/indemnitor regarding the payment of any remaining premium that the bail bondsman may charge (up to the amount allowed by law). Accordingly, it would not be absurd for the General Assembly to require a separate downpayment of at least \$100 as valuable consideration for the payment plan, it being a separate contractual arrangement with potentially different parties and with its own distinct obligations. Moreover, it would not be absurd if the General Assembly wished to ensure that at least some of the remaining bond premium (above the minimum already charged and collected) was paid by requiring an immediate “downpayment”—the first payment required under the payment plan—especially given the inherent risk of default on such a payment plan by a defendant who would be out on bond.

Respondent also considers it absurd that the General Assembly would provide a “comprehensive payment agreement structure ... for only 5% of the face amount of the bond that the bondsman is not required to charge in the first place.” First, this argument assumes that 5% of a bond’s face amount is negligible, which is not true in all cases. Although, as a practical matter, the remaining (up to) 5% may be too negligible to collect via payment agreement where a bond is set at a low amount, it may be that the General Assembly contemplated that the practical application of payment plans would be limited to those situations where very high bonds are set. Moreover, the General Assembly may have reasoned that regulation of such payment agreements is necessary in light of the bondsman/insurer’s own decision to charge a premium above the statutory minimum, reflecting the bondsman or surety’s independent determination of risk that the principal will violate the conditions of their release. This may be reasonably inferred from the limitation of a payment plan’s duration to eighteen (18) months; a strict duty on the bondsman to send a certified notice (not just a mailed notice) to a defendant and any indemnitor when payment has not been made for two consecutive months; and surrender of the defendant to a detention facility and acceleration of the balance of the premium under the agreement, the full payment of which being required for rerelease on bond, should payment not be received during the notice period. Regardless, the Court does not find the statutorily mandated provisions of a payment agreement to be “comprehensive,” nor is the Court surprised that the General Assembly would

provide some level of detail to govern payment plans allowing collection of a portion of the bond premium after execution of the bond. After all, the collection of the premium itself is an exception to the general rule that bail bondsmen may not accept anything of value from the principal, a prohibition which serves the salutary purpose of preventing conflicts of interest and/or potential financial exploitation of criminal defendants.

Respondent further argues that interpreting Section 38-53-170(e) to require immediate payment of 10% of the bond to the bondsman would render the subsection “entirely superfluous” in light of S.C. Code Ann. § 17-15-15 (Supp. 2025), which already allows a defendant to, with a court’s assent, “post that same amount with the clerk of court and then get it back at the end of the case rather than paying that amount as a premium to the bondsman.” For this reason, Respondent questions “why anyone would use a surety bondsman in the first place.” In making this argument, Respondent quotes the following from Section 17-15-15(A): “in lieu of requiring actual posting of bond . . . the court setting bond may permit the defendant to deposit in cash with the clerk of court an amount not to exceed ten percent of the amount of the bond set, which amount, when the defendant fulfills the condition of the bond, must be returned to the defendant by the clerk” However, Respondent omitted a key phrase from the statute. Section 17-15-15(A) begins with the pertinent phrase “**Except as provided in subsection (D)[.]**” Subsection (D) states, in pertinent part that “[t]he provisions of this section do not apply if the defendant is charged with a violent offense, as defined in Section 16-1-60, or any felony offense involving a firearm while out on bond or other pretrial release....” This is a major exception encompassing a large number of criminal defendants who would likely not be given a low bond amount or released on their own recognizance without a surety. This is the reason why there exists a bail bondsman option and hence why Section 38-53-170(e) exists in addition to Section 17-15-15, and this is why such criminal defendants would resort to the option under Section 38-53-170(e), even having to pay 10% up front—because they would have no choice if they wish to post bond. The fact that the option to post a cash deposit with the clerk of a court is not available to defendants charged with violent offense under Section 16-1-60 or a felony involving a firearm while out on bond or other pretrial release would also be consistent with a reading of Section 38-53-170(e) that reflects an intent by the General Assembly to toughen the terms of posting bond through bail bondsmen in South Carolina by ensuring the burden of posting bond is consistent with the bond amount determined by the bond court to be appropriate.

For the foregoing reasons, the Court adopts the interpretation of section 38-53-170(e) set forth above and rejects Respondent's interpretation thereof. In this case, Respondent failed to collect the full amount of the 10% premium charged on each of the ten bonds issued between May 2, 2024 and June 1, 2025 prior to their execution. Because Section 38-53-170(e) requires that a bondsman not only charge a minimum premium of \$100 or 10% of the bond value, whichever is greater, but also collect the same prior to the execution of the bond, I conclude that Respondent violated Section 38-53-170(e) by collecting less than 10% of the bond value on all ten bonds at issue prior to their execution.

Penalties Imposed for Violations of Section 38-53-170(e)

In this case, the Court concludes that Respondent violated Section 38-53-170(e) with respect to the ten bonds at issue, for the reason discussed above, and that the Department has met its burden of proof. However, the Court also concludes that Respondent's actions are not worthy of the maximum financial penalty allowed by Section 38-2-10(A)(2) and sought by the Department. First, the version of Section 38-53-170(e) that was violated is fairly new, certainly ambiguous, and, to this Court's knowledge, the issue in this case has not been adjudicated and no declaratory judgment has been rendered relating to it. Second, as result of Section 38-53-170(e)'s ambiguity, reasonable and intelligent minds—including those of a municipal judge, the clerk of court in Greenwood, the SCAG's office, and the Department—have disagreed over its meaning. Even the Department sought the SCAG's withdrawal or modification of its June 17, 2024 opinion, thus acknowledging the influence it was having on bail bondsmen's application of Section 38-53-170(e) across the State. And while the SCAG, following the Department's request, did advise bail bondsmen (and runners) to "follow the [D]epartment's instructions and orders regarding the issue [in this case] pending any judicial or legislative clarification," this opinion was not issued until July 31, 2025, which was after Respondent's tenth and final violation on June 1, 2025. For these reasons, the Court does not believe that the maximum financial penalty of \$2500 per violation, allowed under Section 38-2-10(A)(2), is warranted in this case.

Nevertheless, the Court believes that a financial penalty is still warranted because although Respondent asserts that she relied on the SCAG's June 17, 2024 opinion in not collecting the full amount of the charged bond premiums at issue, Respondent was subsequently issued a copy of Order 2024-07 from the Department on December 11, 2024, approximately six months prior to the date of the first of the ten violations at issue in this case (on May 2, 2025). While Order 2024-07

conflicted with the Attorney General's prior opinion, Respondent should have complied with the order from Department because it is the agency authorized to regulate this area, and she should have done so until obtaining a favorable declaratory judgment on the issue. Accordingly, the Court believes a \$500 penalty for each of the ten violations is appropriate under the facts of this case.

ORDER

BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:

Respondent shall remit to the Department administrative fines in the amount of \$5,000.00 within thirty (30) days of the date of this Order.

Respondent is hereby notified that failure to comply with the terms of this Order shall subject Respondent to contempt of court, including fine or imprisonment or both.

IT IS FURTHER ORDERED that Petitioner South Carolina Department of Insurance may, but is not required to, file a copy of this final order as a judgment as provided in S.C. Code Ann. § 1-23-600(I) (Supp. 2025), provided that any such filing shall not relieve Respondent of the obligation created by this final order to pay the administrative fines. Further, the South Carolina Department of Insurance shall have the option to collect said judgment, as provided by the law applicable to collection of judgments.

AND IT IS SO ORDERED.



Samuel L. Johnson
Administrative Law Judge

February 13, 2026
Columbia, South Carolina

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Insurance,)
)
Petitioner,)
)
vs.)
)
Joyce Freeman,)
)
Respondent.)
_____)

Docket No. 25-ALJ-09-0270-CC

**AMDENDED ORDER GRANTING
SOUTH CAROLINA DEPARTMENT
OF INSURANCE'S MOTION FOR
SUMMARY JUDGMENT**

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a Request for Contested Case Hearing filed by Joyce Freeman (Respondent) on September 2, 2025, relating to a determination by Petitioner South Carolina Department of Insurance (DOI or the Department) that Respondent is liable for a \$25,000 administrative fine due to misconduct related to Respondent's licensure as a resident producer and surety bondsman. The parties filed cross-motions for summary judgment on January 9, 2026 pursuant to Rule 19 of the South Carolina Administrative Law Court Rules (SCALC Rules) and Rule 56(c) of the South Carolina Rules of Civil Procedure (SCRCP). In the Department's Motion, it argues that the \$25,000 administrative fine should be imposed upon Respondent for her failure to collect a minimum fee of \$100 or 10% of the bond amount, whichever was greater (in this case, the latter), prior to the execution of certain surety bonds, as required by S.C. Code Ann. § 38-53-170(e) (Supp. 2025). In her Motion, Respondent argues that Section 38-53-170(e) does not require a bondsman to charge and collect up front a minimum of \$100 or 10% of the bond amount, whichever is greater, prior to the execution of the bond where, as here, the bondsman has entered into a payment agreement whose terms meet certain statutory requirements, including a minimum downpayment of \$100 and a maximum term of eighteen months. For the reasons set forth below, the Court grants DOI's Motion and denies Respondent's Motion.

CONSIDERATION OF DEPARTMENT'S EXHIBITS 1, 2, 3, and 7

In her January 23, 2026 response to the Department's Motion, Respondent objects to Exhibits 1, 2, 3, and 7 thereto, asking that the exhibits be stricken and disregarded by the Court. Respondent argues that the Department neither produced nor otherwise identified the documents

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comprising these exhibits in discovery or its prehearing statement, nor did it identify Mark Keel (whose affidavit comprises Exhibit 1) or Ricky Hill (whose affidavit comprises Exhibit 2) as potential witnesses for the Department. Respondent argues that the Department failed to comply with SCALC Rule 21(A) and Rule 26(e), SCRCP, and did not seek to expand, reopen, or supplement discovery to identify these witnesses and documents prior to including the exhibits in its Motion. Respondent also argues the exhibits are irrelevant to the sole issue before the Court: the interpretation of Section 38-53-170(e) of the South Carolina Code. Specifically, Respondent contends the affidavits presented as Exhibits 1 and 2 and the compilation of news articles comprising Exhibit 3 seek to establish legislative intent, which cannot be properly ascertained through these sources, and further argues that the affiants can neither offer legal opinions nor testify to the state of mind of members of the Legislature when enacting the statutory provision at issue.

Also on January 23, 2026, the Department emailed the Court to provide a courtesy copy of its response to Respondent's Motion and to seek an opportunity to address Respondent's argument regarding the Court's consideration of the exhibits. The Court gave the Department until January 30, 2026 to provide a limited reply addressing the issue. On January 30, 2026, the Department filed a limited reply. The Department argues the exhibits were not submitted to prove Respondent failed to charge and collect the greater of \$100 or 10% of the face of the bond amount (as none of these facts are in dispute) but only to support the Department's interpretation of Section 38-53-170(e). The Department also argues that Exhibits 1 and 2 to its Motion (i.e., the affidavits) were not obtained until January 8 and 9, 2026, respectively, while the news articles comprising Exhibit 3 were not reviewed until January 7, 2026 and were not compiled into an exhibit until January 9, 2026. Thus, these materials were provided to Respondent, by way of the Department's Motion, within 36 hours of being obtained, constituting prompt transmittal in compliance with Rule 26, SCRCP, and it would have been futile to resend the same documents via updated discovery responses. The Department further argues that the news articles in Exhibit 3 were public information available to Respondent, as was DOI Order No. 2024-07, the transmittal of which to licensees is memorialized in Exhibit 7 of the Department's Motion.¹ The Department further

¹ Order No. 2024-07 is included as Exhibit 6 to the Department's Motion and is not among the exhibits Respondent objects to. Exhibit 7 includes documentation of the transmittal of Order No. 2024-07 to licensees, including Respondent by mail and email. However, as discussed *infra*, Exhibit 7 also includes documentation related to the transmittal of an earlier, unrelated Department order to licensees.

argues that the affidavits in its Exhibits 1 and 2 meet the criteria of Rule 701 of the South Carolina Rules of Evidence (SCRE) as testimony of lay witnesses, and that they were offered “in furtherance of bringing swift resolution to this matter as is the goal of summary judgment.”

After considering the arguments on this issue, the Court will not, in rendering its opinion, give any consideration to Exhibits 1, 2, and 3 of the Department’s Motion, nor to the portions of Exhibit 7 that are unrelated to this matter.

With respect to the affidavits attached to the Department’s Motion as Exhibits 1 and 2, the opinions or inferences of lay witnesses may be admissible, pursuant to Rule 701, SCRE, where they are “(a) are rationally based on the perception of the witness, (b) are helpful to a clear understanding of the witness’ testimony or the determination of a fact in issue, and (c) do not require special knowledge, skill, experience or training.” However, “[t]o be acceptable at summary judgment stage, the evidence presented in the affidavit must be evidence that would be admissible if presented at trial through the testimony of the affiant as a sworn witness.” *Scosche Indus., Inc. v. Visor Gear, Inc.*, 121 F.3d 675, 682 (Fed. Cir. 1997) (quoting 11 James Wm. Moore, Moore’s Federal Practice § 56.14[1][d], at 56–162 (3d ed.1997); see also note to Rule 701, SCRE (acknowledging that with the exception of subsection (c) and “minor grammatical changes, this rule is identical to the federal rule.”).

Here, the Court concludes that the content of the affidavits would not be admissible through the live witness testimony of the affiants if the matter presently before the Court were a trial (as opposed to cross-motions). First, the affiants were not included in the Department’s witness list, so their knowledge and opinions were not subject to discovery. Although the Department’s prompt transmittal of the affidavits would mitigate the element of surprise if this contested case were scheduled for trial weeks or months after the disclosure, here the parties agreed to seek resolution of this matter—an issue of law—via cross-motions for summary judgment to be filed by January 9, 2026. Thus, the Department’s disclosure of the witnesses and the affidavits by way of filing and serving its January 9, 2026 Motion is roughly analogous to a previously undisclosed witness being called to testify at trial. Also, Exhibit 1 contains inadmissible hearsay by quoting other individuals, and otherwise sets out a legal interpretation of the statutory language at issue—matters that would be inadmissible as testimony from Chief Keel even if he testified at trial. See Rule 802, SCRE (hearsay is generally inadmissible); *Dawkins v. Fields*, 354 S.C. 58, 66, 580 S.E.2d 433, 437 (2003) (expert testimony on issues of law is generally inadmissible). Similarly, Exhibit 2 contains

inadmissible hearsay, such as alleged concerns from other bail bondsmen, seeks to establish legislative intent for the enactment of the statutory language at issue,² and sets forth the affiant's view of consistency between the Department's position in this case and the relevant statutory language. As the Department itself noted in its response to Respondent's Motion:

[T]he best evidence of legislative intent is the language of the statute itself... Anecdotal reports and testimony about a legislator's or interested parties' intent is not competent evidence of the intent of the legislative body enacting the measure.... *Creswick v. University of South Carolina*, 434 S.C. 77, 83, 862 S.E.2d 706, 709 (2021); *see also Bowaters Carolina Corp. v. Smith*, 257 S.C. 563, 572, 186 S.E.2d 761, 764 (1972) (holding the testimony of members of the legislative delegation who authored the statute as to its meaning was inadmissible).

(Pet.'s Response, p. 13) (citation omitted and other citations in original).³ Thus, the Court finds that Exhibits 1 and 2 are insufficient as evidence of legislative intent. Moreover, even if the Court concluded the affidavits were admissible (at least in part), the Court would find the affidavits are more prejudicial than probative in determining the legal issue presently before the Court.

Similarly, with respect to Exhibit 3, the news articles compiled therein constitute hearsay which is neither admissible nor probative of legislative intent, and more prejudicial than probative in determining the meaning of Section 38-53-170(e).

Finally, as to Exhibit 7, the Court will consider the transmittal memorandum emailed and mailed from DOI Director Wise to Respondent and other licensees on December 11, 2024 because these transmittal records relate to the bonds and statutory language at issue in this contested case, and Respondent does not dispute that she had notice of the Department's Order No. 2024-07. However, the Court will not consider the transmittal memorandum and email sent to Respondent from Director Wise on October 20, 2022, which involved compliance issues unrelated to the statutory provision at issue in this case,⁴ was not cited by the Department's Motion, and does not implicate any violation on the part of Respondent. Because the October 20, 2022 materials are not of consequence to the determination of this matter, these materials are not relevant and are therefore inadmissible. *See* Rules 401, 402, SCRE.

² Exhibit 2 sets forth anecdotal testimony about "reports" of inappropriate monitoring and "concerns" of members of the General Assembly prompting the amendment of the statute.

³ Exhibit 2 also appears to characterize the "administrative history" behind the Department's issuance of Order 2024-07, beyond what is set forth in the order itself.

⁴ Indeed, the October 20, 2022 transmittal memorandum was issued before the statutory language at issue was even enacted.

For the foregoing reasons, the Court, in rendering its opinion in this matter, will not consider Petitioner's Exhibits 1, 2, 3, or the portion of Exhibit 7 relating to the Department's October 20, 2022 transmittal memorandum.

FACTS/PROCEDURAL HISTORY

The facts in this case are not in dispute. Respondent is currently licensed as a producer and surety bondsman in South Carolina, specifically with Allegheny Casualty Company, Bankers Insurance, and Palmetto Surety Corporation. After receiving a complaint on or about June 2, 2025 that Respondent had failed to collect the full 10% minimum fee when a bond was posted in court, the Department investigated and concluded that on June 1, 2025, Respondent had been the surety bondsman who executed a \$35,000 bond for Defendant Buff, charging a premium of \$3,500 but only collecting \$500 prior to the bond's execution, according to the payment agreement and payment receipts. Respondent allowed the balance of the 10% premium to be paid via a payment agreement.

On June 5, 2025, the Department issued Respondent a Notice of Investigation, in response to which Respondent, through counsel, contended that the law allowed her to collect less than 10% of the premium when the bond was posted because she had created a payment plan to receive the remainder of that premium. In support of this position, Respondent included in her response a copy of a South Carolina Attorney General Opinion dated June 17, 2024, which had adopted the same interpretation of Section 38-53-170(e).⁵ Respondent also provided to the Department copies of the payment agreements and receipts for ten surety bond transactions (for bonds posted between May 2, 2025 and June 1, 2025) in which she charged a premium of 10% but collected substantially less than the 10% premium before executing the bond, entering payment agreements with the principals instead. This is illustrated in the following chart:

Defendant:	Date Posted:	Bond Amount:	Premium Charged:	Premium Collected:	Payment Agreement:
Defendant Myers	5/29/2025	\$25,000.00	\$2,500.00	\$480.00	Yes
Defendant Byrd	5/28/2025	\$2,500.00	\$250.00	\$150.00	Yes
Defendant Keldsen	5/27/2025	\$2,100.00	\$710.00	\$200.00	Yes
	5/27/2025	\$5,000.00			

⁵ See Op. S.C. Att'y Gen., 2024 WL 3186557 (June 17, 2024).

Defendant Williams	5/27/2025	\$2,840.00	\$1,284.00 ⁶	\$400.00	Yes
	5/27/2025	\$10,000.00			
Defendant Womack	5/28/2025	\$25,000.00	\$2,500.00	\$360.00	Yes
Defendant Anderson	5/02/2025	\$47,000.00	\$4,700.00	\$600.00	Yes
Defendant Turnipseed	5/02/2025	\$5,000.00	\$500.00	\$200.00	Yes
Defendant Myers	5/06/2025	\$22,500.00	\$2,500.00	\$350.00	Yes
Defendant Johnson	5/06/2025	\$15,000.00	\$1,500.00	\$300.00	Yes
Defendant Buff	6/01/2025	\$35,000.00	\$3,500.00	\$500.00	Yes

Prior to these bond transactions—on December 11, 2024—the Department issued SCDOI Order No. 2024-07 (Order 2024-07), which was distributed to Respondent and all licensed surety bondsmen, professional bondsmen, and runners authorized to conduct bail bond business in South Carolina.⁷ This order, which refuted the position held by the South Carolina Attorney General (SCAG) as to the interpretation of Section 38-53-170(e), informed licensees that, among other things, South Carolina law requires the payment of a minimum fee in the amount of \$100 or 10% of the bond's face amount, whichever is greater, and that this premium is to be charged and collected prior to execution of the bond as a minimum fee.⁸ On December 11, 2024, the Department emailed a copy of this order to Respondent to the email address Respondent had provided to the Department, and the Department mailed a hard copy of the same order to

⁶ This chart comes from the Department's Administrative Order issued August 18, 2025, but the premium charged for Defendant Williams has been corrected from the amount stated in the original Administrative Order. The bond amount figure listed in the Department's chart for Defendant Williams totals \$12,840.00 with a premium charged amount of "\$1,280." However, Respondent notes in her Motion that the premium charged for Defendant Williams should have read "\$1,284.00," based on receipts and payment agreements she had provided to the Department. In its response to Respondent's Motion, the Department agreed its chart contained a scrivener's error and that the premium charged to Defendant Williams was "1,284.00," which was 10% of the total bond amount. The Department states it is willing to issue an amended order accordingly but that this error was immaterial, as Respondent only collected \$400 of the premium prior to the execution of the bond in violation of Section 38-53-170(e).

⁷ A "runner" is defined under Section 38-53-10(10) (2015), in pertinent part, as follows: "a person employed by a bail bondsman for the purpose of assisting the bail bondsman in presenting the defendant in court when required, assisting in the apprehension and surrender of the defendant to the court, keeping the defendant under necessary surveillance, and executing bonds on behalf of the licensed bondsman when the power of attorney has been recorded. 'Runner' does not include an attorney or a law enforcement officer assisting a bondsman."

⁸ In a subsequent SCAG Opinion, which responded to a letter from general counsel for DOI requesting modification or withdrawal of the June 17, 2024 SCAG opinion, the SCAG declined to alter its interpretation of Section § 38-53-170(e) but did state the following: "[W]e defer to the interpretation of the Department of Insurance as the agency with regulatory authority ... Further, we advise any bail bondsmen and runners to follow the [DOI's] instructions and orders regarding the issue pending any judicial or legislative clarification." See Op. S.C. Att'y Gen., 2025 WL 2369635 (July 31, 2025). This opinion was issued after the bonds at issue in this case had been executed.

Respondent via certified mail to Respondent's physical address of record. Neither communication was returned to the Department as undeliverable, and indeed the Department received a return receipt from the United States Postal Service reflecting that Respondent had signed for receipt of the correspondence.

On August 18, 2025, the Department issued an "Administrative Order Imposing Fine and Notice of Opportunity for Hearing" (Administrative Order) finding that Respondent violated Section 38-53-170(e) in the above ten instances by failing to collect the full amount of the 10% premium prior to bond execution and imposing a \$25,000 fine on Respondent accordingly. The Department also warned in its order that "[i]f the total fine amount is not timely paid as required by this Order, Respondent's bail bondsman and producer licenses will be revoked without any further disciplinary proceedings by this agency."

On September 2, 2025, Respondent filed a request for a contested case hearing with this Court, and this matter was assigned to the undersigned Judge on September 10, 2025. On January 9, 2026, the Department and Respondent filed cross-motions for summary judgment. On January 23, 2026, the parties filed responses to each other's motions. On January 30, 2026, the Department filed a limited reply addressing Respondent's objection to certain exhibits to its Motion, discussed *supra*.

STANDARD OF REVIEW

This Court has jurisdiction to hear this matter pursuant to S.C. Code Ann. §§ 1-23-600(A) (Supp. 2025), 38-53-150 (2015), and 38-53-160 (2015).

Rule 68 of the Rules of Procedure for the ALC provides that "[t]he South Carolina Rules of Civil Procedure . . . may, in the discretion of the presiding administrative law judge, be applied in proceedings before the Court to resolve questions not addressed by these rules." Pursuant to Rule 56(c), SCRCP, a trial court may grant a motion for summary judgment where "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." "In determining whether any triable issue of fact exists, the evidence and all inferences which can reasonably be drawn therefrom must be viewed in the light most favorable to the nonmoving party." *Quail Hill, LLC v. Cnty. of Richland*, 387 S.C. 223, 235, 692 S.E.2d 499, 505 (2010). Where the only question before a court is one of statutory interpretation, summary judgment is appropriate because it is an issue of law. *See Hock RH, LLC*

v. S.C. Dep't of Revenue, 423 S.C. 208, 212, 813 S.E.2d 540, 542 (Ct. App. 2018) (“A question of statutory interpretation is one of law for the court to decide.”) (quoting *Alltel Commc'ns, Inc. v. S.C. Dep't of Revenue*, 399 S.C. 313, 316, 731 S.E.2d 869, 870-71 (2012)).

DISCUSSION

Both parties in this case seek summary judgment based on differing interpretations of Section 38-53-170(e). Therefore, the Court will begin by looking at this statute. Section 38-53-170 of the South Carolina Code (2015 & Supp. 2025) provides, in pertinent part, that no bail bondsman or runner may:

(e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond. Conditions of the bond which expressly or implicitly require payment of monies in excess of the premium, as a cost of satisfying the condition of the bond, shall not be considered part of the bondsman's premium, and are not affected by this code provision. The bondsman may collect these fees from the defendant and is not limited by any language requirements of this code provision.

However, the bondsman is permitted to enter into a payment agreement by attaching a statement of bondsman to the bond proceeding form and this agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars. This payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed...

The Department's authority to administratively sanction licensed bail bondsmen for misconduct is discussed in Section 38-43-130 of the South Carolina Code (2015) and Section 38-53-150 of the South Carolina Code (2015). Section 38-43-130 provides, in pertinent part:

(A) The director or his designee may place on probation, revoke, or suspend a producer's license after ten days' notice ... when it appears that a producer has ... violated this title or any regulation promulgated by the department, or has wilfully deceived or dealt unjustly with the citizens of this State.

(C) The words “deceived or dealt unjustly with the citizens of this State” include, but are not limited to, action or inaction by the producer as follows:

(2) violating insurance laws, or violating any regulation, subpoena, or order of the director or of another state's director or his designee[.]

Section 38-53-150 provides, in pertinent part:

(A) The director or his designee may deny, suspend, revoke, or refuse to renew any license issued under this chapter for any of the following causes:

(2) violation of any laws of this State relating to bail in the course of dealings under the license issued to a bondsman or runner by the director or his designee;

(7) failure to comply with or violation of the provisions of this chapter or of any order of the director or his designee or regulation of the department[.]

(B) The director or his designee, in lieu of revoking or suspending a license in accordance with the provisions of this chapter, in any one proceeding, by order, may require the licensee to pay to the director or his designee to be deposited in the general fund of the State a monetary penalty as provided in Section 38-2-10[(A)](2) for each offense....

Section 38-2-10 of the South Carolina Code (Supp. 2025) discusses the Department's imposition of administrative penalties against licensees, providing in pertinent part:

(A) Unless otherwise specifically provided by law, the following administrative penalties apply for each violation of the insurance laws of this State or federal insurance laws subject to enforcement by the Department of Insurance:

(2) If the violator is a person, other than an insurer, pharmacy benefits manager, or a health maintenance organization, licensed by the director or his designee in this State, the director or his designee shall fine the person in an amount not to exceed two thousand five hundred dollars, suspend or revoke the license of the person, or both. If the violation is wilful, the director or his designee shall fine the person in an amount not to exceed five thousand dollars, suspend or revoke the license of the person, or both.

Because the Department is seeking to impose an administrative penalty against a licensee in this matter, the Department has the burden of proof. SCALC Rule 29(B) (stating that the agency has the burden of proof in "the assessment of civil penalties, the imposition of sanctions, or the enforcement of administrative orders"). Accordingly, in order for this Court to impose a penalty, the Department must prove each element of the alleged Section 38-53-170(e) violations by a preponderance of the evidence. However, based on the facts in this case are not in dispute, this case turns on the interpretation of Section 38-53-170(e).

In this case, the parties disagree as to the interpretation of Section 38-53-170(e). The Department argues that a bondsman must charge and collect a minimum premium of \$100 or 10% of a bond, whichever is greater, before the execution of the bond and may thereafter enter into a

payment agreement to collect any remaining amount of the bond premium, i.e. any amount of the bond premium that was not collected before the execution of the bond. Respondent, on the other hand, interprets the second paragraph of subsection (e), beginning with the word “However,” as providing an alternative under which bondsmen may—instead of collecting 10% of the bond’s face amount prior to its execution—enter into a payment agreement “subject to enumerated statutory requirements.”⁹

“[A] court must determine whether the language of a statute or regulation directly speaks to the issue. If so, the court must utilize the clear meaning of the statute or regulation.” *Kiawah Dev. Partners, II v. S.C. Dep’t of Health & Env’t. Control*, 411 S.C. 16, 32, 766 S.E.2d 707, 717 (2014) (citing *Brown v. Bi-Lo, Inc.*, 354 S.C. 436, 440, 581 S.E.2d 836, 838 (2003)). “Where the statute’s language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning.” *Id.* at 85, 533 S.E.2d at 581; *Grier v. AMISUB of S.C., Inc.*, 397 S.C. 532, 535, 725 S.E.2d 693, 695 (2012) (“What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will” and “courts are bound to give effect to the expressed intent of the legislature.”). “If a statute is ambiguous, the court must construe its terms in accordance with the rules of statutory construction.” *McInnis v. McInnis*, 348 S.C. 585, 592, 560 S.E.2d 632, 636 (Ct. App. 2002) (citing *Lester v. S.C. Workers’ Comp. Comm’n*, 334 S.C. 557, 561, 514 S.E.2d 751, 752 (1999)). Thus, the Court first examines whether Section 38-53-170(e) is ambiguous.

In determining whether an undefined statutory term creates an ambiguity, courts must consider the terms’ meanings in conjunction with the entire statute. *See Branch v. City of Myrtle Beach*, 340 S.C. 405, 410, 532 S.E.2d 289, 292 (2000) (“When faced with an undefined statutory term ... Courts should consider not merely the language of the particular clause being construed, but the undefined word and its meaning in conjunction with the purpose of the whole statute and the policy of the law.”) (citing *Whitner v. State*, 328 S.C. 1, 492 S.E.2d 777 (1997)); *Ray Bell Const. Co. v. Sch. Dist. of Greenville Cnty.*, 331 S.C. 19, 25–26, 501 S.E.2d 725, 729 (1998) (court of appeals erred in determining statute unambiguous by focusing solely on language of one subsection without considering the intended purpose of statute).

⁹ Respondent’s interpretation is shared by the SCAG’s office, which rendered an opinion in response to a question submitted by a municipal judge following that judge’s disagreement with the Greenwood Clerk of Court over the interpretation of Section 38-53-170(e), the latter having interpreted Section 38-53-170 as the Department has. Thus, reasonable and intelligent minds have interpreted this statutory provision differently.

Here, the second paragraph of Section 38-53-170(e) begins with the word, “However,” a word whose varied usage can signify an exception, alternative or limitation to preceding language, as discussed in more detail *infra*. Based on the language of the two paragraphs of the subsection, the Court concludes that the use of “However” in the second paragraph renders the meaning of the subsection as a whole ambiguous; therefore, statutory construction is required.

“The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature.” *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). “A court should not consider a particular clause in a statute in isolation, but should read it in conjunction with the purpose of the entire statute and the policy of the law.” *S.C. Dep’t of Consumer Affs. v. Cash Ctr. of S.C., LLC*, 435 S.C. 192, 202, 865 S.E.2d 789, 794 (Ct. App. 2021) (quoting *Peake v. S.C. Dep’t of Motor Vehicles*, 375 S.C. 589, 599, 654 S.E.2d 284, 290 (Ct. App. 2007)). A statute should therefore be read “as a whole [and must] must receive practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of lawmakers. In interpreting a statute, the language of the statute must be read in a sense that harmonizes with its subject matter and accords with its general purpose.” *Id.* (quoting *Sparks v. Palmetto Hardwood, Inc.*, 406 S.C. 124, 128, 750 S.E.2d 61, 63 (2013)).

It is also well-recognized that courts “generally give[] deference to an administrative agency's interpretation of an applicable statute or its own regulation.” *Kiawah Dev. Partners, II v. S. C. Dep’t of Health & Env’t Control*, 411 S.C. 16, 32, 766 S.E.2d 707, 717 (2014) (*Kiawah*) (quoting *Brown v. Bi-Lo, Inc.*, 354 S.C. 436, 440, 581 S.E.2d 836, 838 (2003)) (internal quotation marks omitted); *see also State v. Sweat*, 379 S.C. 367, 384, 665 S.E.2d 645, 655 (Ct. App. 2008), *aff’d as modified*, 386 S.C. 339, 688 S.E.2d 569 (2010)) (“It is true that agencies charged with enforcing statutes usually receive deference from the courts as to their interpretation of those laws.”) (citation omitted). Our state Supreme Court has found that interpreting and applying statutes and regulations administered by an agency is a two-step process. *Kiawah*, 411 S.C. at 32, 766 S.E.2d at 717. “First, a court must determine whether the language of a statute or regulation directly speaks to the issue. If so, the court must utilize the clear meaning of the statute or regulation.” *Id.* (citation omitted). In the event that “the statute or regulation ‘is silent or ambiguous with respect to the specific issue,’ the court then must give deference to the agency's interpretation of the statute or regulation assuming the interpretation is worthy of deference.” *Id.* at 33, 766 S.E.2d at 717 (quoting *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837, 843,

(1984)). An agency's interpretation of a silent or ambiguous statute that it is charged with administering is worthy of deference unless it is "arbitrary, capricious, or manifestly contrary to the statute," or unless there is a compelling reason to differ. *Id.* at 34-35, 766 S.E.2d at 718 (citing *Chevron*, 467 U.S. at 844); *but see S.C. Coastal Conservation League v. S.C. Dep't of Health & Env't Control*, 363 S.C. 67, 75, 610 S.E.2d 482, 486 (2005) (finding the agency's reviewing body, "not [agency] staff, is entitled to deference from the courts.").

In this case, the Department interprets Section 38-53-170(e) as *requiring* bondsmen to charge and collect a minimum fee of \$100 or 10% of a bond before the execution of the bond, and—if the bond premium exceeds the foregoing mandatorily collected amount—*permitting* bondsmen to collect that remaining, uncollected amount through a payment agreement, the terms of which must include a downpayment of \$100 and full payment of the remaining bond premium within eighteen (18) months. The Court agrees.

Prior to its amendment in 2023, Section 38-53-170(e) provided that no bondsman or runner may:

(e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of twenty-five dollars. However, the bondsman is permitted to accept collateral security or other indemnity from the principal which must be returned upon final termination of liability on the bond. The bondsman shall identify who is paying the premium and shall represent that the collateral security or other indemnity has not been obtained from any person who has a greater interest in the principal's disappearance than appearance for trial. The collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond[.]

See S.C. Code Ann. § 38-53-170(e) (2015).

While maintaining a cap on bond premiums at 15% of the bond's face amount, the General Assembly amended subsection (e) by raising the minimum bond premium fee and also requiring it to be charged and collected before the execution of the bond, providing that no bondsman or runner may:

(e) accept anything of value from a principal except the premium, ... with a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond...

S.C. Code Ann. § 38-53-170(e) (Supp. 2025). Thus, it appears that the General Assembly intended to impose a higher minimum-premium standard charged to those seeking bond and to ensure that

that amount is actually collected by the bondsman before the bond is executed. But this language was then followed up with additional language that the General Assembly added to subsection (e):

However, the bondsman is permitted to enter into a payment agreement by attaching a statement of bondsman to the bond proceeding form and this agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars. This payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed...

Id.

At first blush, this second paragraph, with its use of the term “However” at the beginning, could seem to suggest, as Respondent argues, that the second paragraph presents an alternative to the requirements in the first paragraph. But in reading the statutory provision as a whole, taking into account what purpose the General Assembly intended to serve with this provision, the Court does not find this to be so.

Where a word is not defined in a statute, our appellate courts have looked to the usual dictionary meaning to supply its meaning. *Lee v. Thermal Eng'g Corp.*, 352 S.C. 81, 91-92, 572 S.E.2d 298, 303 (Ct. App. 2002); *see also Hernandez-Zuniga v. Tickle*, 374 S.C. 235, 248, 647 S.E.2d 691, 697 (Ct. App. 2007) (“Dictionaries can be helpful tools during the initial stages of legal research for the purpose of defining statutory terms.”) (citation omitted). With respect to the General Assembly’s use of the word “However” in the second paragraph of subsection (e), the Court turns to the common understanding of the word “however” as the best indication of legislative intent. *State v. Adams*, 430 S.C. 420, 433, 845 S.E.2d 217, 224 (Ct. App. 2020) (“In discussing legislative intent, we begin, as always, with the words of the statute.”). The word “however” can have several meanings, depending on the context in which it is used. Webster’s Dictionary defines “however,” when used as an adverb, as follows: “1 a: in whatever manner or way[:]; b: to whatever degree or extent[:]; 2 in spite of that: on the other hand[:]; 3 how in the world.”¹⁰

The Court concludes that the term “However” as used at the beginning of the second paragraph of Section 38-53-170(e) means “in spite of that,” which is how Respondent also defines the use of the word in this case, according to her response to the Department’s Motion. But this is

¹⁰ Merriam-Webster.com Dictionary, <https://www.merriam-webster.com/dictionary/however> (last accessed February 10, 2026).

where the agreement ends. In this case, the Court interprets the use of “However” at the beginning of the second paragraph to mean that in spite of any statutory language in the first paragraph suggesting otherwise, a bondsman who charges a premium exceeding the minimum fee that must be collected before bond execution may enter a payment agreement with the principal or an indemnitor for collection of the remaining amount. This usage makes clear that—despite language in the preceding paragraph that could be read to suggest otherwise¹¹—collection of the *entire* bond premium before bond execution is not required where the entire premium exceeds the minimum. This usage also makes clear that, despite the preceding paragraph’s prohibition on a bondsman accepting “anything of value” from the bond’s principal after execution of the bond, the collection of additional premium (in excess of the statutory minimum) is permissible—if such collection occurs pursuant to a payment agreement meeting the requirements of the statute.¹² This interpretation harmonizes the two paragraphs of subsection (e) and reflects the General Assembly’s purpose in stiffening the requirements to post bond—requirements only applicable where the bond court has determined the defendant’s reappearance for trial is not reasonably assured and/or that the defendant’s release may pose an unreasonable danger to the community or an individual.¹³ By making the burden of posting bond commensurate with the bond amount determined by the bond court—whose determination as to the amount of bond must include consideration of factors such as a defendant’s criminal record, other pending charges, incident reports of underlying offense, gang affiliation and alienage, et al.¹⁴—subsection (e) reflects how serious the General Assembly views crimes alleged to have been committed in this State, the criminal proceedings occasioned

¹¹ The first paragraph could be read to say that a bondsman may not “accept anything of value from a principal except the premium ... that must be charged and collected by the bondsman before the execution of the bond.”

¹² The use of “However” in this current version of subsection (e) is similar to the use of “However” in the prior version of the subsection, which read, in pertinent part: “No bondsman or runner may: ... (e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of twenty-five dollars. However, the bondsman is permitted to accept collateral security or other indemnity from the principal which must be returned upon final termination of liability on the bond....” The use of “However” under that prior version of the subsection did not provide for an alternative to requiring the payment of the minimum premium amount but was simply providing that in spite of the fact that a minimum premium had to be paid and could not exceed 15%, a bondsman was allowed, in addition to that requirement, to also accept collateral security or indemnity to secure the premium.

¹³ See S.C. Code § 17-15-10(A) (Supp. 2025). Accused criminal defendants facing non-capital charges may be released on their own recognizance if the bond court does not determine they represent a flight risk or danger to others. *Id.*

¹⁴ See S.C. Code § 17-15-30(B) (Supp. 2025) (listing factors a court must consider in determining conditions of release where criminal defendant’s appearance not reasonably assured and/or release would constitute unreasonable danger to community or individuals)

thereby, and public safety. Thus, the General Assembly sought to reform the bail bond industry to ensure that the statutory regime in place—to determine whether bond is necessary to secure a criminal defendant’s release, and, if so, to establish the amount of bond—cannot be undermined by business practices of bail bondsmen, including posting bond based on collecting a fee that is incommensurate with the bond court’s determination. *S.C. Workers’ Comp. Comm’n v. WestPoint Home, LLC*, 446 S.C. 625, 633, 922 S.E.2d 231, 235 (Ct. App. 2025) (“In interpreting a statute, the language of the statute must be read in a sense that harmonizes with its subject matter and accords with its general purpose...[S]tatutes must be read as a whole and sections which are part of the same general statutory scheme must be construed together and each given effect, if it can be done by any reasonable construction.”) (citations and quotation marks omitted).

While the Court agrees with the SCAG and Respondent that the South Carolina Constitution provides a conditional right to bail (S.C. Const. Art. I § 15 (2009)), and that the General Assembly sought to strike a balance between “its desire to increase and standardize premiums” and “defendants’ ability to pay those premiums and ensuring compliance with defendants’ constitutional rights,”¹⁵ one scale cannot negate the other scale and maintain a just balance. In this case, to interpret the second paragraph of Section 38-53-170(e) as providing for an alternative to the first paragraph’s requirement for pre-execution collection of the minimum bond fee would eviscerate and render ineffective the first paragraph’s very specific requirement regarding the minimum premium to be charged **and collected prior to the execution of the bond**. Such an interpretation would also beg the question as to why the General Assembly would have included the minimum, pre-execution collection requirements in the first paragraph at all instead of just requiring a minimum downpayment of \$100 with the remainder of the premium to be paid and collected over eighteen months, i.e. through a payment plan. Had the General Assembly intended to provide an alternative for bailees who could not afford to pay the 10% minimum bond fee up front, it would not have included the 10% figure and the “whichever is greater” language in the first paragraph of subsection (e) and required this premium to be paid in full up front **and collected prior to the execution of the bond**, or, at the very least, would have provided a standard for determining whether a defendant qualified for the “financial assistance” alternative that

¹⁵ As the Department correctly notes in its Reply in Opposition to Respondent’s Motion for Summary Judgment, in making the above statement, the SCAG Opinion did not discuss a criminal defendant’s constitutional right against excessive bail (or any other constitutional right, for that matter).

Respondent argues is offered in the second paragraph.¹⁶ Though the Court agrees that the General Assembly did intend to provide some flexibility to not overburden the right to bail by maintaining the premium cap of 15% and allowing a third of that maximum amount to be collected over time via payment agreement, such flexibility was not intended to negate the clear added requirement that the greater of \$100 or 10% of the bond's face amount must be charged and collected before the execution of a bond.¹⁷

¹⁶ Respondent's argument would be more persuasive had the General Assembly not included the phrase "must be ... collected by the bondsman before the execution of the bond." Without that phrase, the provisions in subsection (e) could reasonably be interpreted as imposing a stiffer requirement for bond by raising the minimum premium to be paid while allowing for a payment agreement as an alternative means of paying for that higher minimum premium rather than paying it all up front. However, the Court must read the subsection as a whole and cannot ignore the requirement in the first provision that requires the bondsman to not only charge the bond premium minimum (which was done in this case) but also to **collect it before the execution of the bond**. In light of that phrase in the first provision, taken together with the second provision, Respondent's interpretation would create a contradiction that would render the prior-collection requirement in the first provision meaningless and ineffectual; the exception would swallow up the rule.

In her Response to DOI's Motion for Summary Judgment, Respondent further argues that if Section 38-53-170(e) was interpreted to require a defendant to pay the full 10% premium up front, this "would not serve to keep violent or dangerous criminals from achieving bail" but "would serve only to keep incarcerated those criminal defendants who cannot afford to pay 10% of their bond immediately[,] and that "[t]he result would be our jails filled to the brim not with the most violent criminals, but with the poorest." First, it is for the General Assembly, not this Court, to set policy, and this Court must assume that the General Assembly was aware of the possible ramifications of its policies.

Second, while the Court agrees with Respondent that "the minimum payment provisions of § 38-53-170(e) do not depend upon the nature of the crime that was committed," that subsection does not operate in a vacuum. The nature of the criminal charge(s) affects the bond court's determination as to whether a surety bond will be required for a defendant's pre-trial release because it impacts the likelihood of a defendant to reappear and/or whether his release threatens the community. *See* S.C. Code Ann. § 17-15-10(A). The nature of the criminal charge also impacts the amount of any such surety bond, e.g., the bond court must consider incident reports related to the charged offense. *See id.* § 17-15-30(B)(3). Thus, Respondent's opinion that mandatory collection of the minimum bond premium before bond execution would have no effect on violent criminals achieving bail appears to be based on the language of Section 38-53-170(e) alone, without considering the broader statutory scheme surrounding bail and pre-trial release. Moreover, Respondent's suggestion that the Department's interpretation of Section 38-53-170(e) would affect only the poorest defendants also fails to account for other statutes surrounding bail. Specifically, the bond court is permitted to consider a criminal defendant's financial resources when setting the bond amount. S.C. Code Ann. § 17-15-30(A)(3) (Supp. 2025). If the judge setting bond is aware that the law requires the collection of 10% of the bond's face amount from the defendant up front, the judge can take the defendant's financial status into account when determining the appropriate amount of bond to set. Indeed, Section 38-53-170(e) itself envisions that some bonds would be set at low amounts when it included the phrase "with a minimum fee of one hundred dollars or 10% of the bond, whichever is greater," language that contemplates surety bonds set at amounts below \$1,000. Therefore, the argument that our jails will be "filled to the brim ... with the poorest [defendants]" is speculation and not a foregone conclusion.

¹⁷ In the June 17, 2024 SCAG opinion discussed above, the SCAG resorted to legislative history, specifically 2023 Senate Journal, p. 2047 (April 11, 2023), which included a proposed amendment to Section 38-53-170(e) which, if enacted, would mirror the existing subsection, except that the payment agreement would be required to have a downpayment of \$100 or 5% of the bond's face amount, whichever is greater. The SCAG opinion reasons that the proffered amendment would have treated the payment agreement as an alternative to pre-execution collection of the bond premium because otherwise, the payment agreement would be fully performed as soon as the down payment was made, because the amount collected before bond execution (10%) and the downpayment pursuant to the payment agreement (5%) would total the 15% bond premium cap, leaving nothing left to be repaid through a payment plan.

As the Department observed in its Order No. 2024-07 and argues in its Motion, had the General Assembly sought to create an exception to the minimum pre-execution collection requirement set forth in the first paragraph of subsection (e), it would have done so using exception-creating language, as it did in multiple other places throughout the statute; but it did not.¹⁸ Rather, it included the language in the second paragraph to provide bondsmen who charge a premium amount above that minimum (though not exceeding 15% of the bond's face amount) and their bailees the opportunity to finance any premium amounts exceeding the minimum. It appears that the General Assembly wished to increase the defendant's minimum fee amount for posting a bail bond and ensure that this amount was charged and collected before executing the

While this is a logical construction of the proffered amendment, it is misapplied because this proposed legislation was **not** adopted in the final version of the statute—which may have been because it would have produced the absurd result that the SCAG highlights in its argument. In other words, the proposed amendment to the language in the second paragraph cited by the SCAG may have been rejected because the General Assembly shared the SCAG's concern that including the 5% downpayment language would have left nothing to finance through a payment agreement. However, this would only have been a concern if the General Assembly intended for the mandatory minimum premium fee to not only be charged but also collected prior to the execution of the bond and thus prior to the implementation of a payment plan, which would be consistent with this Court's interpretation of subsection (e).

Similarly, legislative history subsequent to the issuance of the SCAG's and the Department's conflicting opinions appears to support the Department's interpretation. In S.C. House Bill No. 4512, which was introduced, given a first reading, and referred to the House Judiciary Committee on May 6, 2025, would have maintained the 15% bond premium cap and still have required the charge and collection of a minimum fee of \$100 or 10% of the face value of the bond, whichever is greater, prior to the execution of the bond—though it would move these provisions to a newly created Section 38-53-175—but it would have added to the newly created Section 38-53-175 the following subsection: **"Payment agreements are permitted for amounts in excess of ten percent of the bond but are otherwise prohibited."** (Emphasis added). (2025 House Journal, p. 227 (May 6, 2025)). Also, the disputed language at the beginning of the second paragraph of the current Section 38-53-170(e), beginning with "However" and ending with "before or at the motion hearing for the principal to be released on bond[,]" would be eliminated. The reason for S.C. House Bill No. 4512, as it relates to the current statutory language, is debatable. It could reasonably be argued that this proposed legislation constitutes a clarifying amendment intended to resolve ambiguity in the present statute by more carefully spelling out the Legislature's intent consistent with the Department's position. By the same token, it could be argued that the provisions in the proposed legislation carry a different meaning than the existing statute and seek to change the meaning thereof, which would bolster Respondent's argument with respect to the meaning of the existing statute. However, like the proposed Senate amendment offered prior to the enactment of the existing Section 38-53-170(e), this recently proposed House amendment has not been enacted. *See Tallevast v. Kaminski*, 146 S.C. 225, 236, 143 S.E. 796, 799–800 (1928) ("The law as it is passed is the will of the majority of both houses, and the only mode in which that will is spoken is in the act itself, and the rule that the intention of the Legislature is the primary consideration in the construction of a statute does not permit the courts to consider statements made by the author of a bill or by those interested in its passage, or by members of the Legislature adopting the bill, showing the meaning or effect of the language used in the bill as understood by the person or persons making such statements." (quoting 25 R. C. L. 1037, 1038)).

Based on the foregoing, the Court does not give weight to the legislative history discussed in the SCAG's June 17, 2024 opinion.

¹⁸ In footnote 12 of its Order No. 2024-07, the Department provides examples of exceptions created throughout chapter 53 of Title 38 including in Sections 38-53-80, -160, -170, and -190. In each of these examples, the General Assembly uses the term "except" to provide for exceptions.

bond in order to make the burden of obtaining a bail bond commensurate with the amount of bond determined by the bond court based on that court's mandatory consideration of statutorily prescribed factors, while at the same time recognizing that imposing these tougher restrictions on bond may require alleviation should a bondsman decide, especially for a large bond amount, to charge more than 10% of the bond value, up to 15%, and thus allowed for a payment plan option for any remaining amount charged above 10% of the bond value.

Respondent argues that it would be absurd to interpret the statute as requiring an additional minimum up-front downpayment of at least \$100 to be added as part of the payment plan for the remaining amount after already paying the higher of \$100 or 10% of the bond amount, with both the minimum premium *and* the minimum downpayment due prior to execution of the bond. As a preliminary matter, Respondent's argument ignores that Section 38-53-170(e) contemplates that the payment agreement may be entered with (and the downpayment paid by) an indemnitor other than the defendant, a possibility that is reflected by references to an "indemnitor" later in the second paragraph.¹⁹ Relatedly, and more importantly, the two paragraphs represent two different obligations relating to the bond. The first paragraph governs the terms of the execution of the bond, specifically the amount to be charged and collected as a mandatory prerequisite to the execution of the bond, whereas the second paragraph provides for the terms of a contractual agreement (i.e., a payment plan) between the bail bondsman and the principal and/indemnitor regarding the payment of any remaining premium that the bail bondsman may charge (up to the amount allowed by law). Accordingly, it would not be absurd for the General Assembly to require a separate downpayment of at least \$100 as valuable consideration for the payment plan, it being a separate contractual arrangement with potentially different parties and with its own distinct obligations. Moreover, it would not be absurd if the General Assembly wished to ensure that at least some of the remaining bond premium (above the minimum already charged and collected) was paid by requiring an immediate "downpayment"—the first payment required under the payment plan—especially given the inherent risk of default on such a payment plan by a defendant who would be out on bond.

¹⁹ For example, the second paragraph in Section 38-53-170(e) provides in pertinent part that a payment agreement with a bondsman "shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars...If the payment has not been made for two consecutive months, the bondsman must send a certified notice to the last known address of the principal and indemnitor demanding payment be made within ten days to bring the agreement current." (Emphasis added).

Respondent also considers it absurd that the General Assembly would provide a “comprehensive payment agreement structure ... for only 5% of the face amount of the bond that the bondsman is not required to charge in the first place.” First, this argument assumes that 5% of a bond’s face amount is negligible, which is not true in all cases. Although, as a practical matter, the remaining (up to) 5% may be too negligible to collect via payment agreement where a bond is set at a low amount, it may be that the General Assembly contemplated that the practical application of payment plans would be limited to those situations where very high bonds are set. Moreover, the General Assembly may have reasoned that regulation of such payment agreements is necessary in light of the bondsman/insurer’s own decision to charge a premium above the statutory minimum, reflecting the bondsman or surety’s independent determination of risk that the principal will violate the conditions of their release. This may be reasonably inferred from the limitation of a payment plan’s duration to eighteen (18) months; a strict duty on the bondsman to send a certified notice (not just a mailed notice) to a defendant and any indemnitor when payment has not been made for two consecutive months; and surrender of the defendant to a detention facility and acceleration of the balance of the premium under the agreement, the full payment of which being required for rerelease on bond, should payment not be received during the notice period. Regardless, the Court does not find the statutorily mandated provisions of a payment agreement to be “comprehensive,” nor is the Court surprised that the General Assembly would provide some level of detail to govern payment plans allowing collection of a portion of the bond premium after execution of the bond. After all, the collection of the premium itself is an exception to the general rule that bail bondsmen may not accept anything of value from the principal, a prohibition which serves the salutary purpose of preventing conflicts of interest and/or potential financial exploitation of criminal defendants.

Respondent further argues that interpreting Section 38-53-170(e) to require immediate payment of 10% of the bond to the bondsman would render the subsection “entirely superfluous” in light of S.C. Code Ann. § 17-15-15 (Supp. 2025), which already allows a defendant to, with a court’s assent, “post that same amount with the clerk of court and then get it back at the end of the case rather than paying that amount as a premium to the bondsman.” For this reason, Respondent questions “why anyone would use a surety bondsman in the first place.” In making this argument, Respondent quotes the following from Section 17-15-15(A): “in lieu of requiring actual posting of bond . . . the court setting bond may permit the defendant to deposit in cash with the clerk of court

an amount not to exceed ten percent of the amount of the bond set, which amount, when the defendant fulfills the condition of the bond, must be returned to the defendant by the clerk” However, Respondent omitted a key phrase from the statute. Section 17-15-15(A) begins with the pertinent phrase “**Except as provided in subsection (D)**[.]” Subsection (D) states, in pertinent part that “[t]he provisions of this section do not apply if the defendant is charged with a violent offense, as defined in Section 16-1-60, or any felony offense involving a firearm while out on bond or other pretrial release....” This is a major exception encompassing a large number of criminal defendants who would likely not be given a low bond amount or released on their own recognizance without a surety. This is the reason why there exists a bail bondsman option and hence why Section 38-53-170(e) exists in addition to Section 17-15-15, and this is why such criminal defendants would resort to the option under Section 38-53-170(e), even having to pay 10% up front—because they would have no choice if they wish to post bond. The fact that the option to post a cash deposit with the clerk of a court is not available to defendants charged with violent offense under Section 16-1-60 or a felony involving a firearm while out on bond or other pretrial release would also be consistent with a reading of Section 38-53-170(e) that reflects an intent by the General Assembly to toughen the terms of posting bond through bail bondsmen in South Carolina by ensuring the burden of posting bond is consistent with the bond amount determined by the bond court to be appropriate.

For the foregoing reasons, the Court adopts the interpretation of section 38-53-170(e) set forth above and rejects Respondent’s interpretation thereof. In this case, Respondent failed to collect the full amount of the 10% premium charged on each of the ten bonds issued between May 2, 2024 and June 1, 2025 prior to their execution. Because Section 38-53-170(e) requires that a bondsman not only charge a minimum premium of \$100 or 10% of the bond value, whichever is greater, but also collect the same prior to the execution of the bond, I conclude that Respondent violated Section 38-53-170(e) by collecting less than 10% of the bond value on all ten bonds at issue prior to their execution.

Penalties Imposed for Violations of Section 38-53-170(e)

In this case, the Court concludes that Respondent violated Section 38-53-170(e) with respect to the ten bonds at issue, for the reason discussed above, and that the Department has met its burden of proof. However, the Court also concludes that Respondent’s actions are not worthy of the maximum financial penalty allowed by Section 38-2-10(A)(2) and sought by the

Department. First, the version of Section 38-53-170(e) that was violated is fairly new, certainly ambiguous, and, to this Court's knowledge, the issue in this case has not been adjudicated and no declaratory judgment has been rendered relating to it. Second, as result of Section 38-53-170(e)'s ambiguity, reasonable and intelligent minds—including those of a municipal judge, the clerk of court in Greenwood, the SCAG's office, and the Department—have disagreed over its meaning. Even the Department sought the SCAG's withdrawal or modification of its June 17, 2024 opinion, thus acknowledging the influence it was having on bail bondsmen's application of Section 38-53-170(e) across the State. And while the SCAG, following the Department's request, did advise bail bondsmen (and runners) to "follow the [D]epartment's instructions and orders regarding the issue [in this case] pending any judicial or legislative clarification," this opinion was not issued until July 31, 2025, which was after Respondent's tenth and final violation on June 1, 2025. For these reasons, the Court does not believe that the maximum financial penalty of \$2500 per violation, allowed under Section 38-2-10(A)(2), is warranted in this case.

Nevertheless, the Court believes that a financial penalty is still warranted because although Respondent asserts that she relied on the SCAG's June 17, 2024 opinion in not collecting the full amount of the charged bond premiums at issue, Respondent was subsequently issued a copy of Order 2024-07 from the Department on December 11, 2024, approximately six months prior to the date of the first of the ten violations at issue in this case (on May 2, 2025). While Order 2024-07 conflicted with the Attorney General's prior opinion, Respondent should have complied with the order from Department because it is the agency authorized to regulate this area, and she should have done so until obtaining a favorable declaratory judgment on the issue. Accordingly, the Court believes a \$500 penalty for each of the ten violations is appropriate under the facts of this case.

ORDER

BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:

Respondent shall **remit to the Department administrative fines in the amount of \$5,000 within thirty (30) days of the date of this Order.**

Respondent is hereby notified that **failure to comply with the terms of this Order shall subject Respondent to contempt of court, including fine or imprisonment or both.**

IT IS FURTHER ORDERED that Petitioner South Carolina Department of Insurance may, but is not required to, file a copy of this final order as a judgment as provided in S.C. Code Ann. § 1-23-600(I) (Supp. 2025), provided that any such filing shall not relieve Respondent of the

obligation created by this final order to pay the administrative fines. Further, the South Carolina Department of Insurance shall have the option to collect said judgment, as provided by the law applicable to collection of judgments.

AND IT IS SO ORDERED.

"

Samuel L. Johnson
Administrative Law Judge

April 1, 2026
Columbia, South Carolina

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Insurance,	)	Docket No. 25-ALJ-09-0270-CC
	)	
Petitioner,	)	
	)	
vs.	)	ORDER GRANTING IN PART AND DENYING IN PART RESPONDENT JOYCE FREEMAN'S MOTION FOR RECONSIDERATION
	)	
Joyce Freeman,	)	
	)	
Respondent.	)	
	)	

This matter comes before the South Carolina Administrative Law Court (ALC or Court) upon a Motion for Reconsideration (Motion) filed by Respondent Joyce Freeman (Respondent) pursuant to Rule 29(D) of the Rules of Procedure for the Administrative Law Court (SCALC Rules) asking the Court to reconsider its February 13, 2026 order (Order) granting South Carolina Department of Insurance's (DOI's or the Department's) Motion for Summary Judgment. For the reasons set forth below, the Court grants Respondent's Motion in part and denies it in part.¹

DISCUSSION

Interpretation of S.C. Code Ann. § 38-53-170(e)

The Order held that Section 38-53-170(e) of the South Carolina Code (Supp. 2025) does not permit a payment agreement with respect to the mandatory minimum premium (10% of the face amount of the bond or \$100, whichever is greater) that must be charged and collected prior to the execution of the bond; rather, the payment agreement provisions set forth in Section 38-53-170(e) would permit a bail bondsman to enter a payment agreement to collect, over time, any *additional* premium amount charged beyond the mandatory minimum premium. In its cross-motion for summary judgment giving rise to the Order, Respondent argued for an interpretation of Section 38-53-170(e) that would permit a payment agreement for the *entire* premium—including the 10% mandatory minimum premium amount the statute states must be charged and collected

¹ The Department filed a Response in Opposition to Respondent's Motion for Reconsideration (Response) on March 23, 2026. On March 24, 2026, the Court received an email from Respondent's counsel offering to submit a reply to the Department's Response if the Court would find it helpful. The Court agrees with counsel that SCALC Rule 29(D) does not appear to contemplate replies in support of motions for reconsideration. However, to the extent that the Court could nevertheless accept such a reply, the Court did not find it beneficial in this case and therefore declined Respondent's offer to submit one.



prior to execution of the bond—thereby allowing a bail bondsman to execute the bond without having collected the 10% mandatory minimum premium amount.

In support of the instant Motion, Respondent argues that the two paragraphs in Section 38-53-170(e) set forth two different options available to a bail bondsman² prior to executing a bail bond: either charge and collect the entire minimum premium amount up front before bond execution, or enter into a payment agreement the terms of which require a downpayment of \$100 by the criminal defendant and completion of the agreement's obligations within eighteen months. Respondent further argues that whether a payment agreement is entered into or not, a bail bondsman is required to collect 10% of the face amount of the bond or \$100, whichever is greater, and that "[t]he only thing the payment agreement provision does is that it gives the defendant *more time* to discharge this obligation." (Emphasis in original). Respondent then mentions the various obligations required under the second paragraph of subsection (e) for any payment plans entered into between bail bondsmen and criminal defendants, and notes that a criminal defendant will go to jail upon failure to meet his or her financial obligations for the bond. Respondent then asserts that this Court's interpretation of subsection (e), as set forth in its Order, would mean that "the Legislature went to great lengths – notably by including an incarceration-for-default provision in the statute – in order to ensure that bondsmen get their additional 5% premium payment." Respondent asserts that this framework evokes the specter of debtors' prisons, which have been abolished in South Carolina, arguing that "[t]his State does not imprison people for private debts,

² Some of the Motion's arguments are framed in terms of what Section 38-53-170(e) requires, permits, or forbids with regard to a criminal defendant seeking to obtain a bail bond, rather than what the statute requires of a licensed bail bondsmen like Respondent. For instance, the Motion includes several statements about what a criminal defendant seeking a bail bond might be required to pay. See Motion at p.1 ("[I]n the absence of a payment agreement ..., the defendant is indeed *obligated to pay* the entire minimum amount of the premium before the bond is posted.") (emphases added); *id.* p.3 ("In all cases, the *defendant is required to pay* 10% of the face amount of the bond or \$100, whichever is greater.") (emphases added); *id.* p.4 (arguing Section 38-53-170(e) "provides two options for payment of the minimum 10% premium"); *id.* p.10 (discussing "the *defendant's compliance* with the minimum 10% premium payment.") (emphasis added).

Although the statute at issue regulates the conduct of bail bondsmen, the Court takes no issue with Respondent framing her arguments to address its potential, resulting effects on criminal defendants seeking to obtain a bail bond, particularly because the Motion elsewhere employs the language of the subject statute—e.g., what the bail bondsman must "charge" and "collect." See *id.* p.6 (discussing the "new requirement that a minimum of 10% of the face amount of the bond *must be charged and collected* by the bondsman.") (emphases added); *id.* p.7; (discussing "the *requirement that the bondsman collect* the full 10% premium prior to the execution of the bond.") (emphasis added).

To the extent this Order paraphrases the arguments set forth in the Motion, framing them in terms of the bail bondsman's obligations, such paraphrasing is intended to align Respondent's argument with the actual provisions of Section 38-53-170(e).

and any amount of the bondsmen's fee over and above the 10% minimum required by the Legislature is just that – a surplus fee that may be charged in the bondsman's sole discretion and for his sole benefit." Respondent then adds that "[t]he State has no interest in this additional fee except to cap it to prevent excessive fees charged by bondsmen, as earlier versions of the statute did." Respondent also quotes from S.C. Code Ann. § 38-53-50(B) (Supp. 2025) to argue that "it would be both unconstitutional and inconsistent with other provisions in Chapter 53 for the State to guarantee this private obligation upon pain of immediate imprisonment."

At the start, the Court will not respond again to Respondent's proposed interpretation of Section 38-53-170(e) because it has already done so in the Order by providing its own interpretation, which respectfully differs from Respondent's interpretation, and the Court remains unpersuaded by the Motion's presentation of Respondent's arguments in this regard. Regarding Respondent's debtors' prison argument—i.e., that the Court's interpretation would result in incarceration of a defendant merely for failing to pay amounts that are not even statutorily required to be charged in the first place—this is a new argument raised for the first time in support of reconsideration. "[T]here is nothing inherently unfair in allowing a party one final chance not only to call the court's attention to a possible misapprehension of an earlier argument, but also to revisit a previously raised argument." *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 22, 602 S.E.2d 772, 779 (2004). However, arguments, like issues, cannot be raised for the first time in a motion for reconsideration. *See Repko v. Cnty. of Georgetown*, 424 S.C. 494, 502-03, 818 S.E.2d 743, 748 (2018) ("[T]he losing party generally must both present his issues and arguments to the lower court and obtain a ruling before an appellate court will review those issues and arguments"; and "[a]n issue may not be raised for the first time in a motion to reconsider.") (internal quotation marks and citations omitted); *see also Com. Credit Loans, Inc. v. Riddle*, 334 S.C. 176, 186, 512 S.E.2d 123, 129 (Ct. App. 1999) (finding an argument was not preserved for review on appeal because, according to the record, the first time the appellant made the argument was in its motion for reconsideration); *Hickman v. Hickman*, 301 S.C. 455, 456-57, 392 S.E.2d 481, 482 (Ct. App. 1990) ("I do not conceive of [the Federal Rule of Civil Procedure] 59(e) as serving the office of providing a disappointed suitor with a post-judgment opportunity to argue that which could have been argued pre-judgment.") (internal quotation marks and citation omitted); *Miller v. Dillon*, 432 S.C. 197, 207, 851 S.E.2d 462, 467-68 (Ct. App. 2020) (declining to consider an argument because it had been raised for the first time in a motion for reconsideration). Although Respondent couches the

new debtors' prison argument as addressing the *implications* of the Order's interpretation of the statute, the Court's interpretation was the same interpretation the Department argued for in its summary judgment motion, which the Order granted. As such, Respondent could and should have raised this argument in one of its prior submissions and cannot now raise it for the first time in a motion for reconsideration.

But even if Respondent's debtors' prison argument was properly raised in its Motion, the Court would still reject it. First, subsection (e), as interpreted by the Court, does not simply serve the purpose of enforcing a private obligation between a bondsman and defendant for the purpose of benefiting the bondsman. While the obligations for bail-bond payment agreements may have an incidental effect of providing more protection for a bondsman's premium (i.e., by helping ensure the collection of any bond premium charged above the minimum amount required to be charged and collected prior to the execution of the bond), the purpose of the statutory requirements is to further ensure against violation by defendants of the conditions of bond—an issue in which the State certainly has an interest. Moreover, while a bond-premium payment agreement may be considered a private agreement insofar as the state itself is not a party thereto, its subject matter is the payment of a bond premium amount capped by the state, to a bondsman licensed and regulated by the state as part of a criminal defendant's consideration for a bond sanctioned by the state to facilitate the release on bail of a defendant from state or local custody while ensuring the reappearance of the defendant for a public trial for an alleged crime against the state. Therefore, the state has a legitimate interest in regulating bond-premium agreements, and for the same reasons it requires the charging and collection of a minimum bond premium fee up front before the execution of the bond.³ Further, the hypothetical scenario underlying Respondent's debtor's prison argument cannot fairly be described as an outgrowth of the Court's interpretation of subsection (e). Indeed, the scenario described by Respondent could also arise under Respondent's own proffered interpretation, under which a bondsman would be able to execute a bail bond solely upon execution of a payment agreement whose terms require a \$100 downpayment. Under Respondent's construction of the statute, a bail bondsman who charged a 15% premium would still be required to "surrender the principal to the proper detention facility" if payments were missed for two

³ Section 38-53-170(e)'s also has requirements regarding "collateral security and other indemnity," which would similarly involve state regulation of a "private obligation" between a bondsman and a depositor of such security that would protect depositors.

consecutive months and such default is not cured upon ten days' notice—even if the statutory minimum amount of premium (e.g., 10% of the bond's face amount) had already been collected by the bail bondsman through prior installments under the payment agreement.⁴ In other words, even under Respondent's interpretation, a defendant who entered into a payment agreement for more than a 10% premium amount could still be sent to jail for violating the terms of bond after paying the mandatory minimum premium amount. However, this would not render the purpose of subsection (c) a state enforcement of a private obligation akin to a debtors' prison.

Furthermore, the Court is not persuaded by Respondent's contention that Section 38-53-50(B) conflicts with the Court's interpretation of Section 38-53-170(e). Section 38-53-50(B) provides, in pertinent part, that "[n]onpayment of premium fees alone is not sufficient cause to warrant immediate incarceration of the defendant." Respondent correctly notes that the General Assembly added the word "premium" to the foregoing provision in its 2023 amendment. Respondent concludes from this addition that the General Assembly did not intend "to immediately incarcerate defendants for failure to pay this 5% additional premium fee." Reading Sections 38-53-50(B) and 38-53-170(e), the Court finds nothing contradictory about its interpretation of the latter. Should a bail bondsman enter into a payment plan with a criminal defendant for a premium amount above ten percent of the bond (pursuant to Section 38-53-170(e)), a subsequent failure by that defendant to make a payment alone would not constitute sufficient cause for the surety to surrender the defendant for immediate incarceration (per Section 38-53-50(B)). But Section 38-53-170(e) does not require a bail bondsman to take action for nonpayment of premium fees alone; rather it is only after the defendant misses payments for two consecutive months, and then makes no payment within ten days after certified notice is given by the bondsman, that the bondsman is required to surrender the defendant to a detention facility. And this process of reincarceration for nonpayment under a bond-premium payment plan would operate in the same manner whether Section 38-53-170(e) is interpreted as permitting a bondsman to enter a payment plan to collect the full amount of the premium (Respondent's interpretation), or only permitting payment agreements for amounts of premium, if any, above the minimum premium required to be charged and collected prior to the execution of the bond (the Court's interpretation).

⁴ As the statute is interpreted by the Court, the statutory provisions surrounding payment agreements have nothing to do with the minimum amount of premium that must be collected by a bail bondsman prior to execution of the bond.

Finally, the Court agrees with Respondent that prior to the 2023 amendment to Section 38-53-170(e), this subsection still provided that a bail bondsman could charge a premium of not more than 15% of the face amount of the bond but had “no payment agreement mechanisms at that time.” The Court also agrees with Respondent—or agrees that it is at least possible—that the “[payment agreement] provision was intended as part of, and as a response to, the Legislature’s new requirement that a minimum of 10% of the face amount of the bond must be charged and collected by the bondsman.” However, while Respondent views the payment agreement provisions of the second paragraph of Section 38-53-170(e) as an alternative to the first paragraph’s command that a premium fee in the amount 10% of the bond’s face value “must be charged and collected by the bondsman before the execution of the bond,” the Court does not view the payment agreement permitted by the statute as an alternative that would permit bond execution without first collecting the minimum premium amount. Rather, in light of the more stringent premium requirements of the statute—e.g., the higher required minimum premium and the fact that it must be paid up front—the Court views the creation of the payment agreement mechanisms as a means of facilitating the ability of a bondsman to charge an above-minimum premium where warranted, by permitting credit bonding of premium amounts above the 10% required to be charged and collected before bond execution, while also providing strict guidelines to better ensure that bond terms are complied with.

Legislative History Regarding S.C. Code Ann. § 38-53-170(e)

Respondent next argues that the legislative history surrounding Section 38-53-170(e) supports her and the South Carolina Attorney General’s (SCAG’s) interpretation that the payment agreement provision in the second paragraph is an alternative to the first paragraph’s “10% prior-collection requirement.” Respondent looks at a proposed April 11, 2023 amendment—the first proposed change to Section 38-53-170(e)—that, if enacted, would have altered the language in the second paragraph to require a downpayment of \$100 or 5%, whichever is greater, for any payment agreement entered into between a defendant and bondsman. Respondent then adds that a subsequent amendment offered by Senators Adams, Hutto, and Malloy the next day reflected the removal of the 5%-downpayment requirement, requiring only a \$100 downpayment to obtain a payment agreement. Respondent concludes that “these amendments to § 38-53-170(e) were intended from the start to treat the payment agreement as an alternative to the 10% prior-collection requirement.” Respondent also discusses the reasoning employed in the July 17, 2024 SCAG

Opinion regarding the proffered (April 11, 2023) amendment to Section 38-53-170(e) by stating that “if the full 10% premium were intended to be collected up-front, such that the payment agreement provision was intended only to apply to the remaining 5% of the bond permitted to be collected by the bondsman as a premium, then the 5% down payment requirement would leave nothing to be collected by the payment agreement.” Respondent further notes that this Court characterized the SCAG’s rationale as a “logical construction of the proffered amendment,” but that the Court rejected the application of this reasoning because the amendment “may have been rejected because the General Assembly *shared* the Department’s interpretation of the statute.” (Emphasis in original).

First, the Court need not address most of this legislative-history argument because it already has done so in its Order and is not persuaded by this argument in Respondent’s Motion. However, the Court will note that it erred in its wording in the last sentence of footnote 17 on p. 17 of the Order. The Court did not mean to suggest that the General Assembly shared the SCAG’s, and thus Respondent’s, interpretation of Section 38-53-170(e). Rather, the Court meant that the General Assembly may have shared the SCAG’s concern that adding the 5% downpayment language to the second paragraph would have left nothing to finance through a payment plan because the General Assembly read the language of its amendment to Section 38-53-170(e) in the same manner as the Department interprets the same language as now codified. Accordingly, **the Court will amend the last sentence of the first paragraph of footnote 17 of the Order to read as follows:**

In other words, the proposed amendment to the language in the second paragraph cited by the SCAG may have been rejected because the General Assembly shared the SCAG’s concern that including the 5% downpayment language would have left nothing to finance through a payment agreement. However, this would only have been a concern if the General Assembly intended for the mandatory minimum premium fee to not only be charged but also collected prior to the execution of the bond and thus prior to the implementation of a payment plan, which would be consistent with this Court’s interpretation of subsection (e).

It may be that the senator who proffered the 5% downpayment amendment interpreted subsection (e) as providing separate, alternative methods of collecting a bond premium, and thus shared the SCAG’s and Respondent’s interpretation. Had this proffered amendment been adopted and enacted, such legislative history (and the statutory language enacted thereby) would be supportive of the SCAG’s and Respondent’s interpretation. However, the fact that this proffered 5% downpayment language was not enacted could support the Court’s interpretation that the General

Assembly intended the mandatory minimum of the greater of \$100 or 10% of the bond amount to be collected prior to the execution of the bond and thus prior to the execution of any payment plan for any premium charged by the bondsman above the minimum—a system that would have been unworkable had the 5% downpayment amendment been included, leaving no remaining premium to finance in light of the 15% cap.

Finally, Respondent discusses S.C. House Bill 4512, which was introduced in the S.C. House of Representatives on May 6, 2025 and referred to the House Judiciary Committee. Respondent argues that “[t]his proposed legislation ... would transform the current provisions of Chapter 53 into what the Department asserts they are now.” Respondent further argues that because this proposed amendment would remove the detailed payment-agreement provisions (while maintaining the mandatory minimum premium fee requirement to be charged and collected before execution of the bond and allowing payment agreements in excess of 10% of the bond), this shows that the current, enacted statute’s payment-agreement provisions are “intended to ensure the defendant’s compliance with the minimum 10% premium payment[,]” and that the State has no interest in regulating payment agreements and ensuring compliance through incarceration for premium amounts in excess of the mandatory minimum.” Respondent posits that “if § 38-53-170(e) in its current form operated as the Department asserts, there would be no reason for these amendments.”

The Department argues in its Response that “to the extent that Respondent’s argument as to the legislative history are supplemented, these arguments are improper for a motion for reconsideration[,]” citing to *Hickman, supra*. However, the Court will allow Respondent’s arguments with respect to S.C. House Bill 4512 because that bill was first mentioned in the Court’s Order, specifically in footnote 17. Because a motion for reconsideration was the first opportunity Respondent had to respond to the S.C. House Bill 4512 issue, Respondent is allowed to make arguments relating to that issue for the first time in its Motion, as it could not have been raised prior to the Order. *See, e.g., Fryer v. S.C. Law Enf’t Div.*, 369 S.C. 395, 399, 631 S.E.2d 918, 920 (Ct. App. 2006) (“A post-trial motion must be made when the trial court either grants relief not requested or rules on an issue not raised at trial”), *quoted in Anderson Cnty. v. Preston*, 427 S.C. 529, 541, 831 S.E.2d 911, 917 (2019); *MailSource, LLC v. M.A. Bailey & Assocs., Inc.*, 356 S.C. 370, 374, 588 S.E.2d 639, 641 (Ct. App. 2003) (“A party cannot raise an issue for the first time in a Rule 59(e), SCRPC motion *which could have been raised at trial.*”) (emphasis added); *Brown v.*

Odom, 425 S.C. 420, 429, 823 S.E.2d 183, 187 (Ct. App. 2019) (noting that post-trial motions are utilized to raise issues not capable of being raised at trial) (citation omitted). The Court will, therefore, address those arguments at this time.

First, with respect to why the amendments were introduced, it may be that the House member who introduced the amendments intended to clarify the General Assembly's intent as to the current Section 38-53-170(e) by stating plainly that payment plans are applicable only to any premiums charged above the minimum premium fee required to be charged and collected prior to the execution of a bond. Such clarification would be warranted given that the current statutory language is ambiguous and has consequently resulted in differing interpretations among state agencies, a municipal judge and his clerk of court, and this Court and Respondent. Regarding the proposed removal of the premium payment-plan obligations/restrictions, the proposed bill plainly states in its summary, and it is reflected in the proposed deletions, that it would, *inter alia*, amend Section 38-53-170 to "remove references to limitations and other restrictions on bond agreements." However, this does not necessarily imply that the purpose of the directives governing payment agreements is to ensure the collection of the 10% bond premium as part of a payment plan as an alternative to charging and collecting this amount before bond execution. As already discussed, the state has an interest in regulating payment agreements for bond premium amounts above the minimum premium fee required to be collected up front. However, it may be that the House member who introduced the pending amendments proposed to delete the existing payment-plan obligations/restrictions because, notwithstanding the state's authority to regulate conditions for bail-bond-premium payment-plan agreements, he believes in less regulation by the state and saw no need for it with respect to such payment plans, or he may have had another or several other reasons for wanting to remove the obligations/restrictions on these payment plans. But regardless, this amendment is currently pending and is subject to further modification by other House members and/or senators who may share this House member's view with respect to the requirements that the minimum premium fee be charged and collected before execution of the bond and that a payment plan be allowed only for any amount above the minimum, but who may disagree with him about removing obligations/regulations for the payment plans. Thus, even if the House member who proposed the 2025 amendment shares Respondent's interpretation of the statute, the 2025 amendment may suffer the same fate as the failed 2023 Senate amendment because the General Assembly may not share his view.

As noted in the Order, the 2023 and 2025 proffered amendments discussed above are as ambiguous with respect to their sponsors' intent as the language is in the current Section 38-53-170(e), and they have not been enacted. Therefore, the Court does not find them helpful in discerning the General Assembly's intent from this legislative history and will consequently accord them no weight.

Application of Agency Deference

Appellant begins by arguing that "[u]nderlying Court's decision was the doctrine of deference to state agencies espoused in *Kiawah Development Partners, II v. South Carolina Department of Health & Environmental Control*, 411 S.C. 16, 32-33, 766 S.E.2d 707, 718 (2014)[,]" et al., and refers to this Court's "reliance on the deference-to-agencies doctrine." However, the Court will begin by clarifying its position on deference.

While the Court reached the same conclusion as the Department, the Court reached its own conclusions about the interpretation of Section 38-53-170(e), based on its own analysis throughout nearly all of the Order. The Court only intended the Order's discussion on deference to highlight an alternate/additional ground to support the interpretation at which it independently arrived. However, because the Order's deference discussion incorrectly suggests reliance on the doctrine ("... the Court will defer to the Department's interpretation..."), the Court finds it appropriate to amend the Order clarify that the statutory interpretation underlying its conclusion did not include deference to the Department's interpretation. Accordingly, the Court will amend its Order by deleting the discussion on agency deference, as it was never necessary to the Court's conclusion anyhow. **Specifically, the Court will amend its Order by deleting the only paragraph on page 17 thereof, including the footnote contained therein, as well as the last sentence of the first paragraph on page 18 ("This is also the interpretation shared by the Department, and the Court concludes that it is a reasonable one supported by the text and purpose of the statute.").**

Respondent next argues that deference is inappropriate in this case because the statute at issue is a penal statute, and agency deference is thus inapplicable. Respondent further argues that because Section 38-53-170(e) is a penal statute, even though this case involves no criminal liability, any ambiguity in it must be strictly construed in favor of Respondent, citing to *S.C. Dep't of Revenue v. Collins Ent. Corp.*, 340 S.C.77, 79, 530 S.E.2d 635 (2000) and *State v. Miles*, 421 S.C. 154, 164, 805 S.E.2d 204, 210 (Ct. App. 2017), et al.

As to Respondent's argument that agency deference is inapplicable because it is a penal statute, because the Court will be amending its Order to omit the brief discussion on agency deference, the Court need not address this argument. Moreover, even had the Court not omitted its discussion on agency deference, Respondent's argument was not raised in her Motion for Summary Judgment or her response to DOI's Motion for Summary Judgment. Respondent acknowledges in footnote 3 of her Motion that "she did not delve deeply into this issue [of agency deference] in her prior briefing"—her reason being that she viewed agency deference as inapplicable because "the Department's interpretation violates the plain language of the statute" Because the Court disagreed with Respondent's plain-language argument and Respondent argues the Court "reli[ed] on the deference-to-agencies doctrine," Respondent now seeks to "submit[] a fuller examination of this topic." However, the Department raised the argument of agency deference in its Motion for Summary Judgment, and Respondent had ample opportunity to raise the issue of applicability of agency deference, including the argument that the statute at issue is penal. Respondent took care to note in her response to the Department's summary judgment motion that this case involved penalties and sanctions but only to support her argument that the Department carried the burden of proof. And while Respondent argues now that she did not "delve deeply" into the issue of agency deference because she believed her position was supported by the statute's plain language and agency deference thus inapplicable, Respondent took care in her response to the Department's summary judgment motion to make an argument even under the assumption that the Court found the statute to be ambiguous. Specifically, Respondent argued that that "even if the Court were to find that the statute is ambiguous, the Department's interpretation should be rejected because it is manifestly contrary to the language of the statute and the Legislature clear intent in enacting it." Respondent even cited to, and quoted from, *Kiawah, supra*, which established the deference standard Respondent now argues no longer applies in South Carolina, to argue that the Department's interpretation would not be worthy of deference in this case because the Department's interpretation was "plainly erroneous." Respondent could have argued in her prior submissions that deference does not apply in this case because the statute at issue is penal in nature, but she instead chose to argue only that deference does not apply because the statute is plainly written or, if ambiguous, was being interpreted in a "plainly erroneous" manner by the Department. However, a party limiting its arguments in response to a raised issue does not justify that party raising additional, previously reserved arguments on the issue by way

of a reconsideration motion challenging the order that rejected the arguments the party actually advanced. In other words, Respondent had ample opportunity in her prior submissions to the Court to raise the arguments she now seeks to make and cannot now get a second bite at the apple by raising them for the first time in her Motion. But again, none of this is consequential any longer because the Court's Amended Order will not address agency deference.

As to Respondent's argument that Section 38-53-170(e) should be strictly construed in Respondent's favor because it is a penal statute, because Respondent failed to raise this argument in her Motion for Summary Judgment or her response to DOI's Motion for Summary Judgment, she cannot do so now for the first time in a motion for reconsideration. *See Repko, et al., supra*.

But even if Respondent's "favorable construction" argument was properly raised in its Motion, and the Court agreed that Section 38-53-170(e) is a penal statute, the Court would still reject it. Generally, "[t]he rule of lenity applies when a criminal statute is ambiguous, and requires any doubt about a statute's scope be resolved in the defendant's favor." While "South Carolina has long recognized the principle that penal statutes are to be strictly construed [in favor of the defendant,] ... [a]t the same time, the cardinal rule of statutory construction requires that [the Court] endeavor to ascertain and effectuate the intent of the legislature... A law must be interpreted reasonably and practically, consistent with the purpose and policy of the General Assembly." *Hinton v. S.C. Dep't of Prob., Parole, & Pardon Servs.*, 357 S.C. 327, 332, 592 S.E.2d 335, 338 (Ct. App. 2004) (citations and quotation marks omitted); *see also Nelson v. Ozmint*, 390 S.C. 432, 436, 702 S.E.2d 369, 371 (2010) ("When a statute is penal in nature, it must be strictly construed against the State and in favor of the defendant. However, all rules of statutory construction are subservient to the one that the legislative intent must prevail if it can be reasonably discovered in the language used, and that language must be construed in light of the intended purpose of the statute.") (internal citation omitted). Thus, the rules of statutory construction still apply when there is an ambiguity in a penal statute; and though ambiguities in such statutes that cannot be resolved by reasonable discovery of legislative intent must be construed in favor of the defendant, such construction cannot be at the expense of legislative intent.

In this case, for the reasons discussed in the Court's Order, despite the ambiguity in the language of Section 38-53-170(e), the Court was able to ascertain the General Assembly's intent as reflected in its interpretation of the statute. Adopting Respondent's interpretation of Section 38-53-170(e) would render the up-front-collection requirement in the first paragraph meaningless and

would, in doing so, undermine the General Assembly's policy of stiffening the requirements to post bond to ensure that the burden of posting bond is consistent with the bond amount determined by the bond court. Therefore, preservation of the policy and intent of the General Assembly in enacting the 2023 amendments to Section 38-53-170(e) must prevail over the statutory construction rule of lenity.

Conclusion

In conclusion, the Court's will amend its Order by altering the last sentence of the first paragraph of footnote 17 (as set forth above) and by deleting the only paragraph on page 17, the footnote contained therein, and the last sentence of the first paragraph on page 18 (i.e., the language pertaining to agency deference). Otherwise, the Court denies Respondent's Motion. However, the Court will continue the stay granted in its March 13, 2026 order staying the proceedings pending its decision on the Motion. The Court will continue to stay this matter pending its final resolution.

ORDER

IT IS THEREFORE ORDERED that the Respondent's Motion is **GRANTED IN PART AND DENIED IN PART**.

IT IS FURTHER ORDERED that the imposition of a \$5,000 fine set forth in the Court's February 13, 2026 Order is hereby **STAYED** pending the final resolution of this matter.

AND IT IS SO ORDERED.



Samuel L. Johnson
Administrative Law Judge

April 1, 2026
Columbia, South Carolina



**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Insurance,)
)
Petitioner,)
)
vs.)
)
Joyce Freeman,)
)
Respondent.)
_____)

Docket No. 25-ALJ-09-0270-CC

**ORDER PARTIALLY GRANTING
MOTION FOR STAY OF EFFECT OF
FEBRUARY 13, 2026 ORDER**

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to Respondent Joyce Freeman’s (Respondent’s) March 3, 2026 Motion to Stay Effect of February 13, 2026 Order (Stay Motion), which she filed concurrently with her Motion for Reconsideration (Reconsideration Motion). Respondent argues that the Reconsideration Motion offers compelling arguments in favor of reconsidering the Court’s February 13, 2026 Order (Order), yet that motion is expected to remain unresolved by March 16, 2026—the date by which the Order requires Respondent to remit administrative fines to the South Carolina Department of Insurance (Department).¹ Respondent’s Stay Motion therefore seeks to stay the effect of the Order pending the resolution of the Reconsideration Motion and throughout the appeal of this matter.

The Department’s response to the Reconsideration Motion is not due until March 23, 2026. As such, the Court agrees that the Reconsideration Motion will not be resolved by March 16, 2026, i.e., by today. Thus, absent the requested stay, Respondent would be required to comply with the Order by the March 16 deadline despite the Court’s ongoing review of the Reconsideration Motion, which could ultimately result in amendment of the Order in Respondent’s favor. The Court intends to rule upon the Stay Motion in conjunction with its disposition of the Reconsideration Motion;² and because such disposition will occur only after the compliance deadline set forth in the Order,

¹ The Order required Respondent to remit administrative fines to the Department within thirty (30) days of February 13, 2026, i.e. by March 15, 2026. Because March 15, 2026 was a Sunday, the effective deadline set forth in the Order is March 16, 2026. *See* Rule 3(A) of the Rules of Procedure for the Administrative Law Court (SCALC Rules).

² The SCALC Rules contemplate addressing the relief sought in the Stay Motion in the order resolving the Reconsideration Motion. *See* SCALC Rule 29(E) (“An administrative law judge who issues a final decision subject to appeal may, in the order, stay its effect.”).



the Court finds it appropriate to temporarily stay the effect of the Order until the Court formally rules on the Reconsideration Motion, while otherwise taking the Stay Motion under advisement.³

IT IS THEREFORE ORDERED that Appellant's Motion to Stay Effect of February 13, 2026 Order is **GRANTED IN PART**. The effect of the Court's February 13, 2026 Order is stayed until the Court issues its order resolving Respondent's Motion for Reconsideration, at which time the Court will also revisit the Stay Motion.

AND IT IS SO ORDERED.



Samuel L. Johnson
Administrative Law Judge

March 16, 2026
Columbia, South Carolina

³ Although the Stay Motion stated that the Department opposed the relief sought therein, the Department did not file a response to the Stay Motion, which may be deemed consent to the relief sought by the Motion. *See* SCAC Rule 7(B) ("Failure of a party to timely file a response may be deemed a consent by that party to the relief sought in the motion or petition.").

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Insurance,)
)
Petitioner,)
)
vs.)
)
Joyce Freeman,)
)
Respondent.)
_____)

Docket No. 25-ALJ-09-0270-CC

SCHEDULING ORDER

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a Request for Contested Case Hearing filed by the above-named Respondent on September 2, 2025, challenging a determination by Petitioner South Carolina Department of Insurance. Pursuant to the agreement of counsel for the parties herein, the Court finds good cause exists to establish the deadlines set forth in this Scheduling Order.

IT IS THEREFORE ORDERED that:

1. The merits hearing scheduled for Tuesday, January 20, 2026 is continued to a date to be determined if necessary.
2. Motions for summary judgment and supporting briefs (and any stipulation of facts agreed upon by the parties) shall be filed on or before **January 9, 2026**.
3. Responses to any motions filed pursuant to the above paragraph shall be due on or before **January 23, 2026**.

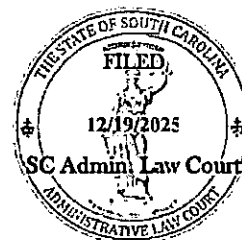
AND IT IS SO ORDERED.



Samuel L. Johnson
Administrative Law Judge

December 19, 2025
Columbia, South Carolina

RoA_0060



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Apr 15 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Samuel L. Johnson, Administrative Law Judge

Case No. 2025-ALJ-09-0270-CC

South Carolina Department of Insurance,

Respondent,

v.

Joyce Freeman,

Appellant.

NOTICE OF APPEAL

Appellant Joyce Freeman (Respondent below) hereby gives notice of an appeal from the following attached orders: (1) February 13, 2026 Order Granting South Carolina Department of Insurance's Motion for Summary Judgment; (2) April 1, 2026 Order Granting in Part and Denying in Part Respondent Joyce Freeman's Motion for Reconsideration; and (3) April 1, 2026 Amended Order Granting South Carolina Department of Insurance's Motion for Summary Judgment. Appellant states that no hearings were held in this case and thus no transcripts are necessary for this appeal.

[Signature on following page]

RoA_0061

Respectfully submitted,

s/ Richard A. Harpootlian

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Attorneys for Appellant Joyce Freeman

April 15, 2026

Columbia, South Carolina

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Insurance,

Petitioner,

vs.

Joyce Freeman,

Respondent,

DOCKET NO.: 25-ALJ-09-0270-CC

**NOTICE OF AND MOTION FOR
SUMMARY JUDGMENT PURSUANT
TO RULE 56 OF THE S.C. RULES OF
CIVIL PROCEDURE**

COMES NOW Petitioner, through undersigned counsel, and respectfully moves this Court pursuant to SCALC Rule 68 and Rule 56 of the SCRCF for an order granting summary judgment to Petitioner as to each of Respondent's claims set forth in her Request for Hearing and Prehearing Statement and for such other and further relief as the Court deems just and proper on the grounds that there are no disputes as to any material fact and that Petitioner is entitled to judgment as a matter of law.

A Memorandum supporting this Motion is being filed contemporaneously with this Motion and is attached as Exhibit A to this Motion. The material facts set forth in Petitioner's Prehearing Statement are not in dispute, and any affidavit, declaration, or other supporting documents are being filed contemporaneously with this Motion and are also attached as exhibits.

Respectfully submitted,

By: 

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S.C. Bar No. 79808
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EXHIBIT A

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Insurance,	)	DOCKET NO.: 25-ALJ-09-0270-CC
	)	
	)	
	)	
vs.	)	MEMORANDUM OF LAW
	)	IN SUPPORT OF
Joyce Freeman,	)	PETITIONER'S MOTION FOR
	)	SUMMARY JUDGMENT
	)	
	)	
	)	
	)	
	)	

Petitioner, the South Carolina Department of Insurance (“Department”), by and through its undersigned counsel, hereby offers the following Memorandum in Support of Petitioner’s Motion for Summary Judgment.

INTRODUCTION

The Insurance Law of South Carolina, S.C. Code Ann. §§ 38-1-10, *et seq.*, sets forth the regulatory framework for engaging in the business of insurance in South Carolina, including the laws relating to the licensure and conduct of bail bondsmen and runners. *See* S.C. Code Ann. § 38-53-10, *et seq.* (2015 & Supp. 2025). Those laws are enacted by the South Carolina General Assembly and implemented by the South Carolina Department of Insurance in accordance with the requirements set forth in the *Insurance Law*. *See* S.C. Code Ann. § 38-3-60 (2015).

For years, members of the law enforcement community and others raised significant concerns about criminal defendants, some subject to electronic monitoring, committing crimes while out on bail.¹ The former process of releasing some criminal defendants on minimal bonds

¹ *See* Exhibit 1, Affidavit of the Honorable Mark Keel; Exhibit 2, Affidavit of Ricky Hill; Exhibit 3, News Articles Addressing Need for Bond Reform.

only for them to commit other crimes while out on bond requiring rearrest was referred to as a “revolving door.” In response, in June 2023, the South Carolina General Assembly passed Act No. 83 of 2023 (R-98, H. 3532) (“Bail Bond Reform Act”) which amended provisions of South Carolina law pertaining to bail bonds, pretrial release, and electronic monitoring. Following the enactment of the *Bail Bond Reform Act*, the Department and the South Carolina Law Enforcement Division (SLED)² participated in numerous education and professional meetings designed to educate bondsmen on the compliance requirements for the new law, which included specific training on the new requirement that bondsmen are required to charge and collect \$100 or 10%, whichever is greater, as the minimum fee prior to the execution of the bond per the language of the statute. *See* S.C. Code Ann. § 38-53-170(e) (Supp. 2025).

On or about June 17, 2024, at the request of a municipal judge seeking clarification of the issue and prior to the issuance of any formal guidance from the Department, the Office of the South Carolina Attorney General issued an advisory opinion (“AG Opinion”) on the application of the statute. *See* Exhibit 4, Copy of Op. S.C. Att’y. Gen. 2024 WL 3186557 (June 17, 2024).³ After reviewing and considering the advisory opinion issued by the Attorney General’s Office, which has been misinterpreted by members of the industry, and conferring with other stakeholders who had been involved in drafting and lobbying for the *Bail Bond Reform Act*, the Department issued SCDOI Order No. 2024-07 (“Order 2024-07”) on December 11, 2024, providing formal guidance and instructions for compliance with the bond premium, minimum fee, and payment agreement requirements of the *Bail Bond Reform Act* set forth in S.C. Code Ann. § 38-53-170(e) (Supp. 2025).

² SLED was charged with the responsibility of certifying persons to provide electronic monitoring services in the state. S.C. Code Ann. 17-15-37 (Supp. 2025).

³ The Attorney General’s Office subsequently, on July 31, 2025, issued a letter to the Department’s General Counsel “deferr[ing] to the interpretation of the Department of Insurance as the agency with regulatory authority.” *See* Exhibit 5, Copy of Op. S.C. Att’y. Gen. 2025 WL 2369635 (July 31, 2025).

See Exhibit 6, SCDOI Order No. 2024-07. That Order reminded licensees that South Carolina law requires \$100 or 10%, whichever is greater, to be *charged and collected* prior to execution of the bond as the minimum fee. Order 2024-07 was distributed to Respondent and all licensed surety insurers, surety bondsmen, professional bondsmen, and runners authorized to conduct bail bond business in the State of South Carolina.

A copy of Order 2024-07 was emailed to Respondent's email address on record on December 11, 2024. See Exhibit 7, Email and USPS Proof of Receipt. Additionally, a hard copy of Order 2024-07 was sent via certified mail to Respondent's business address on record on December 11, 2024. *Id.* Neither communication was returned to the Department as undeliverable. The United States Postal Service (USPS return receipt (*i.e.* "green card")) shows that Respondent signed for receipt of the correspondence. *Id.*

The material and undisputed facts show that on or about June 2, 2025, the Department received a complaint alleging Respondent, a licensed producer and surety bondsman,⁴ charged 10% for a \$35,000 bail bond for a criminal defendant but failed to collect the full 10% minimum fee required by S.C. Code Ann. § 38-53-170(e) (Supp. 2025)⁵ prior to execution of the bond. The Department initiated an investigation into this matter, and upon review of the power of attorney for the defendant learned that Allegheny Casualty Company was listed as the surety insurer; the bond was executed on June 1, 2025, in Lexington County; and Respondent was listed as the surety bondsman that executed the bond. The bond amount was \$35,000. Respondent charged a premium

⁴ South Carolina law requires all surety bondsmen to be licensed as producers; a producer license is a prerequisite for a surety bondsman license. Respondent was initially licensed with the Department as an insurance producer on August 21, 2014; she was first licensed as a surety bondsman on August 26, 2014. Respondent is currently licensed as a producer and surety bondsman in South Carolina with NPN 17352185 and is appointed as a producer and surety bondsman with Allegheny Casualty Company, Bankers Insurance, and Palmetto Surety Corporation.

⁵ S.C. Code Ann. § 38-53-170(e) (Supp. 2025) requires bondsmen, prior to execution of a bond, to charge and collect a minimum fee of \$100 or 10% of the bond, whichever is greater, up to a maximum of 15% of the bond.

of \$3,500, but Respondent only collected \$500 according to the payment agreement and payment receipts received during the investigation. Respondent allowed the balance of the 10 percent minimum fee to be paid via a payment agreement.

On or about June 5, 2025, a Notice of Investigation letter was sent by certified mail to Respondent's business address on file: 4265 Augusta Rd. Ste. J., Lexington, S.C. 29073.⁶ On June 6, 2025, Respondent responded to the allegations made against her via her attorney.⁷ See Exhibit 8, Respondent's Response to NOI. During the investigation, Respondent provided copies of ten bonds she executed between May 2, 2025, through June 1, 2025, after charging but not collecting the 10% minimum fee required by the statute before posting the bond, including copies of the associated payment agreements and receipts.⁸ Respondent did not then, and does not now, deny failing to collect the required minimum 10% fee. Respondent contends that she did not violate S.C. Code Ann. § 38-53-170(e) (Supp. 2025) by accepting less than 10% when the bond was posted because she believes the law permits bondsmen to create a payment plan to receive the full 10% minimum bond premium.

Upon conclusion of its investigation into these allegations, the Department issued a final agency order against Respondent on August 18, 2025 ("August 18th Order"), finding that Respondent violated S.C. Code Ann. §§ 38-43-130(A)(C)(2) (2015); 38-53-150(A)(2), (7),(B) (2015); and 38-53-170(e) (Supp. 2025). See Exhibit 9, SCDOJ's August 18, 2025 Order. A

⁶ Licensees are required to provide a business and home address to the South Carolina Department of Insurance. See S.C. Code Ann. §§ 38-43-107(A) (Supp. 2025), 38-53-95(A) (Supp. 2025).

⁷ Respondent was represented by Tracey R. Perlman, Esq. at the time.

⁸ Since Respondent admitted to the violative conduct, the Department did not conduct further investigation to determine the number of additional non-compliant bonds written between the effective date of S.C. Code Ann. § 38-53-170(e)—June 20, 2023—and August 18, 2025, the date of the Department's Order in Respondent's disciplinary case.

regulatory penalty of Twenty-Five Thousand Dollars (\$25,000) was imposed against her in accordance with the requirements of S.C. Code Ann. § 38-2-10 (Supp. 2025).⁹ Respondent filed a Request for a Contested Case Hearing with this Court on September 2, 2025.

On September 10, 2025, the Honorable Judge Samuel Johnson was assigned to preside in this matter. In Respondent's Pre-Hearing Statement, she indicated that she appealed the regulatory action imposed by the Department because she disagreed with the Department's interpretation of S. C. Code Ann. § 38-53-170(e) (Supp. 2025). *See* Exhibit 10, Respondent's Pre-Hearing Statement. Respondent admits engaging in the behavior that led to the Department's issuance of its August 18th Order. *See* Exhibits 8 and 10. As evidenced by the prehearing statements, there are no material factual issues in dispute. The dispute between the parties pending before this court is the interpretation of S.C. Code Ann. § 38-53-170(e) (Supp. 2025).

At the request of the parties, on December 19, 2025, the Court entered a scheduling Order setting January 9, 2026, as the deadline to file cross motions for summary judgment for the Court's consideration. Accordingly, the Department asks this Court to make the following conclusions as a matter of law: 1) a bondsman or runner must collect as the minimum fee the greater of \$100 or 10% of the face amount of the bond prior to the execution of the bond; and 2) payment agreements may only be used to cover amounts in excess of the minimum fee. The laws necessary to make these determinations are set forth in Title 38, Chapter 53 of the South Carolina Code of Laws. Application of the undisputed material facts and the statutory provisions leads to the conclusion that the South Carolina Department of Insurance is entitled to summary judgment as a matter of law.

STANDARD OF REVIEW

⁹ Section 38-53-150(B) (2015) provides that penalties be imposed in accordance with the requirements of S.C. Code Ann. § 38-2-10 (2015).

The Rules of Procedure for the ALC provide that “[t]he South Carolina Rules of Civil Procedure [(“SCRCP”)] . . . may, in the discretion of the presiding administrative law judge, be applied to resolve questions not addressed by these rules.” SCALC Rule 68. Moreover, Rule 56 of the SCRCP states that summary judgment is appropriate and should be granted when the “pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Rule 56(c), SCRCP.

“The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder.” *George v. Fabri*, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). Thus, “when plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted.” *Bayle v. S.C. Dep’t of Transp.*, 344 S.C. 115, 120, 542 S.E.2d 736, 738 (Ct. App. 2001). “Summary judgment is completely appropriate when a properly supported motion sets forth facts that remain undisputed or are contested in a deficient manner.” *David v. McLeod Reg’l Med. Ctr.*, 367 S.C. 242, 250, 626 S.E.2d 1, 5 (2006). “In determining whether summary judgment is proper, the court must construe all ambiguities, conclusions, and inferences arising from the evidence against the moving party.” *Byers v. Westinghouse Elec. Corp.*, 310 S.C. 5, 7, 425 S.E.2d 23, 24 (1992). When the parties file cross motions for summary judgment, the issue becomes a question of law for the court to decide de novo. *See Wiegand v. U.S. Auto. Ass’n*, 391 S.C. 159, 163, 705 S.E.2d 432, 434 (2011). Additionally, the interpretation of a statute is a question of law for the court to review de novo. *See DomainsNewMedia.com, LLC v. Hilton Head Island-Bluffton Chamber of Commerce*, 423 S.C. 295, 300, 814 S.E.2d 513, 516 (2018).

ARGUMENTS

Respondent's interpretation of S.C. Code § 38-53-170(e) (Supp. 2025) fails as a matter of law because it is contrary to the plain language of the statute and is inconsistent with the rules of statutory construction and does not reflect the intent of the South Carolina General Assembly.

The General Assembly's amendments to S.C. Code Ann. § 38-53-170(e): 1) increased the minimum amount that must be charged and collected prior to execution of a bond; 2) provided a payment plan option for amounts charged in excess of the statutory minimum (i.e., the greater of \$100 or 10% of the face amount of the bond) but less than the statutory maximum (15%); and 3) expanded the procedures related to conversion of collateral when a bond is forfeited.

As amended, S.C. Code Ann. § 38-53-170(e) (Supp. 2025) states that it is unlawful for a bondsman or runner to:

(e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond. Conditions of the bond which expressly or implicitly require payment of monies in excess of the premium, as a cost of satisfying the condition of the bond, shall not be considered part of the bondsman's premium, and are not affected by this code provision. The bondsman may collect these fees from the defendant and is not limited by any language requirements of this code provision.

However, the bondsman is permitted to enter into a payment agreement by attaching a statement of bondsman to the bond proceeding form and this agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars. This payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed. If the payment has not been made for two consecutive months, the bondsman must send a certified notice to the last known address of the principal and indemnitor demanding payment be made within ten days to bring the agreement current. If no payment is received by the end of the notice period, the bondsman must surrender the principal to the proper detention facility for holding and file a motion to be relieved as provided in Section 38-53-50(A) or (B), at which time the agreement must be accelerated, and the balance paid in full, before or at the motion hearing for the principal to be rereleased on bond. The bondsman may accept collateral security or other indemnity from the principal which must be returned within ten days after final termination of liability on the bond unless a bench warrant has been issued. The bondsman shall identify who is paying the premium

and shall represent that the collateral security or other indemnity has not been obtained from any person who has a greater interest in the principal's disappearance than appearance for trial. The collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond. If the bond is forfeited, a bondsman may not convert collateral described in the collateral receipt to cash until he has provided a ten-day notice of this pending conversion to the depositor. This notice must be sent by certified mail to the last known address of the depositor. After the conversion, the bondsman must disclose the actual amount received to the depositor and must return any amount received that exceeds the final judgement or consent amount, less any reasonable expenses. These reasonable expenses include apprehension and legal costs incurred as a result of the violation of the bond. The bondsman must provide the depositor copies of all receipts and, if applicable, the overage money within three days after settlement. (Emphasis added).

Both S.C. Code Ann. §§ 38-43-130 (2015)¹⁰ and 38-53-150 (2015) authorize the Director to initiate administrative disciplinary proceedings against licensees for violating the law or refusing to comply with an order of the Director. Specifically, S.C. Code Ann. § 38-53-150(A)(2), (7), and (B) (2015) provide, in relevant part:

(A) The director or his designee may deny, suspend, revoke, or refuse to renew any license issued under this chapter for any of the following causes: (2) violation of any laws of this State relating to bail in the course of dealings under the license issued to a bondsman or runner by the director or his designee; (7) failure to comply with or violation of the provisions of this chapter or of any order of the director or his designee or regulation of the department; (B) The director or his designee, in lieu of revoking or suspending a license in accordance with the provisions of this chapter, in any one proceeding, by order, may require the licensee to pay to the director or his designee to be deposited in the general fund of the State a monetary penalty as provided in Section 38-2-10(2) for each offense. (Emphasis added).

S.C. Code Ann. § 38-2-10(A)(1) (Supp. 2025) reads:

If the violator is a person, other than an insurer, pharmacy benefits manager, or a health maintenance organization, licensed by the director or his designee in this State, the director or his designee shall fine the person in an amount not to exceed two thousand five hundred dollars, suspend or revoke the license of the person, or both. If the violation is wilful, the director or his designee shall fine the person in an amount not to exceed five thousand dollars, suspend or revoke the license of the person, or both.

¹⁰ Bail bondsmen are required to be licensed as producers in the State of South Carolina. See S.C. Code Ann. § 38-53-80 (2015).

For the period May 5, 2025, through June 1, 2025, it is undisputed that Respondent did not charge and collect the minimum fee required by Section 38-53-170(e) for ten bail bonds before posting the bonds with the court. She committed these violations even after receiving the notice from the Department in 2022 and copies of the Department's Order 2024-07 on December 11, 2024, setting forth the requirements for compliance with the law. Her refusal to comply constitutes a willful violation of the laws of this State, including S.C. Code Ann. §§ 38-43-130(A)(C)(2) (2015); 38-53-150(A)(2), (7), (B) (2015); and 38-53-170(e) (Supp. 2025). For the reasons stated below, Petitioner's Motion for Summary Judgment should be granted.

I. PETITIONER IS ENTITLED TO SUMMARY JUDGMENT BECAUSE THE PLAIN LANGUAGE OF S.C. CODE ANN. § 38-53-170(e) PROHIBITS BONDSMEN FROM CHARGING AND COLLECTING LESS THAN THE GREATER OF \$100 OR 10% OF A BOND PREMIUM BEFORE THE EXECUTION OF THE BOND, AND RESPONDENT ADMITS EXECUTING AND POSTING BONDS WITHOUT CHARGING AND COLLECTING THIS STATUTORY MINIMUM FEE.

Section 38-53-170, *Unlawful acts*, lists seven general practices in which bondsmen and runners must not engage.¹¹ Subsections (e) and (f), in addition to listing such unlawful acts, provide additional restrictions, duties, and/or qualifications on the practices of bondsmen. The interpretation of Subsection § 38-53-170(e) is the basis for this action. The plain language of Subsection (e) places clear limitations on the ability of bondsmen to accept items of value from principals. The first sentence of Subsection (e) contains three unambiguous requirements: 1) “[no bondsman may] accept anything of value from a principal except the premium”; 2) “[the premium charged by the bondsman] must not exceed 15% of the face value of the bond”; and 3) “prior to execution of the bond” the bondsman “must charge and collect” a “minimum fee of \$100 or 10%

¹¹ In the interest of brevity and clarity, the remainder of this Memorandum, when referencing the statutory language of S.C. Code Ann. § 38-53-170 (2015 & Supp. 2025), refers to bondsmen and runners collectively as “bondsmen.”

of the bond, whichever is greater.” The second and third sentences of this provision operate to clarify that bondsmen are still permitted to collect monies to satisfy conditions of a bond (such as electronic monitoring fees) as those monies are not considered part of the premium.

At issue in this case is the interpretation of the minimum fee requirement in § 38-53-170(e). The primary goal of statutory construction is to ascertain legislative intent. *See Hodges v. Rainey*, 341 S.C.79, 85, 533 S.E.2d 578, 581 (2000) (“Where the statute’s language is plain and unambiguous and conveys a clear and definite meaning, the rules of statutory interpretation are not needed, and the court has no right to impose another meaning.”) South Carolina courts have opined that what a legislature says in the text of a statute is considered the best evidence of the legislative intent or will. Therefore, the courts are bound to give effect to the expressed intent of the legislature. *See McClanahan v. Richland Cnty. Council*, 350 S.C. 433, 438, 567 S.E.2d 240, 242 (2002); *USAA Cas. Ins. Co. v. Rafferty*, 439 S.C. 130, 132, 886 S.E.2d 222, 223 (2023).

Generally, courts begin by examining the language of the statute and considering the plain and ordinary meaning of the language used in the statute. “All rules of statutory construction are subservient to the one that the legislative intent must prevail if it can be reasonably discovered in the language used, and that language must be construed in light of the intended purpose of the statute.” *State v. Sweat*, 386 S.C. 339, 350, 688 S.E.2d 569, 575 (2010) (quoting *Broadhurst v. City of Myrtle Beach Election Comm’n*, 342 S.C. 373, 380, 537 S.E.2d 543, 546 (2000)).

Ten percent fees for bail bonds are not unusual.¹² The term “minimum fee” is not defined in the statute, but *Black’s Law Dictionary* defines the term “fee” as the “charge for labor or

¹² *See, e.g., Platt v. Brown*, 872 F.3d 848 (2017) (Prior to January 1, 2016, criminal defendants in Cook County could secure their pretrial release in three ways: (1) personal recognizance, see 725 Ill. Comp. Stat. § 5/110-2; (2) execution of a full deposit bail bond, to be fully returned to the defendant upon performance of the bond conditions, see *id.* § 5/110-8; or (3) execution of a 10% bail bond, 10% of which (i.e., 1% of the total bail amount) is retained by the state upon performance of the bond conditions (the “Bail Bond Fee” or the “Fee”) . . . Under the 10% system, the State bears 90% of the risk that a criminal defendant might jump bail. The government maintains a legitimate interest in reducing its exposure to this liability. Imposing a 1 % surcharge on the 10% system makes the preferred full deposit

services.” *See Black’s Law Dictionary* (12th ed. 2024). Similarly, the term “minimum” is defined as “of, relating to, or constituting the smallest acceptable or possible quantity in a given case.” *See Black’s Law Dictionary* (12th ed. 2024). Accordingly, as used in this paragraph, the term “minimum fee” means the lowest charge, amount, or premium for a bond that must be charged and collected.

Paragraph 1 of subsection (e) addresses the maximum premium for a bond (*i.e.*, 15% of the face amount of the bond) and the minimum amount that must be charged and collected prior to execution of the bond (the greater of \$100 or 10% of the face amount of the bond). Paragraph 2 of subsection (e) addresses: 1) collecting a mandatory \$100 fee for providing the convenience of payment agreements to principals for any premium amounts remaining due after charging and collecting the statutory minimum bond premium or 2) accepting collateral security or other indemnity reasonable in relation to the amount of the bond.

Respondent contends that the use of the word “however” in Paragraph 2 creates an exception to the requirements in Paragraph 1. *See* Exhibit 9. This argument is wholly without merit and fails as a matter of law because it is inconsistent with the plain language of the statute and the rules of statutory construction and would render the prior additional language meaningless. Respondent does not get to pick and choose the words in a statute that should be given meaning while ignoring others. A statute should be so construed that no word, clause, sentence, provision or part shall be rendered surplusage, or superfluos.” *In re Decker*, 322 S.C. 215, 219, 471 S.E.2d

system more enticing. This is particularly true for those with higher bail amounts, where the state not only carries more risk, but the defendant also forfeits a greater Bail Bond Fee.); *see also Claiborne v. Harris County Bail Bond Board*, 693 S.W.3d 699 (2024) (County bail bond board’s action, in adopting rule requiring payment to a bail bondsman of 10% premium as a prerequisite for issuance of a bail bond for 17 enumerated crimes, was undertaken pursuant to a clearly articulated and affirmatively expressed state policy to displace competition, as set forth in Bail Bond Act . . .).

462, 463 (1995) (citing 82 C.J.S. Statutes § 346) and *State v. Sweat*, 386 S.C. 339, 351, 688 S.E.2d 569, 575 (2010).

South Carolina law provides that when a word is not defined by statute, a court normally construes it in accord with its ordinary or usual meaning. *See Stroher v. Lexington Cnty. Recreation Comm'n*, 332 S.C. 54, 62, 504 S.E.2d 117, 122 (1998). The usual and ordinary meaning of the term “however” does not mean “except.” “Except” means “with the exclusion or exception of.” *Miriam-Webster* defines “however” to mean “in whatever manner or way, nevertheless or notwithstanding.”¹³ As evidenced by the statute’s plain language, and the General Assembly’s use of the word “however,” the use of this term is not an exception or an alternative to the premium requirements found in Paragraph 1. Paragraph 1 sets the premium amount. In fact, Paragraph 2’s only reference to the bond premium is limited to the requirement that, prior to accepting any collateral security or other indemnity, a bondsman must “identify who is paying the premium” on the bond and must represent that the collateral security or other indemnity has not been obtained from any person who has a greater interest in the principal’s disappearance than appearance for trial.

¹³ *See Pilot Life Insurance Company v. Morgan*, 94 Ga. App. 394, 94 S.E.2d 765 (Ga. App. 1956). Synonyms for “however” include though, nevertheless, nonetheless, still, yet notwithstanding, at the same time, all the same, just the same, and even so. *See* *HOWEVER Synonyms: Similar Words*, Merriam-Webster Thesaurus. The General Assembly used the term “however” in the following other provisions in Chapter 53: S.C. Code Ann. § 38-53-70 (“The court, in its discretion, may permit the surety to pay the estreatment in installments for a period of up to six months; however, the surety shall pay a handling fee to the court in an amount equal to four percent of the value of the bond.”); S.C. Code Ann. § 38-53-100 (“The director or his designee shall forward four hundred dollars to the State Treasurer to be placed in the general fund; however, of the four hundred dollars, two hundred dollars must be paid over to the director or his designee to offset the costs he incurs under the provisions of this chapter, and two hundred dollars must be paid over to the State Law Enforcement Division to offset the costs it may incur under the provisions of this chapter.”) and (“The director or his designee shall forward two hundred dollars to the State Treasurer to be placed in the general fund; however, of the two hundred dollars, one hundred dollars must be paid over to the director or his designee to offset the costs he incurs under the provisions of this chapter, and one hundred dollars must be paid over to the State Law Enforcement Division to offset the costs it incurs under the provisions of this chapter.”); S.C. Code Ann. § 38-53-102 (“However, nothing contained in this Section shall be construed to prohibit a bail bondsman, his associates, affiliates, or runners from indicating to a defendant that he should contact an attorney for professional assistance, as long as the bail bondsman, his associates, affiliates, or runners do not mention or in any other manner suggest or indicate a particular attorney or law firm by name.”)

Further, the use of the term “however” does not create an exception. When the South Carolina General Assembly wants to create an exception, it generally uses that specific term as it did in S.C. Code Ann. § 38-53-170 and other provisions of Chapter 53. The first exception in S.C. Code Ann. § 38-53-170(b) (2015) states: “[No bondsman or runner may:] (b) pay a fee or rebate or give anything of value to an attorney in bail bond matters, *except* in defense of any action on a bond.” (Emphasis added). The second exception is in Paragraph 1 of S.C. Code Ann. § 38-53-170(e) (Supp. 2025) “[No bondsman or runner may]: (e) accept anything of value from a principal *except* the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond.” (Emphasis added.) If the General Assembly intended to create an exception to the statutory requirement to collect a minimum fee which is the greater of \$100 or 10%, it would have stated such in Paragraph 1.

The plain language as written requires “*a minimum fee of \$100 or 10%, whichever is greater, to be charged and collected prior to execution of the bond.*” (Emphasis added.) Enforcing this requirement does not negate the need for the payment agreement. Some who have advanced that argument base it on their business model which is to not charge more than 10% premium. While that practice may be a business model, it is not South Carolina law. South Carolina law does not cap bail bond premiums at 10%. Licensees may charge up to 15% for a premium for a bond based on the plain language of this code provision. Given the minimum fee requirement, payment agreements may be used for premium in excess of the minimum fee required to be collected by the statute.

Therefore, the plain language of Subsection (e) indicates that no bond may be issued prior to the charging and collection of the statutory minimum bond amount which is the greater of \$100

or 10% of the face amount of the bond. Bondsmen wishing to charge more than the statutory minimum, up to 15% of the face value of the bond, may enter into a compliant payment agreement for the amount over the statutory minimum and attaching a statement of bondsman to the bond proceeding form.¹⁴ This is the only interpretation that gives meaning and harmonizes all the words in the statute.

“Where the statute’s language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed, and the court has no right to impose another meaning.” *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000); *Grier v. AMISUB of S.C., Inc.*, 397 S.C. 532, 535, 725 S.E.2d 693, 695 (2012) (“What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will” and “courts are bound to give effect to the expressed intent of the legislature.”).

In the instant matter, the Department’s investigation of Respondent revealed that she failed to charge and collect the statutory minimum bond amount in at least ten instances, and she admits doing so in direct violation of the plain language of the statute. Therefore, the Department is entitled to summary judgment as a matter of law based on the application of the law to these undisputed facts.

II. EVEN ASSUMING ARGUENDO, THE LANGUAGE IN THE PROVISION IS AMBIGUOUS, THE DEPARTMENT IS ENTITLED TO SUMMARY JUDGMENT AS A MATTER OF LAW BECAUSE THE DEPARTMENT’S INTERPRETATION OF S.C. CODE ANN. § 38-53-170(e) IS CONSISTENT WITH THE CANONS OF STATUTORY CONSTRUCTION.

The *Bail Bond Reform Act* was enacted to protect the public by “closing the revolving door” and preventing some criminal defendants from committing crimes while out on bond. After

¹⁴ For example, a \$20,000 bond would require collection of \$2,000 minimum premium prior to execution, however, a bondsman could charge and collect premium up to \$3,000. In that instance, he or she would have the option to collect the \$2,000 statutory minimum plus a \$100 down payment and allow the principal to pay the remaining \$900 premium over the eighteen-month period following the date the bond was issued.

the enactment of the *Bail Bond Reform Act*, the Department participated in numerous educational and professional meetings designed to educate licensed bondsmen on the compliance requirements of the law regarding premium, minimum fee requirements, and payment agreements. Despite this, the Department continued to receive anecdotal reports and complaints alleging some members of the commercial bail industry were relying on the Attorney General's June 17, 2024 opinion as justification to ignore the minimum fee requirement and charge amounts as low as 2% of the face amount of the bond as a part of an installment agreement arrangement. *See* Exhibit 4. Like Respondent, these individuals argued that the minimum down payment language of Paragraph 2 is an alternative to the requirement to collect the minimum fee of \$100 or 10%, and to construe the statute otherwise would render the payment agreement language meaningless in effect. They further argued that under Paragraph 2, once the \$100 downpayment is collected, the bondsman may allow the criminal defendant to pay the remainder of the premium via a payment agreement.

When interpreting a statute, as we are asked to do here, the Department starts with the cardinal rule of statutory construction, which is to "ascertain and effectuate the intent of the legislature." *Hodges v. Rainey* 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). "What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will. Therefore, the courts are bound to give effect to the expressed intent of the legislature." *Id.* at 85, 533 S.E.2d at 581 (quoting Norman J. Singer, *Sutherland Statutory Construction* § 46.03 at 94 (5th ed. 1992)). Further, "statutes must be read as a whole and sections which are part of the same general statutory scheme must be construed together and each given effect, if it can be done by any reasonable construction." *Higgins v. State*, 307 S.C. 446, 449, 415 S.E.2d 799, 801 (1992). Therefore, courts "should not concentrate on isolated phrases within the statute" and "[i]nstead . . . read the statute as a whole and in a manner consonant and in harmony with its purpose." *S.C.*

State Ports Auth. v. Jasper County, 368 S.C. 388, 398, 629 S.E.2d 624, 629 (2006); *State v. Sweat*, 379 S.C. 367, 376, 665 S.E.2d 645, 650 (Ct. App. 2008), *aff'd*, 386 S.C. 339, 688 S.E.2d 569 (2010).

Even if this Court determined there was a potential conflict or some ambiguity in the language of Paragraphs 1 and 2, the Department's interpretation is consistent with the rules of statutory interpretation because it reads the statute as a whole and gives effect to the language in each provision. By harmonizing the statutory terms and construing the language of the statute as a whole, it is clear the language in Paragraph 2 is not an alternative or exception to Paragraph 1. Instead it 1) allows the bondsman to enter into a payment agreement for amounts that exceed the minimum fee that must be collected by attaching a statement of bondsman to the bond proceeding form; 2) provides the agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars to finance the amount in excess of the minimum fee; and 3) provides the payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed. In other words, Paragraph 2 provides a mechanism for collecting funds in excess of the minimum fee. The General Assembly did not intend the payment agreement language to be used as a tool to circumvent the minimum fee requirement in the first paragraph of this section.

Interpreting this statute to give effect to the payment agreement by negating or excluding the language that requires a *minimum fee of \$100 or 10%, whichever is greater, to be charged and collected prior to execution of the bond* yields an absurd result. South Carolina courts have held "a statute should be so construed that no word, clause, sentence, provision or part shall be rendered surplusage, or superfluous." *State v. Sweat*, at 351, 688 S.E.2d at 575 (quoting *In re Decker*, 322 S.C. 215, 219, 471 S.E.2d 462, 463 (1995)). And, "[c]ourts will reject a statutory interpretation

which would lead to a result so plainly absurd that it could not have been intended by the Legislature or would defeat the plain legislative intention.” See *Kiriakides v. United Artist Commun., Inc.*, 312 S.C. 271, 275, 440 S.E.2d 364, 366 (1994) and *New York Times Co. v. Spartanburg Cnty. Sch. Dist. No. 7*, 374 S.C. 307, 312, 649 S.E.2d 28, 30 (2007).

Bail bond reform was initiated, in part, to close the revolving door by providing standards for electronic monitoring of criminal defendants and to require more than a \$25 fee as a condition of pretrial release. If the General Assembly did not want to retain the minimum fee requirement, it could have deleted it entirely. If the General Assembly’s intent was to increase the minimum fee to a flat \$100, all it had to do was strike “twenty-five dollars” and insert “one hundred dollars.” This was not done. Instead, the General Assembly purposely added the language “*minimum fee of \$100 or 10%, whichever is greater, to be charged and collected prior to execution of the bond.*” (Emphasis added). This language was added to ensure bondsmen charged and collected as a minimum fee 10% of any bond over \$1,000 prior to the execution of the bond.

Moreover, if the General Assembly did not intend the increased minimum fee to be charged and collected prior to the execution of the bond, it would have only used the word “charged” and not have included the words “and collected” or the phrase “prior to the execution of bond” in this provision. Respondent’s interpretation would render the charged and collected prior to the execution of the bond language in the statute meaningless or null and void. See *State v. Sweat*, 386 S.C. 339, 351, 688 S.E.2d 569, 575-76 (2010).

Respondent’s interpretation yields an absurd result and defeats the purpose behind bail bond reform which was, in part, to increase the minimum fee that had to be collected as a condition of pretrial release to deter offenders from committing additional crimes while out on bond. Respondent’s interpretation distorts the statutory language and does not reasonably reflect the

legislature's purpose and intent. Solely increasing the fee from \$25 to \$100 would do nothing to close the "revolving door" which was one of the intended purposes of bail bond reform.¹⁵ The rules of statutory construction require that courts not construe a statute in a way that leads to an absurd result or that renders the language meaningless. *State v. Sweat*, 386 S.C. 339, 351, 688 S.E.2d 569, 575–76 (2010). This distortion of the language and statutory purpose is not what the General Assembly intended; consequently, the Department is entitled to summary judgment as a matter of law.

III. BECAUSE THE DEPARTMENT'S INTERPRETATION IS CONSISTENT WITH THE RULES OF STATUTORY CONSTRUCTION AND IS NEITHER ARBITRARY, CAPRICIOUS, OR MANIFESTLY CONTRARY TO THE STATUTE, THE DEPARTMENT IS ENTITLED TO DEFERENCE AND TO SUMMARY JUDGMENT AS A MATTER OF LAW.

South Carolina vests the authority to implement the insurance laws of the state in the South Carolina Department of Insurance, not in its licensees. *See* S.C. Code Ann. §§ 38-3-10, *et seq.* The Department's interpretation and implementation of the amendments to Title 38 come after careful consideration of the statutory language, case law, and views of stakeholders impacted by those legislative changes. After fully considering these views, the Department published Order 2024-07 that set forth the only interpretation that gives effect to the statutory language and the intended purpose of the statute.

South Carolina courts have held that "where an agency charged with administering a statute or regulation has interpreted the statute or regulation, courts, including the ALC, will defer to the agency's interpretation absent compelling reasons." *Brown v. Bi-Lo, Inc.*, 354 S.C. 436, 440, 581 S.E.2d 836, 838 (2003); *see also Dunton v. S.C. Bd. of Exam'rs in Optometry*, 291 S.C. 221, 223,

¹⁵ *See* Molly Green, *SC House passes bond-reform bill, vowing to close 'revolving door' of repeat violent offenders*, WIS 10 (March 1, 2023), <https://www.wistv.com/2023/03/02/sc-house-passes-bond-reform-bill-vowing-close-revolving-door-repeat-violent-offenders/>.

353 S.E.2d 132, 133 (1987) (“The construction of a statute by the agency charged with its administration will be accorded the most respectful consideration and will not be overruled absent compelling reasons.”); *Monroe v. Livingston*, 251 S.C. 214, 217, 161 S.E.2d 243, 244 (1968) (Even so, an administrative construction “affords no basis for the perpetuation of a patently erroneous application of the statute.”); *see generally State v. Sweat*, 386 S.C. 339, 351, 688 S.E.2d 569, 575-76 (2010).

[Courts] defer to an agency interpretation unless it is ‘arbitrary, capricious, or manifestly contrary to the statute.’” *Kiawah Dev. Partners, II v. S.C. Dep’t of Health & Env’t Control*, 411 S.C. 16, 32-33, 766 S.E.2d 707, 718 (2014) (citing *Chevron, U.S.A., Inc. v. Natural Res. Def. Council, Inc.*, 467 U.S. 837, 843 (1984), overruled by *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024)) (“If the statute or regulation ‘is silent or ambiguous with respect to the specific issue,’ the court then must give deference to the agency’s interpretation of the statute or regulation, assuming the interpretation is worthy of deference.”).

After more than 40 years of “automatic” agency deference that required courts to defer to an agency’s interpretation of ambiguous statutory language, in 2024, the United States Supreme Court overruled *Chevron U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984) in *Loper Bright Enters. v. Raimondo*. In *Loper*, 603 U.S. 369 (2024), the Supreme Court noted that “judges [must] independently identify ... delegations of authority [to agencies], police the outer statutory [and constitutional] boundaries of those delegations, and ensure that agencies exercise their discretion consistent with” the Administrative Procedure Act (“APA”), i.e., ensure that the agency’s exercise of delegated discretion to make policy or find facts is not “arbitrary or capricious” and (where applicable) is supported by “substantial evidence.” *Loper Bright Enters. v. Raimondo*, 603 U.S. at 404 (2024). However, the Court clearly indicated that courts should still

look to agency interpretations as one source of determining legislative intent, and quoting *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944), stated that courts “may ... seek aid from the interpretations of [the agencies] responsible for implementing particular statutes,” reasoning that interpretations “issued contemporaneously with the statute at issue, and which have remained consistent over time, may be especially useful in determining the statute’s meaning,” as will be agency interpretations “to the extent [they] rest[] on factual premises within the agency’s expertise.” *Loper*, 603 at 394. The *Loper* court also did not deny that a reviewing court could “exercise[] independent judgment” while not being bound to an agency interpretation, and acknowledged the long-held practice of courts providing “‘the most respectful consideration’ to Executive Branch interpretations simply because ‘[t]he officers concerned [were] usually able men, and masters of the subject,’ who were ‘[n]ot unfrequently ... the draftsmen of the laws [courts] ... were afterwards called upon to interpret.’” *Id.* at 386.

The South Carolina Supreme Court has not yet applied *Loper*; however, on February 12, 2025, that court denied certiorari in *Colonial Pipeline Company v. South Carolina Dept. of Revenue*, 443 S.C. 448, 905 S.E.2d 129 (Ct. App. 2024) reh’g denied (Aug. 19, 2024), cert. denied (Feb. 12, 2025), which did mention *Loper*. On October 14, 2025, the Honorable S. Phillip Lenski of this Court summarized the extremely limited impact of *Colonial Pipeline* on South Carolina jurisprudence in footnote 17 of *Friends of Horse Creek Valley v. S.C. Dep’t of Environmental Services and Rabbit Hill Class 2 Landfill*, 2025 WL 3045193 (S.C. Admin Law Ct.) (October 14, 2025): “[W]hile the *Loper* decision was cited and discussed generally by the South Carolina Court of Appeals in *Colonial Pipeline Co. v. S.C. Dep’t of Revenue*, the court did not formally adopt, nor did it apply *Loper* style deference, as the issue of agency deference was not reached in that case.”

Judge Lenski also acknowledged that *Loper* left *Skidmore* in place, and most importantly explained why *Kiawah II* is the controlling case regarding agency deference in South Carolina, stating:

This court notes, however, that *Loper* dealt with the U.S. Supreme Court's review of a federal agency's interpretation of a federal statute under the federal version of the Administrative Procedures Act (APA). Conversely, the *Kiawah* case dealt with the South Carolina Supreme Court's review of a state agency's interpretation of state statutes and regulations under the state's version of the APA. Additionally, in clarifying our state deference doctrine in *Kiawah*, the South Carolina Supreme Court cited to a long lineage of South Carolina cases that consistently applied those principles, including several cases that predate *Chevron*. Thus, in the absence of any South Carolina appellate court decision overruling our state deference cases, including *Kiawah*, and substituting our state deference doctrine with *Loper* deference, it is unclear what impact, if any, the *Loper* decision has on our state deference doctrine.

Id.

Applying the *Kiawah II* standard to the instant matter, there is no evidence in this case that the Department acted outside its authority or contrary to the requirements of the statute. The Department's interpretation of S.C. Code Ann. § 38-53-170(e) (Supp. 2025) is consistent with the statute's plain language and gives effect to the meaning of all statutory provisions. It is reasonable and entitled to deference.

In construing a statute, "[t]he court's job is not to interpret statutes based on its own views, nor is the court bound by the interpretations that the parties advocate." 82 C.J.S. Statutes § 352 (2024). Likewise, Respondent is not charged with interpretation of the law and does not get to elect to choose her own interpretation. Respondent cannot simply ignore the directive of the agency charged with carrying out the statute because she prefers her own interpretation or that of another. While others may differ on how to read or interpret a statute, the opinion to which this Court owes deference under *Kiawah II*, or at minimum consideration under *Skidmore* and its progeny, is that of the regulatory agency charged with administering and enforcing it unless it is clearly inconsistent with the statutory language. Thus, the Department's interpretation of S.C. Code Ann.

§ 38-53-170(e) (Supp. 2025) controls over advisory opinions or that of an individual bondsman or other licensee.

CONCLUSION

For these reasons, Petitioner is entitled to summary judgment as a matter of law and a declaration or finding that the plain language of S.C. Code Ann. § 38-53-170(e) (Supp. 2025), and the Department's interpretation thereof, is reasonable and is consistent with the rules of statutory construction.

Respectfully submitted,



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Attorneys for Petitioner South Carolina Department
of Insurance

January 9, 2026
Columbia, South Carolina

EXHIBIT 4



ALAN WILSON
ATTORNEY GENERAL

June 17, 2024

The Honorable B. Lee Miller
Municipal Judge
City of Greenwood
Post Office Box 40
Greenwood, South Carolina 29648-0040

Dear Judge Miller:

We received your request for an opinion from this Office concerning the recently adopted bond reform legislation. You state the Greenwood Clerk of Court sent out information to all the judges concerning bonding procedures under this new legislation. Specifically, the Clerk of Court stated, "the new bond law requires the defendant to post the entire ten percent (10%) with the bond company and then may make a payment plan for anything over ten percent, up until the maximum amount is reached which is fifteen (15%) percent." You informed us that you were under the impression that

the defendant had to pay \$100.00, then a payment plan could be implemented for the remainder of the balance. The balance must be paid off within eighteen months of the signing of the original bond contract. If the balance is not paid in full then other measures would be triggered concerning the bond.

Thus, you ask us to resolve the conflict between these interpretations.

Law/Analysis

As you mentioned in your letter, in 2023 the Legislature enacted bond reform legislation that included changes to section 38-53-170(e) pertaining to payments to bondsmen. 2023 S.C. Acts 83. Section 38-53-170(e) prohibits bondsmen from accepting anything of value except the premium. Prior to the 2023 legislation, section 38-53-170(e) mandated that the premium "may not exceed fifteen percent of the face amount of the bond, with a minimum fee of twenty-five dollars." S.C. Code Ann. § 38-53-170(e) (2015). Thus, this provision gave bondsmen a lot of flexibility as to the premium charged and how it was collected, only requiring a minimum fee of twenty-five dollars and a maximum fee of fifteen percent of the bond.

Act 83 amended section 38-53-170(e), which now provides for "a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond." S.C. Code Ann. § 38-53-170(e) (Supp. 2023). But the revisions to subsection 38-53-170(e) also include the following language:

However, the bondsman is permitted to enter into a payment agreement by attaching a statement of bondsman to the bond proceeding form and this agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars. This payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed. If the payment has not been made for two consecutive months, the bondsman must send a certified notice to the last known address of the principal and indemnitor demanding payment be made within ten days to bring the agreement current. If no payment is received by the end of the notice period, the bondsman must surrender the principal to the proper detention facility for holding and file a motion to be relieved as provided in Section 38-53-50(A) or (B), at which time the agreement must be accelerated, and the balance paid in full, before or at the motion hearing for the principal to be rereleased on bond. The bondsman may accept collateral security or other indemnity from the principal which must be returned within ten days after final termination of liability on the bond unless a bench warrant has been issued. The bondsman shall identify who is paying the premium and shall represent that the collateral security or other indemnity has not been obtained from any person who has a greater interest in the principal's disappearance than appearance for trial. The collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond. If the bond is forfeited, a bondsman may not convert collateral described in the collateral receipt to cash until he has provided a ten-day notice of this pending conversion to the depositor. This notice must be sent by certified mail to the last known address of the depositor. After the conversion, the bondsman must disclose the actual amount received to the depositor and must return any amount received that exceeds the final judgement or consent amount, less any reasonable expenses. These reasonable expenses include apprehension and legal costs incurred as a result of the violation of the bond. The bondsman must provide the depositor copies of all receipts and, if applicable, the overage money within three days after settlement

Id. (emphasis added).

When interpreting a statute, as we are asked to do here, we start with the cardinal rule of statutory construction, which is to "to ascertain and effectuate the intent of the legislature." Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). "What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will. Therefore, the courts are bound to give effect to the expressed intent of the legislature." Id. at 85, 533 S.E.2d at 581 (quoting Norman J. Singer, Sutherland Statutory Construction § 46.03 at 94 (5th ed. 1992)). "Further, statutes must be read as a whole and sections which are part of the same general statutory scheme must be construed together and each given effect, if it can be done by any reasonable construction."

The Honorable B. Lee Miller

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June 17, 2024

Hudson ex rel. Hudson v. Lancaster Convalescent Ctr., 407 S.C. 112, 124-25, 754 S.E.2d 486, 492-93 (2014).

Initially, section 38-53-170(e) requires the charge and collection of ten percent of the bond or at a minimum one hundred dollars. Based on the plain language used in this portion of section 38-53-170(e), we are led to believe the Legislature intended for ten percent of the bond, or at a minimum one hundred dollars, to be collected prior to the execution of the bond. But, the Legislature appears to have modified this requirement by also including the language allowing a bondsman to enter into a payment agreement with the principal starting with the use of the term "However"- a term of contradiction. Thus, while the Legislature clearly intends for bondsmen to charge premiums of a minimum of ten percent of the bond, we are of the opinion that they also intended to give bondsmen the option to accept a minimum payment of one hundred dollars and allow the principal to make payments on the remaining minimum premium as long as the payment agreement is attached to the bond proceeding form and the agreement meets the requirements set forth in section 38-53-170(e).

We understand your clerk of court interprets the language allowing a bondsman to enter into a payment agreement as applying only to the premium charge that exceeds the required ten percent minimum, but reading that statute in this way could lead to an absurd result. In construing statutes courts "will reject an interpretation when such an interpretation leads to an absurd result that could not have been intended by the legislature." Lancaster Cnty. Bar Ass'n v. S.C. Comm'n on Indigent Def., 380 S.C. 219, 222, 670 S.E.2d 371, 373 (2008). First, we are at a loss as to why the Legislature would find it necessary to give permission for a payment agreement for an amount that the bondman is not required to charge in the first place. Second, this reading would require the principal to pay not only the ten percent bond up front, but also an additional one hundred dollars for the opportunity to finance the premium in excess of the ten percent. We do not believe such an interpretation is in line with the intent of the Legislature.

Moreover, the legislative history of the amendments to section 38-53-170(e) supports our interpretation. As our court of appeals explained, "The construing court may additionally look to the legislative history when determining the legislative intent." Ex parte Cannon, 385 S.C. 643, 655, 685 S.E.2d 814, 821 (Ct. App. 2009). In our review of the legislative history, the amendments to section 38-53-170(e) were first proposed to the Senate's version of the act. 2023 Senate Journal April 11, 2023, p. 26. While this version also required the payment and collection of a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, the language allowing for a payment agreement required a down payment of one hundred dollars or five percent of the bond. Id. If the ability to enter into a payment agreement only applies to the premium charged above the ten percent minimum, by requiring an additional five percent of the bond as the minimum down payment would leave nothing left to finance as the maximum premium is fifteen percent. Thus, we believe the legislative history supports our conclusion that the Legislature intended to allow bondmen to enter into payment agreements for the ten percent minimum premium rather than for the excess premium they are allowed to charge.

The Honorable B. Lee Miller

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June 17, 2024

Lastly, we must keep in mind that the South Carolina Constitution affords defendants the right to bail. S.C. Const. Art. I § 15 (2009). As our Supreme Court stated, “all statutes are presumed constitutional and, if possible, will be construed to render them valid.” State v. Neuman, 384 S.C. 395, 402, 683 S.E.2d 268, 271 (2009) (quoting Curtis v. State, 345 S.C. 557, 569, 549 S.E.2d 591, 597 (2001)). While the revisions to section 38-53-170(c) indicate the intent of the Legislature to increase the premium charged and paid by defendants, we believe by giving defendants the ability to enter into a payment agreement with the bondsman, the Legislature is balancing its desire to increase and standardize premiums with defendants’ ability to pay those premiums and ensuring compliance with defendants’ constitutional rights. Accordingly, we believe our interpretation of section 38-53-170(c) lends itself to a constitutional reading of the statute.

Conclusion

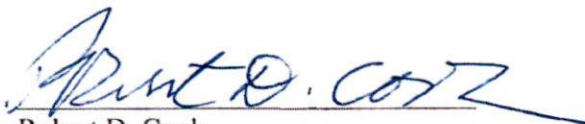
As you mentioned in your letter, in 2023 the Legislature enacted bond reform legislation including amendments to section 38-53-170, which prohibits certain acts by bondsmen and runners. Specifically, section 38-53-170(c) governs the premiums bondsmen and runners charge. The amendments to this provision now require all bondsmen and runners to charge and collect a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater. This change indicates the Legislature’s intent to increase and standardize the premiums charged and collected by bondsmen. Nonetheless, reading section 38-53-170(e) as a whole, we agree with your interpretation that it allows a bondsman to accept a minimum downpayment of one hundred dollars along with a payment agreement for the remaining amount of the minimum premium as long as the bondsman attaches the agreement to the bond processing form and complies with the other requirements for the agreement contained in section 38-53-170(c). We believe this interpretation comports not only with the intent of the Legislature based on the plain language of statute and its legislative history, but also balances the desire of the Legislature to provide more oversight over bond premiums with defendants’ constitutional rights to bail.

Sincerely,



Cydney Milling
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General

RoA_0092

EXHIBIT 5



ALAN WILSON
ATTORNEY GENERAL

July 31, 2025

Gwendolyn McGriff, Esquire
General Counsel
South Carolina Department of Insurance
PO Box 100105
Columbia, SC 29202

Dear Ms. McGriff:

Attorney General Alan Wilson referred your letter to the Opinions section for a response. In your letter, you ask that we withdraw or modify our June 17, 2024, opinion to the Honorable B. Lee Miller regarding the 2023 bond reform legislation, specifically bond premiums. Op. S.C. Att'y Gen., 2024 WL 3186557 (June 17, 2024). In your letter, you advised that the Department of Insurance's interpretation of South Carolina Code Section 38-53-170(e), differs from the one expressed in our opinion to Judge Miller. You also provided our office with a copy of Order No. 2024-07 issued by Director Wise which provides guidance on the issue. <https://doi.sc.gov/DocumentCenter/View/14862/Order-2024-07-Requirements-for-Surety-Bondsmen-Professional-Bondsmen-and-Runners>, last visited July 29, 2025.

Law/Analysis

The director of the Department of Insurance, clerks of court, and the South Carolina Law Enforcement Division have the authority and power to administer the provisions of Title 38, Chapter 53. S.C. Code Ann. § 38-53-20 (Rev. 2015). Additionally, the director is charged with promulgating regulations "to enforce the purposes and provisions" of the chapter. Id. Our interpretation of the Section 38-53-170(e) remains unchanged, but we recognize the language of the subsection can be interpreted differently. Therefore, we defer to the interpretation of the Department of Insurance as the agency with regulatory authority. Op. S.C. Att'y Gen., 2022 WL 1286845 (April 20, 2022). Further, we advise any bail bondsmen and runners to follow the department's instructions and orders regarding the issue pending any judicial or legislative clarification.

Gwendolyn McGriff, Esquire

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July 31, 2025

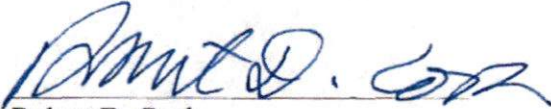
Sincerely,

A handwritten signature in blue ink, appearing to read "Sabrina C. Todd".

Sabrina C. Todd

Assistant Attorney General

REVIEWED AND APPROVED BY:

A handwritten signature in blue ink, appearing to read "Robert D. Cook".

Robert D. Cook
Solicitor General

EXHIBIT 6

**BEFORE THE STATE OF SOUTH CAROLINA
DEPARTMENT OF INSURANCE**

IN THE MATTER OF:

Requirements for Surety Bondsmen,
Professional Bondsmen, and Runners
Authorized to Transact Bail Bonding Business
in the State of South Carolina

Order No. 2024-07
Promulgation of Guidance, Standards, and
Other Requirements for Compliance with the
Premium, Minimum Fee, and Payment
Agreement Requirements of Act No. 83 of 2023

Act No. 83 of 2023 (R-98, H. 3532) ("Bond Reform Act" or "Act") amends provisions of South Carolina law pertaining to bail bonds, pretrial release, and electronic monitoring. Several sections modified by the Act fall within Title 38, Chapter 53 of the South Carolina Insurance Law.¹ Under South Carolina insurance laws, the director of the Department of Insurance ("Department") is authorized to 1) supervise the service of every insurer and to fix just and reasonable standards, practices, and measurements of service to be observed and followed by every insurer doing business in this State; and 2) see that all laws of the State governing insurers or relating to the business of insurance are faithfully executed.²

Since the enactment of the Bond Reform Act, the Department has participated in numerous educational and professional meetings designed to educate licensees on the compliance requirements of the law regarding premium, minimum fee requirements and payment agreements. Despite the Department's previous training and instructions on this issue, we continue to receive anecdotal reports and complaints that allege some members of the commercial bail industry are attempting to use a June 17, 2024 opinion issued by the Office of the South Carolina Attorney General (AG Opinion)³ as justification to ignore the minimum fee requirement and charge amounts as low as 2% of the face amount of the bond as a part of an installment agreement arrangement. South Carolina law requires \$100 or 10%, whichever is greater, to be collected prior to execution of the bond as the minimum fee. Accordingly, collecting \$100 as the minimum fee would only be appropriate for bail bonds with face amounts of \$1,000 or less.

For the past several months, the Department has discussed the language in the statute and the AG Opinion with various stakeholders. After fully considering the AG Opinion, and the opinions of other interested parties, the Department is issuing this Order to 1) confirm its regulatory instructions, 2) provide further guidance on payment agreements per the language of the statute, 3) eliminate any confusion which may exist among some members of the commercial bail industry concerning the minimum fee that must be charged and collected prior to execution of a bail bond in South Carolina and 4) provide formal notice that the Department intends to investigate and

¹ S.C. Code Ann. § 38-1-10. "This title may be cited and is known as 'The Insurance Law'".

² S.C. Code Ann. § 38-3-110.

³ *State v. Ramsey*, 409 S.C. 206, 762 S.E.2d 15 (2014); *Charleston County School District v. Harrell*, 393 S.C.552, 560-61, 713 S.E.2d 604,609 (2011).

enforce the minimum fee requirements of § 38-53-170(e). The compliance standards set forth in this Order are consistent with the plain language of the statute and the purpose and intent of bail bond reform.

I. TEN PERCENT (10%) MINIMUM FEE REQUIREMENT

When interpreting a statute, as we are asked to do here, we start with the cardinal rule of statutory construction, which is to "ascertain and effectuate the intent of the legislature." *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). "What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will. Therefore, the courts are bound to give effect to the expressed intent of the legislature." *Id.* at 85, 533 S.E.2d at 581 (quoting Norman J. Singer, *Sutherland Statutory Construction* § 46.03 at 94 (5th ed. 1992)). "Further, statutes must be read as a whole and sections which are part of the same general statutory scheme must be construed together and each given effect, if it can be done by any reasonable construction." *Id.*

As the regulatory agency charged with implementing and enforcing the language of this statute, we are constrained by the plain language of the statute as it exists.⁴ The rules of statutory construction not only require that words be given their plain and ordinary meaning⁵ but that conflicting provisions, if any, be interpreted to give effect to both. *See, e.g., Liberty Mut. Ins. Co. v. South Carolina Second Injury Fund*, 363 S.C. 612, 611 S.E.2d 297 (Ct. App. 2005); *Buchanan v. The South Carolina Property and Casualty Association*, 424 S.C. 542, 819 S.E.2d 124 (2018).⁶

A. The first paragraph of Section 38-53-170(e) establishes the minimum payment for the bail bond.

Section 38-53-170(e) was modified by the Bond Reform Act to read as follows:

No bondsman or runner may:

(e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond. Conditions of the bond which expressly or implicitly require payment of monies in excess of the premium, as a cost of satisfying the condition of the bond, shall not be considered part of the bondsman's premium, and are not affected by this code provision. The bondsman may collect these fees from the defendant and is not limited by any language requirements of this code provision.

The pertinent language of the second paragraph of this statutory provision reads as follows:

⁴ *Georgia-Carolina Bail Bonds, Inc. v. County of Aiken*, 354 S.C. 18, 579 S.E.2d 334 (Ct. App. 2003).

⁵ The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature. *See Hodges v. Rainey*, 342 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). The words in the statute must be construed in context and the meaning of particular terms in the statute may be ascertained by reference to the words associated with them.

⁶ South Carolina Supreme Court affirmed and modified the Court of Appeals decision, 417 S.C. 562, 790 S.E.2d 783 (2016).

However, the bondsman is permitted to enter into a payment agreement by attaching a statement of bondsman to the bond proceeding form and this agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars. This payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed.

Some have argued that the language of the statute permits a bondsman to charge 10% of the face amount of the bond; however, there is no requirement to collect 10% minimum fee because the second paragraph creates an exception to the first paragraph and negates the requirement that the bondsman charge and collect the minimum fee. They contend that the minimum down payment language of the second paragraph is an alternative to the requirement to collect the minimum fee of \$100 or 10%, and to construe the statute otherwise would render the payment agreement language meaningless in effect. They argue that under the second paragraph once the \$100 downpayment is collected, the bondsman may allow the criminal defendant to pay the remainder of the premium via a payment agreement. We disagree because this interpretation fails to give effect to each of the terms of the statute.⁷

We believe the General Assembly was purposeful in making the changes to this provision of the law. Prior to the amendment of this provision in June 2023, S.C. Code Ann. § 38-53-170(e) read as follows:

(e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, *with a minimum fee of twenty-five dollars*. However, the bondsman is permitted to accept collateral security or other indemnity from the principal which must be returned upon final termination of liability on the bond. The bondsman shall identify who is paying the premium and shall represent that the collateral security or other indemnity has not been obtained from any person who has a greater interest in the principal's disappearance than appearance for trial. The collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond...

See S.C. Code Ann. § 38-53-170(e) (1998).

Minimum fees for bail bonds are not unusual.⁸ The term *minimum fee* means the lowest amount or fee that can be collected. Section 38-53-170(e) requires a *minimum fee of \$100 or 10%, which is*

⁷ One of the basic canons of statutory construction is that a statute should be construed, if possible, in a manner that allows all of its provisions to be given effect so that no part of the statute is rendered inoperative or superfluous. See *City of Rock Hill v. Harris*, 391 S.C. 149, 705 S.E.2d 53 (2011).

⁸ See, e.g., *Platt v. Brown*, 872 F.3d 848 (2017) (Prior to January 1, 2016, criminal defendants in Cook County could secure their pretrial release in three ways: (1) personal recognizance, see 725 Ill. Comp. Stat. § 5/110-2; (2) execution of a full deposit bail bond, to be fully returned to the defendant upon performance of the bond conditions, see *id.* § 5/110-8; or (3) execution of a 10% bail bond, 10% of which (i.e., 1% of the total bail amount) is retained by the state upon performance of the bond conditions (the "Bail Bond Fee" or the "Fee") ... Under the 10% system, the State bears 90% of the risk that a criminal defendant might jump bail. The government maintains a legitimate interest in reducing its exposure to this liability. Imposing a 1% surcharge on the 10% system makes the preferred full deposit system more enticing. This is particularly true for those with higher bail amounts, where the state not only carries more risk, but the defendant also forfeits a greater Bail Bond Fee.) see also *Claiborne v. Harris County Bail Bond Board*, 693 S.W.3d 699 (2024) (County bail bond board's action, in adopting rule requiring payment to a bail bondsman of 10% premium as a prerequisite for issuance of a bail bond for 17 enumerated crimes, was undertaken

greater be charged and collected by the bondsman. A minimum fee of \$100 or 10% means the greater of these two amounts (i.e., \$100 or 10%) must be charged and collected by the bondsman prior to execution of the bond.

In amending this section, the General Assembly not only set a *minimum fee* amount in the first paragraph of (\$100 or 10% of the bond, whichever is greater) it also included a requirement that the *minimum fee be charged and collected prior* to execution of the bond. Specifically, the language of the first paragraph of § 38-53-170(e) evidences the General Assembly's intent to (1) prohibit a bondsman or runner from accepting anything of value *except* premium; (2) limit the bond premium to 15% of the face amount of the bond; and (3) require a *minimum fee of 10% or \$100 whichever is greater be charged and collected prior to the execution of the bond*. Other payments which may be in excess of the premium required to satisfy bond conditions (such as electronic monitoring fees) may be also collected by the bondsman.⁹

B. Giving effect to the minimum fee language in the first paragraph language does not negate the use of payment agreement language in the second paragraph.

We have fully considered the contention that the second paragraph of subsection 38-53-170(e) somehow negates the plain language of the first paragraph. There is no indication in the language of either paragraph that the General Assembly intended the execution of a payment agreement to be an alternative or exception to the *minimum fee* requirement of \$100 or 10%. Nothing in statutory language indicates that it is an exception. South Carolina law provides that when a word is not defined by statute, a court normally construes it in accord with its ordinary or usual meaning.¹⁰ The usual and ordinary meaning of the term "*however*" does not mean *except*. "*Except*" means with the exclusion or exception of. Miriam Webster defines "*however*" to mean "*in whatever manner or way, nevertheless or notwithstanding.*"¹¹

pursuant to a clearly articulated and affirmatively expressed state policy to displace competition, as set forth in Bail Bond Act...); see, e.g., *Platt v. Brown*, 872 F.3d 848 (2017).

⁹To collect electronic monitoring fees, the bondsman must be certified by South Carolina Law Enforcement Division (SLED) to provide electronic monitoring services. See South Carolina Law Enforcement Division (sc.gov).

¹⁰ When interpreting an undefined statutory term, the Court must look to its usual and customary meaning. *Strother v. Lexington Cnty. Recreation Comm'n*, 332 S.C. 54, 62, 504 S.E.2d 117, 122 (1998); *Perry v. Bullock*, 409 S.C.137, 761 S.E.2d 251 (2014).

¹¹ See *Pilot Life Insurance Company v. Morgan*, 94 Ga. App. 394, 94 S.E.2d 765 (Ga. App. 1956). Synonyms for *however* include though, nevertheless, nonetheless, still, yet, notwithstanding, at the same time, all the same, just the same, and even so. See *HOWEVER* Synonyms: 17 Similar Words | Merriam-Webster Thesaurus. The General Assembly used the term "*however*" in the following other provisions in Chapter 53: S.C. Code Ann § 38-53-70 (The court, in its discretion, *may* permit the surety to pay the estreatment in installments for a period of up to six months; *however*, the surety shall pay a handling fee to the court in an amount equal to four percent of the value of the bond.) S.C. Code Ann. § 38-53-100 (The director or his designee shall forward four hundred dollars to the State Treasurer to be placed in the general fund; *however*, of the four hundred dollars, two hundred dollars must be paid over to the director or his designee to offset the costs he incurs under the provisions of this chapter, and two hundred dollars must be paid over to the State Law Enforcement Division to offset the costs it may incur under the provisions of this chapter) and (The director or his designee shall forward two hundred dollars to the State Treasurer to be placed in the general fund; *however*, of the two hundred dollars, one hundred dollars must be paid over to the director or his designee to offset the costs he incurs under the provisions of this chapter, and one hundred dollars must be paid over to the State Law Enforcement Division to offset the costs it incurs under the provisions of this chapter.) S.C. Code Ann. § 38-53-102 (However, nothing contained in this section shall be construed to prohibit a bail

More importantly, when the South Carolina General Assembly wants to create an exception, it generally uses that specific term as it did in this and other provisions of Chapter 53.¹² The General Assembly created two exceptions in § 38-53-170. The first exception is "... No bondsman or runner may: (b) pay a fee or rebate or give anything of value to an attorney in bail bond matters, *except* in defense of any action on a bond. The second exception may be found in subsection (e) No bondsman or runner may: (e) accept anything of value from a principal *except* the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond. If the General Assembly intended to create an exception to the statutory requirement to collect a minimum fee of 10%, it would have stated such in this paragraph.

The plain language as written requires a minimum fee of *\$100 or 10% whichever is greater, to be charged and collected prior to execution of the bond*). Enforcing this requirement does not negate the need for the payment agreement. Those who have advanced that argument base it on their business model which is to not charge more than 10%. While that practice may be a business model, it is not South Carolina law. South Carolina law does not cap bail bond premiums at 10%. Licensees may charge up to 15% for a premium for a bond based on the plain language of this code provision.¹³ Given the minimum fee requirement, payment agreements may be used for premium in excess of the minimum fee required to be collected by the statute.

Interpreting this statute to give effect to the payment agreement by negating or excluding the language that requires a *minimum fee of \$100 or 10%, whichever is greater, to be charged and collected prior to execution of the bond* yields an absurd result. Bail bond reform was initiated, in part, to provide standards for electronic monitoring of criminal defendants and to require more

bondsman, his associates, affiliates, or runners from indicating to a defendant that he should contact an attorney for professional assistance, as long as the bail bondsman, his associates, affiliates, or runners do not mention or in any other manner suggest or indicate a particular attorney or law firm by name.)

¹² See, e.g., S.C. Code § 38-53-80 (No person may act in the capacity of a professional bondsman, surety bondsman, or runner or perform any of the functions, duties, or powers prescribed for professional or surety bondsmen or runners under the provisions of this chapter unless that person is qualified, *except* for an accommodation bondsman, licensed in accordance with the provisions of this chapter. No license may be issued to a professional bondsman, surety bondsman, or runner *except* as provided in this chapter.); S.C. Code Ann. §38-53-160 (No license may be refused, suspended, or revoked, or renewal refused, *except* on reasonable notice and opportunity to be heard afforded the person licensed or seeking renewal of the license. Any applicant for a license as a professional or surety bondsman or runner whose application has been denied or whose license has been suspended or revoked, or renewal of the license denied, has the right of appeal from the final order of the director or his designee to the Administrative Law Court as provided by law); S.C. Code Ann. §38-53-170 (No bondsman or runner may (b) pay a fee or rebate or give anything of value to an attorney in bail bond matters, *except* in defense of any action on a bond) (e) (accept anything of value from a principal *except* the premium...); S.C. Code Ann § 38-53-190 (Certain persons not allowed to be sureties; exceptions). S.C. Code Ann. § 38-53-160 (No license may be refused, suspended, or revoked, or renewal refused, *except* on reasonable notice and opportunity to be heard afforded the person licensed or seeking renewal of the license. Any applicant for a license as a professional or surety bondsman or runner whose application has been denied or whose license has been suspended or revoked, or renewal of the license denied, has the right of appeal from the final order of the director or his designee to the Administrative Law Court as provided by law.)

¹³ S.C. Code Ann. §38-53-170(e).

than a minimum fee of \$25 as a condition of pretrial release. If the General Assembly did not want to retain the minimum fee requirement, it could have deleted it entirely. If the General Assembly's intent was to increase the minimum fee to \$100, all it had to do was strike twenty-five dollars and insert one hundred dollars. Moreover, if the General Assembly did not intend the minimum fee to be charged and collected prior to the execution of the bond, it would have only used the word "charged" and not have included the words "*and collected*" or the phrase "*prior to the execution of the bond*" in this provision.

Moreover, a canon of statutory construction called *noscitur a sociis*¹⁴ means that a word is known by the company it keeps. The terms *minimum fee* and *minimum downpayment* are distinct and separate terms used in separate and distinct provisions of the statute. *Minimum fee* is used in the first paragraph that addresses the minimum fee that must be charged and collected by the bondsman prior to execution of the bond. In the second paragraph, the General Assembly used the term *minimum down payment*. The term *down payment* referenced in the first paragraph was not intended to be synonymous with the *minimum fee* referenced in the first. Under South Carolina law, there is a *minimum fee* for all bail bonds; however, not all bail bonds will require a payment agreement. Under the Bond Reform Act, the first paragraph of § 38-53-170(e) functions to set the minimum premium amount that must be collected, and the second paragraph permits the bondsman to establish a payment schedule for all outstanding balances.

By harmonizing the statutory terms and construing the language of the statute as a whole, it is clear the language in the second paragraph is not an alternative or exception to the first paragraph.¹⁵ Instead it 1) allows the bondsman to enter into a payment agreement for amounts that exceed the minimum fee that must be collected by attaching a statement of bondsman to the bond proceeding form; 2) provides the agreement shall require the principal on the bail bond or any indemnitor to make a *minimum down payment* of one hundred dollars to finance the amount in excess of the minimum fee; and 3) provides the payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed.

Bondsmen must collect a minimum fee of \$100 or 10% of the bond, *whichever is greater*, prior to the execution of the bond. For example, on a bond with a face amount of \$10,000, the bondsman must collect a minimum fee of \$1,000 but may charge a premium of up to \$1500¹⁶ for a bail bond. For a bond of \$1,000 or less, the bondsman must collect a minimum fee of \$100. The minimum fee must be collected *before* the bond is executed per the language of the statute. An installment or payment agreement may be used for premiums in excess of the 10% statutory minimum fee.

¹⁴ "[W]ords in a statute must be construed in context," and "the meaning of particular terms in a statute may be ascertained by reference to words associated with them in the statute." *S. Mut. Church Ins. Co. v. S.C. Windstorm & Hail Underwriting Ass'n*, 306 S.C. 339, 342, 412 S.E.2d 377, 379 (1991). "The language must also be read in a sense which harmonizes with its subject matter and accords with its general purpose." *Hitachi Data Sys. Corp. v. Leatherman*, 309 S.C. 174, 178, 420 S.E.2d 843, 846 (1992).

¹⁵ *Jones v. State Farm Mut. Auto. Ins. Co.*, 364 S.C. 222, 232, 612 S.E.2d 719, 724 (Ct. App. 2005) citing *Municipal Assn of South Carolina v. AT & T Communications of S. States, Inc.*, 361 S.C. 576, 606 S.E.2d 468 (2004) (observing that the language of a statute must be read in a sense which harmonizes with its subject matter and accords with its general purpose).

¹⁶ S.C. Code Ann. § 38-53-170(e) allows the bondsman to charge a premium of up to 15% of the face amount of the bond.

Other fees paid in excess of the premium as a cost of satisfying the condition of the bond (such as electronic monitoring fees) are not considered a part of the premium¹⁷ and must be handled in accordance with applicable law. The table below further illustrates this point.

Bond Face Amount	Minimum Fee (Premium) that Must be Collected Prior to Bond Execution	Maximum Permitted Premium
\$250	\$100	\$100
\$500	\$100	\$100
\$1000	\$100	\$150
\$10,000	\$1,000	\$1,500
\$50,000	\$5,000	\$7,500
\$100,000	\$10,000	\$15,000
\$250,000	\$25,000	\$37,500
\$500,000	\$50,000	\$75,000
\$750,000	\$75,000	\$112,500

II. PAYMENT AGREEMENTS

A. Installment Payment Agreements must comply with the requirements of § 38-53-170(e).

Payment agreements may be used for bond amounts in excess of the minimum fee. Bond premium payments in excess of the minimum fee amount may be made in installments. Section 38-53-170(e) authorizes a bondsman to enter into payment agreements. Payment agreements must be attached to the bond proceeding form.¹⁸ Once a payment agreement is made it cannot be altered. Moreover, the terms of the payment agreement cannot exceed 18 months from the date the bond was executed.

If the payment has not been made for 60 days, the bondsman must send a certified notice to the last known address of the principal and indemnitor demanding payment be made within ten days to bring the agreement current. If no payment is received by the end of the ten-day notice period, the bondsman must surrender the principal to the proper detention facility for holding and file a motion to be relieved as provided in S.C. Code Ann. § 38-53-50(A) or (B). When this occurs, the installment payment agreement must be accelerated, and the balance paid in full, before or at the motion hearing for the principal to be rereleased on bond.

Insurers may use their own payment agreements. Surety bondsmen must use the payment agreements authorized by the insurer. Installment payment agreements must be: 1) in writing; 2) signed by the bondsman; 3) signed by the defendant or indemnitor; 4) set forth the amount of bail in the case and the premium charged; and 5) describe the amount and type of collateral held by the

¹⁷ Effective January 1, 2024, only persons certified or grandfathered in by SLED may collect electronic monitoring fees.

¹⁸ S.C. Code Ann. § 38-53-170(e).

bondsman and the conditions under which the collateral may be returned or converted if collateral is required.

Neither insurers nor bondsmen may charge interest on the remaining balance. For each payment received, the bondsman must provide a prenumbered receipt to the person tendering the payment. The signed receipt must contain the following information: the date, the defendant's name, a description of the payment type and the amount of money received, the purpose for which the money was received, the sum of the bond, the name of the person tendering the payment, and the balance owed, if any.

1. Detailed receipts must be provided for collateral accepted.

The Bond Reform Act permits the acceptance of collateral as security for the payment of the bond premium. It provides "the bondsman may accept collateral security or other indemnity from the principal which must be returned within ten days after final termination of liability on the bond unless a bench warrant has been issued." See S.C. Code Ann. § 38-53-170(e). If the bondsman accepts collateral as additional security for the payment of the bond premium, a detailed receipt must be provided to the depositor. S.C. Code Ann. § 38-53-180. For purposes of this order, a detailed receipt must be: 1) dated; 2) in writing; 3) signed by the bondsman; 4) signed by the defendant or indemnitor; 5) be prenumbered; 6) contain a full description and photograph of the collateral including the condition of the collateral at the time it was taken into custody; and 7) set forth the amount of the bail in the case, the name of the defendant released on bond, the docket number for the case, the court granting the bond, the premium charged, and the amount and type of collateral held by the bondsman and the conditions under which the collateral is returned or converted.

On the collateral receipt, the bondsman shall identify who is paying the premium and shall warrant that the collateral security or other indemnity has not been obtained from any person who has a greater interest in the principal's disappearance than appearance for trial. The collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond. This means that the value of the collateral pledged must be close in value to the amount of the bond. For example, it would be unreasonable for a bondsman to accept as collateral a person's home or other real property as security for a \$5,000 or \$10,000 bond unless the market value of the property is equal or close to the amount of the bond.

2. Bondsmen must provide the following disclosure on all bonds secured by property.

Disclosure of Lien Against Property

Do not sign this document until you read and understand it. This bail bond will be secured by real or personal property you own or in which you have an interest. Failure to pay the bail bond premiums when due or the defendant's failure to comply with the conditions of bail could result in the loss of your property.

If a bond is secured by property, the bondsman shall provide the property owner with written notice that conforms to the preceding example, printed in a 14-point bold faced font either: 1) on a separate sheet of paper signed by the defendant or depositor of collateral; or 2) in a clear conspicuous statement on the face of the application for the bond. The application must also be signed by the defendant and the bondsman. The surety insurer or bondsman must provide a copy of this disclosure to the depositor or indemnitor prior to pledging or accepting collateral.

4. Collateral cannot be converted unless the bond is forfeited.

Collateral cannot be converted *unless* the bond is forfeited. There must be an order from the court indicating the defendant has forfeited the bond. Once that order is entered, the bondsman must not convert property received as security to cash *unless and until* he has provided 10 days' notice of the conversion to the depositor at the depositor's last known address. The notice must be sent by certified mail.

After the conversion of property, the bondsman must disclose any reasonable expenses incurred. Reasonable expenses may include certain apprehension costs¹⁹ and legal costs²⁰ incurred as a result of the violation of the bond. Copies of the bill of sale, invoice, or other receipts must be attached to the form. Any funds received in excess of the bond less reasonable expenses must be returned to the depositor within three calendar days after settlement.

5. Licensees must keep accurate records for a minimum of five years.

Surety insurers and bondsmen must keep an accurate record of the business transacted by them in accordance with South Carolina law. See S.C. Code Ann. §§ 38-13-120, 38-43-250, and 38-53-310. Bondsmen must maintain copies of each receipt, application, indemnity agreement, bond, disclosure statement, payment plan and agreement, affidavit surrendering the defendant, bond revocation request, and any other document or information related to the bond transaction. As required by South Carolina law, these documents must be made available for inspection by the director or his designee upon request. Failure to do so constitutes a violation of South Carolina law and shall constitute grounds for administrative disciplinary action against the bondsman and the appointing insurer. The South Carolina insurance laws give the Department the authority to inspect the records of its licensees upon demand to verify compliance with the requirements of the law.

C. FAILURE TO COMPLY WITH APPLICABLE LAW AND STANDARDS

S.C. Code Ann. §§ 38-5-120 and 38-53-150 authorize the Director to initiate administrative disciplinary proceedings against licensees for violating the law or refusing to comply with an order of the Director. Please note that upon a determination by this Department that a licensee has violated the provisions of this order or applicable South Carolina law, the licensee will be subject to the penalties set forth in Title 38 of the South Carolina Code of Laws, including S.C. Code Ann.

¹⁹ Apprehension costs include reasonable costs incurred in the person's apprehension, such as costs for food, lodging, and transportation (*i.e.*, gas mileage) from the current location of the person to the detention facility which has jurisdiction.

²⁰ Legal costs include legal filing fees and attorneys' fees incurred by the bondsman or insurer related to the criminal defendant's apprehension and surrender and motions to be relieved on bond.

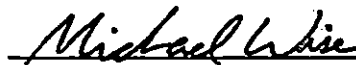
§§ 38-2-10, 38-5-120, 38-5-130, and 38-53-150, such as administrative fines of up to \$5,000 for individual licensees and up to \$30,000 for insurers, as well as license suspension or revocation, or a combination of the aforementioned penalties, for each violation.

ORDER

IT IS THEREFORE ORDERED that surety insurers, bondsmen, and runners comply with the minimum fee and installment payment requirements of the Bond Reform Act, the guidance and standards set forth in this order, and applicable provisions of South Carolina law regarding bail, including other applicable provisions of *The Insurance Law*, S.C. Code Ann. §§ 38-1-10 *et seq.*

This Order sets forth the requirements of existing South Carolina law and shall take effect immediately.

Dated this 11th day of December 2024.



Michael Wise
Director

EXHIBIT 7



South Carolina Department of Insurance

Capitol Center
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Columbia, South Carolina 29201

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Governor
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**TRANSMITTED BY CERTIFIED MAIL AND ELECTRONIC MAIL TO THE ADDRESS ON
RECORD FOR THE LICENSEE**

JOYCE FREEMAN
1106 KITTY HAWK DR.
WEST COLUMBIA SC 29170

MEMORANDUM

FROM: Michael Wise
Director

RE: Notice of SCDOI Order No. 2024-07:
Regulatory Requirements for the Minimum Fee and Payment Agreement
Requirements for Surety Insurers, Professional Bondsmen and Runners and Other
Sureties Authorized to Transact Bonding Business in the State of South Carolina

DATE: December 11, 2024

Enclosed is Order No. 2024-07 which addresses reports that licensees are not complying with the minimum fee requirements set forth in S.C. Code Ann. § 38-53-170(e). The attached order summarizes South Carolina law and the requirements for compliance with the requirements of S.C. Code Ann. § 38-53-170(e). It was distributed to licensees of this Department via electronic and certified mail. Licensees not in compliance with the requirements of the law as set forth in this order must come into compliance immediately. Licensees who ignore or disregard the minimum fee requirements of the law are subject to investigation and administrative disciplinary action if the allegations are substantiated.

Section 38-53-150 provides that the director or his designee may impose an administrative penalty, suspend or revoke the license of any bondsman or runner who: 1) violates any laws of this state relating to bail in the course of dealings under the license issued by this Department to a bondsman or runner; 2) engages in fraudulent or dishonest practices while conducting business as a licensee; 3) fails to comply with or violates a provision of this chapter or of any order of the director or his designee or regulation of the department; or 4) is no longer in good faith carrying on the bail bond business. S.C. Code Ann. § 38-53-150 (2015).

Please do not hesitate to contact this Department at (803) 737-6200 if you have any questions about the content of this memorandum or the enclosed order.

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LICENSEE AND POSTED TO THE SCDOI WEBSITE AT <https://doi.sc.gov/105/Bulletins-Orders>.**

RoA_0108

SCDOI Order No. 2024-07

From Holly Smith <hsmith@doi.sc.gov>

Date Wed 12/11/2024 5:37 PM

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2 attachments (6 MB)

Order No. 2024-07 Promulgation of Guidance, Standards, and Other Requirements for compliance with the Premium, Minimum Fee, and Payment Agreement Requirements of Act No. 83 of 2023.pdf; Memorandum for SCDO Order No. 2024-07.pdf;

Dear Licensee,

RoA_0119

Enclosed is Order No. 2024-07 which addresses reports that licensees are not complying with the minimum fee requirements set forth in S.C. Code Ann. § 38-53-170(e). The attached order summarizes South Carolina law and the requirements for compliance with the requirements of S.C. Code Ann. § 38-53-170(e). It was distributed to licensees of this Department via electronic and certified mail. Licensees not in compliance with the requirements of the law as set forth in this order must come into compliance immediately. Licensees who ignore or disregard the minimum fee requirements of the law are subject to investigation and administrative disciplinary action if the allegations are substantiated.

Sincerely,
Holly Smith

SCDOI Order No. 2024-07

From Holly Smith <hsmith@doi.sc.gov>

Date Wed 12/11/2024 5:39 PM

Bcc cabondsman@gmail.com <cabondsman@gmail.com>; adamsbailbonds@msn.com <adamsbailbonds@msn.com>; marsellus11@gmail.com <marsellus11@gmail.com>; adamsbailbonds@msn.com <adamsbailbonds@msn.com>; adamsenterprise1958@yahoo.com <adamsenterprise1958@yahoo.com>; donnaaga@yahoo.com <donnaaga@yahoo.com>; wainsworth87@gmail.com <wainsworth87@gmail.com>; andersonbailbonding@yahoo.com <andersonbailbonding@yahoo.com>; icu@comporium.net <icu@comporium.net>; ggbailbondingllc@gmail.com <ggbailbondingllc@gmail.com>; gmallen1960.1@yahoo.com <gmallen1960.1@yahoo.com>; Paristhebondsman@gmail.com <Paristhebondsman@gmail.com>; homequickbail@hotmail.com <homequickbail@hotmail.com>; joe_alverson@yahoo.com <joe_alverson@yahoo.com>; raccoonrehabber@charter.net <raccoonrehabber@charter.net>; Clarenceanderson1944@gmail.com <Clarenceanderson1944@gmail.com>; andersonbailbonding@yahoo.com <andersonbailbonding@yahoo.com>; paul.ramona68@gmail.com <paul.ramona68@gmail.com>; andrewsbailbonds@yahoo.com <andrewsbailbonds@yahoo.com>; nettiearchie@yahoo.com <nettiearchie@yahoo.com>; iarchield@ymail.com <iarchield@ymail.com>; ablebailbondsc@gmail.com <ablebailbondsc@gmail.com>; atchiso1@bellsouth.net <atchiso1@bellsouth.net>; georgebake843@gmail.com <georgebake843@gmail.com>; Giggiesbonding@gmail.com <Giggiesbonding@gmail.com>; Priceyppearl@gmail.com <Priceyppearl@gmail.com>; Acquanda28@gmail.com <Acquanda28@gmail.com>; powerhousemeetings@yahoo.com <powerhousemeetings@yahoo.com>; ryans309bonding@gmail.com <ryans309bonding@gmail.com>; ericgbass@gmail.com <ericgbass@gmail.com>; atchiso1@bellsouth.net <atchiso1@bellsouth.net>; beacher843@gmail.com <beacher843@gmail.com>; allcountybail@gmail.com <allcountybail@gmail.com>; cherokeebonding@yahoo.com <cherokeebonding@yahoo.com>; jessicab.badboyz@gmail.com <jessicab.badboyz@gmail.com>; Bellamyg98@aol.com <Bellamyg98@aol.com>; James.s.Bethea100@gmail.com <James.s.Bethea100@gmail.com>; shawnbth@yahoo.com <shawnbth@yahoo.com>; tbishop@sinklerbonding.com <tbishop@sinklerbonding.com>; blackmonbrace@yahoo.com <blackmonbrace@yahoo.com>; dannie.blair@gmail.com <dannie.blair@gmail.com>; woodrow.blair@gmail.com <woodrow.blair@gmail.com>; ? Michael@boatwrightsconstruction.com <?Michael@boatwrightsconstruction.com>; Larrybail1998@yahoo.com <Larrybail1998@yahoo.com>; evelynbouknight@gmail.com <evelynbouknight@gmail.com>; adrian.bradley2570@gmail.com <adrian.bradley2570@gmail.com>; tbsbailbonding@gmail.com <tbsbailbonding@gmail.com>; cynthia_bridger@aladdinbailsc.com <cynthia_bridger@aladdinbailsc.com>; hbriggs29148@yahoo.com <hbriggs29148@yahoo.com>; novice.sampson@yahoo.com <novice.sampson@yahoo.com>; lesaphipps803@gmail.com <lesaphipps803@gmail.com>; AshleyBLeader@gmail.com <AshleyBLeader@gmail.com>; browderbailbonds@gmail.com <browderbailbonds@gmail.com>; browderbailbonds@gmail.com <browderbailbonds@gmail.com>; Clendeninbailbonds@gmail.com <Clendeninbailbonds@gmail.com>; Clendeninbailbonds@gmail.com <Clendeninbailbonds@gmail.com>; jbrown@atomssystems.org <jbrown@atomssystems.org>; keisha06.brown@gmail.com <keisha06.brown@gmail.com>; jean@c22bonds.com <jean@c22bonds.com>; VIOLAYBROWN@GMAIL.COM <VIOLAYBROWN@GMAIL.COM>; billbrucker70@gmail.com <billbrucker70@gmail.com>; kirk52497@aol.com <kirk52497@aol.com>; bradbryan16@gmail.com <bradbryan16@gmail.com>; 123freebailbonds@gmail.com <123freebailbonds@gmail.com>; nevergiveupfam@yahoo.com <nevergiveupfam@yahoo.com>; nevergiveupfam@yahoo.com <nevergiveupfam@yahoo.com>; rekaburris@yahoo.com <rekaburris@yahoo.com>; presandbev@aol.com <presandbev@aol.com>; BondWithMimi@gmail.com <BondWithMimi@gmail.com>; CALDWELLINSURANCE162@GMAIL.COM <CALDWELLINSURANCE162@GMAIL.COM>; baillicense@twojinn.com <baillicense@twojinn.com>; alloutbailbondingmike@yahoo.com <alloutbailbondingmike@yahoo.com>; downsouthqueendivas@gmail.com <downsouthqueendivas@gmail.com>; adm.SalamanderWealthGroup@gmail.com

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 <exquisitebailbonds@yahoo.com>; anna@abcbondingco.com <anna@abcbondingco.com>;
 ABCBONDCOMPANY@AOL.COM <ABCBONDCOMPANY@AOL.COM>; Bail.boss12@icloud.com
 <Bail.boss12@icloud.com>; tawannamwhite@gmail.com <tawannamwhite@gmail.com>;
 praying4all@gmail.com <praying4all@gmail.com>; Genesisinsuranceservices@yahoo.com
 <Genesisinsuranceservices@yahoo.com>; blw@sinklerbonding.com <blw@sinklerbonding.com>;
 Helpyourselfbailbond@gmail.com <Helpyourselfbailbond@gmail.com>; allcitybailsc@aol.com
 <allcitybailsc@aol.com>; avi2@bellsouth.net <avi2@bellsouth.net>; freewayi2077@gmail.com
 <freewayi2077@gmail.com>; dwilllife2014@yahoo.com <dwilllife2014@yahoo.com>; gennifer01@live.com
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 services@bmbtruckingllc.com <services@bmbtruckingllc.com>; l3d_2000@yahoo.com
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 axebailbonds843@gmail.com <axebailbonds843@gmail.com>; willcorpservices@yahoo.com
 <willcorpservices@yahoo.com>; jumpoutboybailbonding@gmail.com <jumpoutboybailbonding@gmail.com>;
 benji@scbailpro.com <benji@scbailpro.com>; proudmommy803@gmail.com
 <proudmommy803@gmail.com>; chinky843@outlook.com <chinky843@outlook.com>;
 bailenforcer@bellsouth.net <bailenforcer@bellsouth.net>; abcbonding.fw@gmail.com
 <abcbonding.fw@gmail.com>; bhunted@bellsouth.net <bhunted@bellsouth.net>; Bigred55@comporium.net
 <Bigred55@comporium.net>; cherokeebonding@yahoo.com <cherokeebonding@yahoo.com>;
 msrapidrelease@gmail.com <msrapidrelease@gmail.com>; amack511@gmail.com <amack511@gmail.com>;
 woodsailbonds1@att.net <woodsailbonds1@att.net>; woodsjessica196@gmail.com
 <woodsjessica196@gmail.com>; raccoonrehabber@charter.net <raccoonrehabber@charter.net>;
 wolfbonding@post.com <wolfbonding@post.com>; bailmezellers@gmail.com <bailmezellers@gmail.com>;
 eunetra_zimmerman@yahoo.com <eunetra_zimmerman@yahoo.com>

 2 attachments (6 MB)

Order No. 2024-07 Promulgation of Guidance, Standards, and Other Requirements for compliance with the Premium, Minimum Fee, and Payment Agreement Requirements of Act No. 83 of 2023.pdf; Memorandum for SCDOI Order No. 2024-07.pdf;

Dear Licensee,

Enclosed is Order No. 2024-07 which addresses reports that licensees are not complying with the minimum fee requirements set forth in S.C. Code Ann. § 38-53-170(e). The attached order summarizes South Carolina law and the requirements for compliance with the requirements of S.C. Code Ann. §38-53-170(e). It was distributed to licensees of this Department via electronic and certified mail. Licensees not in compliance with the requirements of the law as set forth in this order must come into compliance immediately. Licensees who ignore or disregard the minimum fee requirements of the law are subject to investigation and administrative disciplinary action if the allegations are substantiated.

Sincerely,
 Holly Smith

RoA_0126

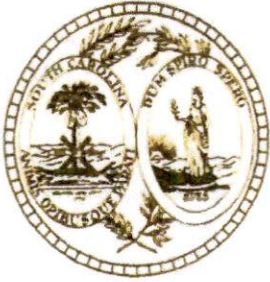


Holly Smith, MPA
Paralegal, Enforcement & Investigations
Legal Division
South Carolina Department of Insurance
1201 Main Street, Suite 1000
Columbia, SC 29201
o: (803) 737-6200

f in X

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RoA_0127



South Carolina Department of Insurance

Capitol Center
1201 Main Street, Suite 1000
Columbia, South Carolina 29201

HENRY McMASTER
Governor

MICHAEL WISE
Acting Director

Mailing Address:

P.O. Box 100105, Columbia, S.C. 29202-3105

**TRANSMITTED BY CERTIFIED MAIL AND ELECTRONIC MAIL TO THE ADDRESS ON
RECORD FOR THE LICENSEE**

MEMORANDUM

JOYCE FREEMAN

1106 KITTY HAWK DR.

TO: WEST COLUMBIA, South Carolina
29170

FROM: Michael Wise
Acting Director

RE: **Notice of SCDOI Order No. 2022-04:** Regulatory Requirements for Surety Insurers,
Professional Bondsmen and Runners and Other Sureties Authorized to Transact Bonding
Business in the State of South Carolina

DATE: October 20, 2022

Attached is Order No. 2022-04 which addresses reports from solicitors that surety and professional bondsmen are ignoring reports of defendants' failure to comply with the conditions of the bail bond or pre-trial release without taking the action required by law. Specifically, it has been alleged that criminal defendants are not fully complying with house arrest or electronic monitoring terms and conditions of the pre-trial release orders or bonds, and bondsmen are ignoring reports from solicitors and noncompliance reports from electronic monitoring companies and other persons that a criminal defendant is not complying with terms and conditions of the bail order. Failing to take the action necessary to surrender a defendant who is in violation of the terms and conditions of the bail order and bond violates South Carolina law.

The attached order summarizes South Carolina law on the options bondsmen have when they are notified that a criminal defendant is violating the terms and conditions of the bond or pretrial release order. Bondsmen are expected to act accordingly. Bondsmen who ignore or disregard reports that criminal defendants are violating the terms and conditions of the bail bond and who fail to act as outlined in S.C. Code Ann. § 38-53-50 and in accordance with the release order not only risk having their bonds estreated by the court, but they also risk the imposition of administrative disciplinary action by this Department.

Section 38-53-150 provides that the director or his designee may impose an administrative penalty, suspend or revoke the license of any bondsman or runner who: 1) violates any laws of this state relating to bail in the course of dealings under the license issued by this Department to a bondsman or runner; 2) engages in fraudulent or dishonest practices while conducting business as a licensee; 3) fails to comply with or violates a provision of this chapter or of any order of the director or his designee or regulation of the department; or 4) is no longer in good faith carrying on the bail bond business. S.C. Code Ann. § 38-53-150 (2015). Questions about the order should be emailed to the Office of Specialty Licensing, bondsmanlicensing@doi.sc.gov, at the South Carolina Department of Insurance.

7022 2410 0001 2970 6096

RoA_0128

Holly Smith

To: free.manbailbonds1@gmail.com
Subject: SCDOI Order No. 2022-04

From: Holly Smith <hsmith@doj.sc.gov>
Sent: Friday, October 21, 2022 2:23 PM
To: free.manbailbonds1@GMAIL.COM
Subject: SCDOI Order No. 2022-04

To JOYCE.FREEMAN:

Embedded in this email are links to SCDOI Order No. 2022-04, [Order-Number-2022-04-Handling-Reports-of-Noncompliance-with-Bail-Conditions-Including-Electronic-Monitoring \(sc.gov\)](#).

Today's order addresses reports from solicitors that surety and professional bondsmen are ignoring reports of defendants' failure to comply with the conditions of the bail bond or pre-trial release without taking the action required by law. Specifically, it has been alleged that criminal defendants are not fully complying with house arrest or electronic monitoring terms and conditions of the pre-trial release orders or bonds, and bondsmen are ignoring reports from solicitors and noncompliance reports from electronic monitoring companies and other persons that a criminal defendant is not complying with terms and conditions of the bail order. Failing to take the action necessary to surrender a defendant who is in violation of the terms and conditions of the bail order and bond violates South Carolina law.

Order 2022-04 summarizes South Carolina law on the options bondsmen have when they are notified that a criminal defendant is violating the terms and conditions of the bond or pretrial release order. Bondsmen are expected to act accordingly. Bondsmen who ignore or disregard reports that criminal defendants are violating the terms and conditions of the bail bond and who fail to act as outlined in S.C. Code Ann. § 38-53-50 and in accordance with the release order not only risk having their bonds estreated by the court, but they also risk the imposition of administrative disciplinary action by this Department.

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RoA_0130

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

JOYCE FARMER ---
1106 KITTY HAWK DR.
WEST COLUMBIA
SC 29170



9590 9402 9153 4225 6274 26

2. Art

9589 0710 5270 0068 6138 29

Restricted Delivery

COMPLETE THIS SECTION ON DELIVERY

A. Signature

Joyce Farmer

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☐ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

☐ Signature Confirmation Restricted Delivery

USPS Tracking®

[FAQs >](#)

Tracking Number:

[Remove X](#)**9589071052700068613829**[Copy](#)[Add to Informed Delivery \(https://informedelivery.usps.com/\)](https://informedelivery.usps.com/)

Latest Update

Your item has been delivered and is available at a PO Box at 9:18 am on December 19, 2024 in WEST COLUMBIA, SC 29169.

Get More Out of USPS Tracking:

USPS Tracking Plus®

Delivered

Delivered, PO Box

WEST COLUMBIA, SC 29169

December 19, 2024, 9:18 am

Notice Left (No Authorized Recipient Available)

WEST COLUMBIA, SC 29170

December 18, 2024, 12:56 pm

[Hide Tracking History](#)

Feedback

[What Do USPS Tracking Statuses Mean? \(https://faq.usps.com/s/article/Where-Is-my-package\)](https://faq.usps.com/s/article/Where-Is-my-package)[Text & Email Updates](#)[USPS Tracking Plus®](#)[Product Information](#)

See Less ^

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

FAQs

EXHIBIT 8

The Law Office of Tracey R. Perlman
P.O. Box 25292
Columbia, SC 29223
tracey@tperlmanlaw.com
(803) 622-1800

June 6, 2025

SENT VIA EMAIL AND CERTIFIED MAIL

Mr. Michael Beauford
Temporary Investigator
South Carolina Department of Insurance
1201 Main Street
Suite 1000
Columbia, SC 29201

Re: Joyce Freeman/Freeman Bail Bonding
DOI File No. 2025-7722

Dear Mr. Beauford,

I am writing in response to your letter of June 5, 2025, which was sent to Joyce Freeman of Freeman Bail Bonding alleging that the acceptance of payment less than 10% of a posted bond was improper and in violation of S.C. Code Ann. § 38-53-170 (e). That allegation is false, and neither Ms. Freeman nor Freeman Bail Bonding has acted improperly or violated any statute.

Your letter states that pursuant to S.C. Code Ann. § 38-53-170 (e) that a bail bondsman must charge a minimum of 10% of the bond amount at the time the bond is written. Please find the Attorney General's Opinion dated June 17, 2024, attached hereto as Exhibit One. This opinion contradicts your interpretation of the statute. The interpretation set forth in your correspondence completely ignores a part of the statutory language of S.C. Code Ann. § 38-53-170 (E). While part of the statute does set forth that a bail bondsman obtain a fee of one

hundred dollars or ten percent of the bond that is only a partial reading of the statute. The second paragraph of the statute allows bondsman to accept a minimum payment of one hundred dollars, as long as the bondsman attaches a payment agreement, not to exceed 18 months, to the bond proceeding form. The language of the statute I am referring to is highlighted below:

(e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond. Conditions of the bond which expressly or implicitly require payment of monies in excess of the premium, as a cost of satisfying the condition of the bond, shall not be considered part of the bondsman's premium, and are not affected by this code provision. The bondsman may collect these fees from the defendant and is not limited by any language requirements of this code provision.

However, the bondsman is permitted to enter into a payment agreement by attaching a statement of bondsman to the bond proceeding form and this agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars.

This payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed. If the payment has not been made for two consecutive months, the bondsman must send a certified notice to the last known address of the principal and indemnitor demanding payment be made within ten days to bring the agreement current. If no payment is received by the end of the notice period, the

bondsman must surrender the principal to the proper detention facility for holding and file a motion to be relieved as provided in Section 38 53 50(A) or (B), at which time the agreement must be accelerated, and the balance paid in full, before or at the motion hearing for the principal to be rereleased on bond. The bondsman may accept collateral security or other indemnity from the principal which must be returned within ten days after final termination of liability on the bond unless a bench warrant has been issued. The bondsman shall identify who is paying the premium and shall represent that the collateral security or other indemnity has not been obtained from any person who has a greater interest in the principal's disappearance than appearance for trial. The collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond. If the bond is forfeited, a bondsman may not convert collateral described in the collateral receipt to cash until he has provided a ten day notice of this pending conversion to the depositor. This notice must be sent by certified mail to the last known address of the depositor. After the conversion, the bondsman must disclose the actual amount received to the depositor and must return any amount received that exceeds the final judgement or consent amount, less any reasonable expenses. These reasonable expenses include apprehension and legal costs incurred as a result of the violation of the bond. The bondsman must provide the depositor copies of all receipts and, if applicable, the overage money within three days after settlement;

S. C. Code Ann 53-38-170 (e) (as amended by 2023 Act. No 16) (emphasis added).

While your letter cites the correct code section, it ignores the language emphasized above. In ascertaining the meaning of a statute an individual must look at the statute in total, and not merely as a part of the statute. The cardinal rule of statutory interpretation is to ascertain and effectuate the intention of the legislature. Sloan v. Hardee, 371 S.C. 495, 640 S.E.2d 457, 459 (2007) *reh'g denied*, February 7, 2007. Where the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning. Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). When a statute's terms are clear and unambiguous on their face, there is no room for statutory construction and a court must apply the statute according to its literal meaning. Carolina Power & Light Co. v. City of Bennettsville, 314 S.C. 137, 139, 442 S.E.2d 177, 179 (1994). Words must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. Bryant v. City of Charleston, 295 S.C. 408, 368 S.E.2d 899 (1988); State v. Blackmon, 304 S.C. 270, 273, 403 S.E.2d 660, 662 (1991).

The language of S. C. Code Ann 53-38-170 (e) clearly provides a bondsman the ability to collect less than ten percent of the bond as long as the payment arrangement is memorialized and attached to the bond proceeding form. The South Carolina Department of Insurance does not have authority to change the statute and therefore, the statute must be given its plain and ordinary meaning. Not only does S.C. Code Ann. § 53-38-170 (e) provide clear guidance on this issue, but the societal impact of increasing bond fees is well documented. See, Nicole Zaya Manzano, The High Price of Cash Bail, American Bar Association, April 12, 2023. An across the board bond fee increase to 10% is not the desired outcome based on the statutory language. It is also highly unlikely that the legislature would intentionally limit the ability of citizens to obtain a bond, thus limiting their due process under the law, by enacting a law that forces an across the board 10%

fee on all bonds.

For the reasons set forth above, I respectfully request that this matter be closed without any further action.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Tracey R. Perlman', with a stylized flourish at the end.

The Law Office of Tracey R. Perlman
Tracey R. Perlman, Esquire
(S.C. Bar 79717)
1940 Cheltenham Lane
Columbia, SC 29223
P.O. Box 25292
Columbia, SC 29224
(803) 622-1800
www.tperlmanlaw.com

Enc.

cc: Joyce Freeman (via email only)

whichever is greater, the

EXHIBIT ONE



ALAN WILSON
ATTORNEY GENERAL

June 17, 2024

The Honorable B. Lee Miller
Municipal Judge
City of Greenwood
Post Office Box 40
Greenwood, South Carolina 29648-0040

Dear Judge Miller:

We received your request for an opinion from this Office concerning the recently adopted bond reform legislation. You state the Greenwood Clerk of Court sent out information to all the judges concerning bonding procedures under this new legislation. Specifically, the Clerk of Court stated, "the new bond law requires the defendant to post the entire ten percent (10%) with the bond company and then may make a payment plan for anything over ten percent, up until the maximum amount is reached which is fifteen (15%) percent." You informed us that you were under the impression that

the defendant had to pay \$100.00, then a payment plan could be implemented for the remainder of the balance. The balance must be paid off within eighteen months of the signing of the original bond contract. If the balance is not paid in full then other measures would be triggered concerning the bond.

Thus, you ask us to resolve the conflict between these interpretations.

Law/Analysis

As you mentioned in your letter, in 2023 the Legislature enacted bond reform legislation that included changes to section 38-53-170(e) pertaining to payments to bondsmen. 2023 S.C. Acts 83. Section 38-53-170(e) prohibits bondsmen from accepting anything of value except the premium. Prior to the 2023 legislation, section 38-53-170(e) mandated that the premium "may not exceed fifteen percent of the face amount of the bond, with a minimum fee of twenty-five dollars." S.C. Code Ann. § 38-53-170(e) (2015). Thus, this provision gave bondsmen a lot of flexibility as to the premium charged and how it was collected, only requiring a minimum fee of twenty-five dollars and a maximum fee of fifteen percent of the bond.

Act 83 amended section 38-53-170(e), which now provides for "a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond." S.C. Code Ann. § 38-53-170(e) (Supp. 2023). But the revisions to subsection 38-53-170(e) also include the following language:

However, the bondsman is permitted to enter into a payment agreement by attaching a statement of bondsman to the bond proceeding form and this agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars. This payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed. If the payment has not been made for two consecutive months, the bondsman must send a certified notice to the last known address of the principal and indemnitor demanding payment be made within ten days to bring the agreement current. If no payment is received by the end of the notice period, the bondsman must surrender the principal to the proper detention facility for holding and file a motion to be relieved as provided in Section 38-53-50(A) or (B), at which time the agreement must be accelerated, and the balance paid in full, before or at the motion hearing for the principal to be rereleased on bond. The bondsman may accept collateral security or other indemnity from the principal which must be returned within ten days after final termination of liability on the bond unless a bench warrant has been issued. The bondsman shall identify who is paying the premium and shall represent that the collateral security or other indemnity has not been obtained from any person who has a greater interest in the principal's disappearance than appearance for trial. The collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond. If the bond is forfeited, a bondsman may not convert collateral described in the collateral receipt to cash until he has provided a ten-day notice of this pending conversion to the depositor. This notice must be sent by certified mail to the last known address of the depositor. After the conversion, the bondsman must disclose the actual amount received to the depositor and must return any amount received that exceeds the final judgement or consent amount, less any reasonable expenses. These reasonable expenses include apprehension and legal costs incurred as a result of the violation of the bond. The bondsman must provide the depositor copies of all receipts and, if applicable, the overage money within three days after settlement

Id. (emphasis added).

When interpreting a statute, as we are asked to do here, we start with the cardinal rule of statutory construction, which is to "to ascertain and effectuate the intent of the legislature." Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). "What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will. Therefore, the courts are bound to give effect to the expressed intent of the legislature." Id. at 85, 533 S.E.2d at 581 (quoting Norman J. Singer, Sutherland Statutory Construction § 46.03 at 94 (5th ed. 1992)). "Further, statutes must be read as a whole and sections which are part of the same general statutory scheme must be construed together and each given effect, if it can be done by any reasonable construction."

The Honorable B. Lee Miller
Page 3
June 17, 2024

Hudson ex rel. Hudson v. Lancaster Convalescent Ctr., 407 S.C. 112, 124-25, 754 S.E.2d 486, 492-93 (2014).

Initially, section 38-53-170(e) requires the charge and collection of ten percent of the bond or at a minimum one hundred dollars. Based on the plain language used in this portion of section 38-53-170(e), we are led to believe the Legislature intended for ten percent of the bond, or at a minimum one hundred dollars, to be collected prior to the execution of the bond. But, the Legislature appears to have modified this requirement by also including the language allowing a bondsman to enter into a payment agreement with the principal starting with the use of the term "However"- a term of contradiction. Thus, while the Legislature clearly intends for bondsmen to charge premiums of a minimum of ten percent of the bond, we are of the opinion that they also intended to give bondsmen the option to accept a minimum payment of one hundred dollars and allow the principal to make payments on the remaining minimum premium as long as the payment agreement is attached to the bond proceeding form and the agreement meets the requirements set forth in section 38-53-170(e).

We understand your clerk of court interprets the language allowing a bondsman to enter into a payment agreement as applying only to the premium charge that exceeds the required ten percent minimum, but reading that statute in this way could lead to an absurd result. In construing statutes courts "will reject an interpretation when such an interpretation leads to an absurd result that could not have been intended by the legislature." Lancaster Cnty. Bar Ass'n v. S.C. Comm'n on Indigent Def., 380 S.C. 219, 222, 670 S.E.2d 371, 373 (2008). First, we are at a loss as to why the Legislature would find it necessary to give permission for a payment agreement for an amount that the bondman is not required to charge in the first place. Second, this reading would require the principal to pay not only the ten percent bond up front, but also an additional one hundred dollars for the opportunity to finance the premium in excess of the ten percent. We do not believe such an interpretation is in line with the intent of the Legislature.

Moreover, the legislative history of the amendments to section 38-53-170(e) supports our interpretation. As our court of appeals explained, "The construing court may additionally look to the legislative history when determining the legislative intent." Ex parte Cannon, 385 S.C. 643, 655, 685 S.E.2d 814, 821 (Ct. App. 2009). In our review of the legislative history, the amendments to section 38-53-170(e) were first proposed to the Senate's version of the act. 2023 Senate Journal April 11, 2023, p. 26. While this version also required the payment and collection of a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, the language allowing for a payment agreement required a down payment of one hundred dollars or five percent of the bond. Id. If the ability to enter into a payment agreement only applies to the premium charged above the ten percent minimum, by requiring an additional five percent of the bond as the minimum down payment would leave nothing left to finance as the maximum premium is fifteen percent. Thus, we believe the legislative history supports our conclusion that the Legislature intended to allow bondsmen to enter into payment agreements for the ten percent minimum premium rather than for the excess premium they are allowed to charge.

The Honorable B. Lee Miller

Page 4

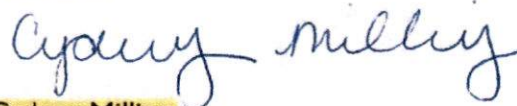
June 17, 2024

Lastly, we must keep in mind that the South Carolina Constitution affords defendants the right to bail. S.C. Const. Art. I § 15 (2009). As our Supreme Court stated, "all statutes are presumed constitutional and, if possible, will be construed to render them valid." State v. Neuman, 384 S.C. 395, 402, 683 S.E.2d 268, 271 (2009) (quoting Curtis v. State, 345 S.C. 557, 569, 549 S.E.2d 591, 597 (2001)). While the revisions to section 38-53-170(e) indicate the intent of the Legislature to increase the premium charged and paid by defendants, we believe by giving defendants the ability to enter into a payment agreement with the bondsman, the Legislature is balancing its desire to increase and standardize premiums with defendants' ability to pay those premiums and ensuring compliance with defendants' constitutional rights. Accordingly, we believe our interpretation of section 38-53-170(e) lends itself to a constitutional reading of the statute.

Conclusion

As you mentioned in your letter, in 2023 the Legislature enacted bond reform legislation including amendments to section 38-53-170, which prohibits certain acts by bondsmen and runners. Specifically, section 38-53-170(e) governs the premiums bondsmen and runners charge. The amendments to this provision now require all bondsmen and runners to charge and collect a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater. This change indicates the Legislature's intent to increase and standardize the premiums charged and collected by bondsmen. Nonetheless, reading section 38-53-170(e) as a whole, we agree with your interpretation that it allows a bondsman to accept a minimum downpayment of one hundred dollars along with a payment agreement for the remaining amount of the minimum premium as long as the bondsman attaches the agreement to the bond processing form and complies with the other requirements for the agreement contained in section 38-53-170(e). We believe this interpretation comports not only with the intent of the Legislature based on the plain language of statute and its legislative history, but also balances the desire of the Legislature to provide more oversight over bond premiums with defendants' constitutional rights to bail.

Sincerely,



Cydney Milling
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General

RoA_0144

EXHIBIT 9



South Carolina Department of Insurance

Capitol Center
1201 Main Street, Suite 1000
Columbia, South Carolina 29201

HENRY McMASTER
Governor

MICHAEL WISE
Director

Mailing Address:
P.O. Box 100105, Columbia, S.C. 29202-3105
August 18, 2025

By Certified Mail /Email tracey@tperلمانlaw.com

Tracey R. Perlman, Esq
P.O. Box 25292
Columbia, SC 29224

**Re: Joyce Freeman
Administrative Order
SCDOI File Number 2025-7722**

Dear Ms. Perlman:

Please find enclosed an administrative order assessing Producer/Surety Bondsman Joyce Freeman a fine of \$25,000 for violations of the South Carolina Insurance laws. Your attention is invited to the enclosed administrative order.

Respondent may forward a check or money order in the amount of \$25,000 payable to the South Carolina Department of Insurance; P.O. Box 100105, Columbia SC 29202, no later than thirty (30) days from the date the order was signed by the Director.

Under S.C. Code Ann. Section 38-43-130, Respondents are entitled to a hearing on this matter. **If you wish to be heard on this matter, you must send your original request directly to the Clerk of the South Carolina Administrative Law Court within thirty (30) days from the date of receipt of this Order along with a \$200 filing fee, payable to South Carolina Administrative Law Court.** If you elect to request a hearing, the original request and filing fee must be sent to the following address:

South Carolina Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

At the same time, you must also mail a copy of your request to the South Carolina Department of Insurance. **Do not send the \$200.00 filing fee to this Department, only a copy of your request.**

If you do not request a hearing within 30 days of receipt of this Order or pay the fine, you will waive your right to be heard on this matter, and the order will be executed.

If you have any questions or need further information, you may contact me at (803) 737-6131.

Respectfully,

A handwritten signature in blue ink, appearing to read "Michael Beauford", is written over the word "Respectfully".

Michael Beauford, Temporary Special Investigator

Enclosure(s): Administrative Order

RoA_0146

**BEFORE THE STATE OF SOUTH CAROLINA
DEPARTMENT OF INSURANCE**

IN THE MATTER OF:

JOYCE W. FREEMAN
4265 Augusta Rd., Ste J
Lexington, SC 29073

Producer/Surety Bondsman
NPN 17352185,

Respondent.

SCDOI File # 2025-7722

**ADMINISTRATIVE ORDER
IMPOSING FINE AND NOTICE OF
OPPORTUNITY FOR HEARING**

Pursuant to the authority granted to the Director of Insurance under the insurance laws of the State of South Carolina, notice is provided that the South Carolina Department of Insurance (hereafter referred to as the "Department") proposes an administrative fine for producer/surety bondsman Joyce W. Freeman, (hereafter referred to as "Respondent") for the violation(s) of law described herein. This Order shall become effective as a final order without further notice, upon expiration of the thirty (30) day period referenced herein if no request for a hearing is made pursuant to S.C. Code Ann. §38-43-130 (2015).

After careful review of the evidence presented, I find as follows:

FINDINGS OF FACT

1. The Department is the regulatory agency charged with the responsibility of implementing and enforcing the insurance laws of the State of South Carolina.
2. Respondent was initially licensed with the Department as a producer on August 21, 2014; she was first licensed as a surety bondsman on August 26, 2014. Respondent is currently licensed as a producer and surety bondsman with NPN 17352185 in South Carolina. South Carolina law requires all surety bondsmen to be licensed as producers. A producer license is a prerequisite for a surety bondsman license.
3. Respondent is appointed as a producer and surety bondsman with Allegheny Casualty Company, Bankers Insurance and Palmetto Surety Corporation.
4. On or about June 2, 2025, the Department received a complaint alleging Respondent charged ten percent for a bail bond for Defendant E.B., but Respondent failed to collect the full ten percent minimum fee required by statute when the bond was posted with the court.

5. A copy of the power of attorney (power) for Defendant E.B. was obtained during the investigation into the allegation. The power, indicating Allegheny Casualty Company as the surety insurer, showed that the bond was executed on June 1, 2025, in Lexington County. The power reflected that Respondent was the surety bondsman that executed the bond. The bond amount was \$35,000. Respondent charged a premium of \$3,500, but Respondent only collected \$500 according to the payment agreement and payment receipts. Respondent allowed the balance of the 10 percent to be paid via a payment agreement.
6. On or about June 5, 2025, a Notice of Investigation letter was sent by certified mail to Respondent's address on file: 4265 Augusta Rd. Ste. J., Lexington, S.C. 29073.
7. On June 6, 2025, Respondent responded to the allegations made against her via her attorney. Respondent does not deny failing to collect the required minimum 10% fee. Respondent contends that she did not act inappropriately by accepting less than ten percent when the bond was posted because the law permits bondsmen to create a payment plan to receive the full ten percent.
8. Respondent provided copies of ten bonds she executed after charging but not collecting the ten percent minimum fee required by the statute before posting the bond. She also provided copies of the payment agreement and receipts, for the following bonds she posted:

Defendants Defendants	Date Posted	Bond Amt	Premium Charged	Premium Collected	Payment Agreement
Defendant Myers	5/29/25	\$25,000	\$2,500	\$480	Yes
Defendant Byrd	5/28/25	\$2,500	\$250	\$150	yes
Defendant Keldsen	5/27/25 5/27/25	\$2,100 \$5,000	\$710	\$200	Yes
Defendant Williams	5/27/25 5/27/25	\$2,840 \$10,000	\$1,280	\$400	Yes
Defendant Womack	5/28/25	\$25,000	\$2,500	\$360	Yes
Defendant Anderson	5/02/25	\$47,000	\$4,700	\$600	Yes
Defendant Turnipseed	5/02/25	\$5,000	\$500	\$200	Yes
Defendant Myers	5/06/25	\$22,500	\$2,250	\$350	Yes
Defendant Johnston	5/06/25	\$15,000	\$1,500	\$300	Yes
Defendant Buff	6/01/25	\$35,000	\$3,500	\$500	Yes

9. Beginning May 2, 2025, through June 1, 2025, Respondent wrote ten (10) bonds for which she charged, but she failed to collect the ten percent minimum fee before posting the bond.
10. The Department issued SCDOI Order No. 2024-07 (Order 2024-07) on December 11, 2024. Order No. 2024-07 was distributed to Respondent and all licensed surety bondsmen, professional bondsmen, and runners authorized to conduct bail bond business in the State of South Carolina. The Order provided guidance for compliance with the bond premium and 10% minimum fee and payment agreement requirements of Act No. 93 of 2023 (i.e., the South Carolina Bond Reform Act) set forth in S.C. Code Ann. §38-53-170(e) as unlawful acts.

11. Additionally, that Order informed licensees that South Carolina law requires \$100 or 10% whichever is greater to be charged and collected prior to execution of the bond as the minimum fee.
12. S.C. Code Ann. § 38-53-95 requires bondsmen to supply the department with a business, email, mailing, and residential street addresses and to notify the department within thirty days of any change in legal name or any of these addresses.
13. A copy of the Order was emailed to Respondent's email address on record on December 11, 2024. Additionally, a hard copy of the Order was sent via certified mail to Respondent's address on record on December 11, 2024. Neither communication was returned to the Department as undeliverable.
14. On August 15, 2025, via her attorney, Respondent was emailed a copy of a letter dated July 31, 2025 from the Office of the State of South Carolina Attorney General that stated it *defers to the interpretation of the Department of Insurance as the agency with regulatory authority and advised any bail bondsmen and runners to follow the department's instructions and orders pending judicial or legislative clarification.*

CONCLUSIONS OF LAW

15. Pursuant to the authority granted to the Director of Insurance by S.C. Code Ann. §§38-1-10 *et seq.*, *The Insurance Law* and §§38-2-10 *et seq.*, the South Carolina Department of Insurance has jurisdiction over Respondent and the subject matter of this order.
16. S.C. Code Section 38-43-130(A)(C) (2) states:

 (A) The director or his designee may place on probation, revoke, or suspend a producer's license after ten days' notice...when it appears that a producer... has violated this title or any regulation promulgated by the department, or has willfully deceived or dealt unjustly with the citizens of this State...(C) The words "deceived or dealt unjustly with the citizens of this State" include, but are not limited to, action or inaction by the producer as follows:

 (2) violating insurance laws, or violating any regulation, subpoena, or order of the director or of another state's director or his designee.
17. S.C. Code Ann. §§ 38-53-150(A)(2) provides, in relevant part:

 (A)The director or his designee may deny, suspend, revoke, or refuse to renew any license issued under this chapter for any of the following causes:

 (2) violation of any laws of this State relating to bail in the course of dealings under the license issued to a bondsman or runner by the director or his designee;
 (7) failure to comply with or violation of the provisions of this chapter or of any order of the director or his designee or regulation of the department;

(B) The director or his designee, in lieu of revoking or suspending a license in accordance with the provisions of this chapter, in any one proceeding, by order, may require the licensee to pay to the director or his designee to be deposited in the general fund of the State a monetary penalty as provided in Section 38-2-10(2) for each offense. Upon failure of the licensee to pay the penalty within twenty days after the mailing of the order, postage prepaid, registered, and addressed to the last known place of business of the licensee, unless the order is stayed by an order of a court of competent jurisdiction, the director or his designee may revoke the license of the licensee or may suspend the license for a period as he determines.

18. S.C. Code Ann. §§ 38-53-170 states that no bondsman or runner may:

(e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond. Conditions of the bond, which expressly or implicitly require payment of monies in excess of the premium, as a cost of satisfying the condition of the bond, shall not be considered part of the bondsman's premium, and are not affected by this code provision. The bondsman may collect these fees from the defendant and is not limited by any language requirements of this code provision.

However, the bondsman is permitted to enter into a payment agreement by attaching a statement of bondsman to the bond proceeding form and this agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars. This payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed..."

19. The language of Section 38-53-170(e) requires a minimum fee of \$100 or 10% whichever is greater, to be charged and collected prior to execution of the bond). Enforcing this requirement does not negate the need for the payment agreement. Section 38-53-170(e) allows the bondsman to enter into a payment agreement for amounts that exceed the minimum fee that must be collected by attaching a statement of bondsman to the bond proceeding form; 2) provides the agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars to finance the amount in excess of the minimum fee; and 3) provides the payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed.

20. S. C. Code Ann. §§ 38-2-10 (A)(2) and 38-53-150(B) provide for administrative penalties.

Section 38-53-150 (B) provides

The director or his designee, in lieu of revoking or suspending a license in accordance with the provisions of this chapter, in any one proceeding, by order, may require the licensee to pay to the director or his designee to be deposited in the general fund of the State a

monetary penalty as provided in Section 38-2-10(2) for each offense. Upon failure of the licensee to pay the penalty within twenty days after the mailing of the order, postage prepaid, registered, and addressed to the last known place of business of the licensee, unless the order is stayed by an order of a court of competent jurisdiction, the director or his designee may revoke the license of the licensee or may suspend the license for a period as he determines.

Section 38-2-10 provides:

If the violator is a person, other than an insurer, pharmacy benefits manager, or a health maintenance organization, licensed by the director or his designee in this State, the director or his designee shall fine the person in an amount not to exceed two thousand five hundred dollars, suspend or revoke the license of the person, or both. If the violation is wilful, the director or his designee shall fine the person in an amount not to exceed five thousand dollars, suspend or revoke the license of the person, or both.

21. For the period May 5, 2025, through June 1, 2025, Respondent failed to charge and collect the minimum fee required by law for 10 bail bonds before posting the bonds with the court. She committed these violations even after receiving the notice from the Department and copies of the Department's order setting forth the requirements for compliance with the law. This conduct constitutes a willful violation of the laws of this state including S.C. Code Ann. §§ 38-53-170 (e), 38-43-130 (A)(C)(2), and 38-53-150(A)(B)(C)(2).

THEREFORE, THE FOLLOWING IS ORDERED:

22. After a thorough review of the record and carefully considering the recommendation of the parties, I hereby invoke the discretionary authority given to me pursuant to § 38-2-10 (A)(2) and impose an administrative penalty against Respondent in the amount of two thousand five hundred dollars per violation for a total administrative penalty amount of **Twenty-Five Thousand Dollars (\$25,000)**. If that total fine amount is not timely paid as required by this Order, Respondent's bail bondsman and producer licenses will be revoked without any further disciplinary proceedings by this agency.
23. This penalty includes all expenses related to the investigation of this matter as provided in Section 38-13-70 of the South Carolina Code of Laws. This penalty constitutes full accord and satisfaction of this matter. This administrative order as a public record is subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10.
24. Nothing contained within this administrative order should be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained within this administrative order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement officer or judicial officer. Nothing contained within this administrative order should be construed to limit the statutory duty of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the

business of insurance or the provisions of this title which he considers necessary to report.”
S.C. Code Ann. §§ 38-3-110.

ORDER

THEREFORE, it is ordered that Respondent shall pay the Department an administrative fine of **Twenty-Five Thousand Dollars (\$25,000)**. Pursuant to S.C. Code Ann. §§ 38-2-10, Respondent shall pay the penalty within thirty (30) days from the date of my signature on this Order unless Respondent requests in writing within said thirty (30) day period a public hearing before the South Carolina Administrative Law Court. If Respondent fails to pay the administrative fine as stated or request a public hearing before the South Carolina Administrative Law Court within thirty (30) days from the date of my signature on this order, the Department will issue and order revoking all licenses issued to her by this Department.

IT IS FURTHER ORDERED that Respondent comply with the laws of the state of South Carolina and the orders of this Department.

IT IS FURTHER ORDERED that the National Association of Insurance Commissioners immediately be notified of this Order.

This South Carolina Department of Insurance administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*. S.C. Code Ann. §§30-4-10, *et seq.* Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty of the Director of Insurance, exercised either directly or through the Department of Insurance, to report to the Attorney General or other appropriate law enforcement official criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report. S.C. Code Ann. §38-3-110(3).

This Order becomes effective as of the date of my signature below.


MICHAEL WISE
Director of Insurance

August 18, 2025
Columbia, South Carolina

NOTICE OF OPPORTUNITY FOR A HEARING

Joyce W. Freeman, you have the right to a public hearing before the South Carolina Administrative Law Court in which you may present evidence on all relevant matters and cross-examine witnesses before final action is taken against your license. You are also entitled to representation by an attorney if you desire to have legal representation.

If you wish to have a hearing on this matter, you must forward the original request directly to the Administrative Law Court within 30 days of receipt of this letter, along with a filing fee of \$200.00 payable to the South Carolina Administrative Law Court. If you decide to request a hearing, please send your original request and a filing fee to the following address:

South Carolina Administrative Law Court
1205 Pendleton Street, Suite 224
Edgar Brown Building
Columbia, South Carolina 29201

You must also send a copy of your request for a hearing to this Department. Please do not send the \$200 filing fee for a hearing to the South Carolina Department of Insurance. Once the Administrative Law Court receives your request and a filing fee, it will assign a judge to hear the matter.

PLEASE NOTE THAT IF YOU DO NOT REQUEST A HEARING WITHIN 30 DAYS OF RECEIPT OF THIS ORDER, YOU WILL LOSE YOUR RIGHT TO REQUEST A HEARING AND TO BE HEARD ON THIS ADMINISTRATIVE FINE NOTICE AND ORDER. IF YOU DO NOT PAY THE ADMINISTRATIVE FINE, THE ENCLOSED ORDER WILL BECOME EFFECTIVE AND A MATTER OF PUBLIC RECORD. YOUR LICENSE WILL BE REVOKED WITHOUT FURTHER NOTICE OR PROCEEDINGS.

**BEFORE THE STATE OF SOUTH CAROLINA
DEPARTMENT OF INSURANCE**

IN THE MATTER OF:

SCDOI File # 2025-7722

**JOYCE FREEMAN
C/O Tracey Perlman
P.O. Box 25292
Columbia, SC 29224**

**CERTIFICATE OF SERVICE OF
ADMINISTRATIVE ORDER
AND FINE**

**Producer/Surety Bondsman
NPN 17352185**

Respondent

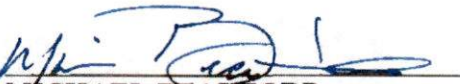
CERTIFICATE OF SERVICE

On the date given below, I certify that I caused to be served the foregoing Order Imposing an Administrative Fine on Joyce Freeman, through attorney Tracey Perlman recipient, by email and by certified mail depositing it in the U.S. mail with proper postage affixed to Respondent's legal representative in this matter:

Joyce Freeman
C/O Tracey Perlman, Esq
PO Box 25292
Columbia SC 29224

and by electronic mail to: tracey@tperlmanlaw.com

Dated this 18th day of August 2025 in Columbia, South Carolina.



MICHAEL BEAUFORD
Temporary Special Investigator

EXHIBIT 10

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Insurance,

Appellant/Petitioner,

vs.

Joyce W. Freeman,

Respondent.

Docket No.25-ALJ-09-0270-CC

PROOF OF SERVICE

I hereby certify that I have served the **RESPONDENT'S PREHEARING STATEMENT** (Description of the document) in the above-captioned matter by depositing it in the United State Mail, postage prepaid, on **October 20, 2025**(Month/Day/Year) to the below named parties at their address of record:

Joyce W. Freeman

Name

4265 Augusta Road, Suite J

Address

Lexington, SC 29073

City/State/Zip

Richard A. Harpootlian

Name

PO Box 1090

Address

Columbia, SC 29202

City/State/Zip

Andrew R. Hand

Name

PO Box 1090

Address

Columbia, SC 29202

City/State/Zip

Honorable Judge Samuel Johnson

Name

SCALC-Edgar A. Brown Building

Address

1205 Pendleton St., Suite 224

City/State/Zip Columbia, SC 29201

Holly Smith

(Print Your Name)

Holly Smith

(Your Signature)

1201 Main Street, Suite 1000

(Street)

Columbia, SC 29201

(City, State, Zip Code)

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Insurance,	)	DOCKET NO. 25-ALJ-09-0270-CC
	)	
Petitioner,	)	
	)	
vs.	)	
	)	RESPONDENT'S
	)	PREHEARING STATEMENT
Joyce Freeman,	)	
	)	
Respondent.	)	
_____	)	

Pursuant to the Court's Order filed October 2, 2025, Respondent, the South Carolina Department of Insurance (the Department), submits its Prehearing Statements below.

1. The nature of this proceeding is:

This proceeding arises from the Department ordering Respondent to pay a \$25,000 administrative fine due to allegations of misconduct related to Respondent's licensure as a resident producer and surety bondsman.

2. Statutory provision(s) conferring subject matter jurisdiction to the agency and other applicable statutes and regulations are:

- a. S. C. Code §§ 38-1-10 et seq.
- b. S.C. Code §§ 38-2-10 et seq.
- c. S.C. Code §§ 38-43-130 (A) and (C)(2)
- d. S.C. Code §§ 38-53-150 (A)(2) and (7)
- e. S.C. Code §38-53-150(B)
- f. S.C. Code §35-53-170(e)

3. The issue presented for determination, including any claims or defenses expected to be raised, is:

The issue presented for determination is whether the Department's issuance of a \$25,000 administrative fine to Respondent as a resident producer and surety bondsman is consistent with South Carolina law.

4. The action requested of the Court and a detailed statement of the law which supports the requested action, including statutory and/or case citations, are:

The Department respectfully requests that the Court enter a final order affirming the Department's administrative fine of \$25,000 Respondent's professional and resident producer licenses.

I. S.C. Code Ann. §38-43-130 (A) and (C)(2) and (7) (2015) sets forth the requirements for instituting administrative disciplinary action against a producer for violations of South Carolina law. This section provides in relevant part:

(A) The director or his designee may place on probation, revoke, or suspend a producer's license after ten days' notice or refuse to issue or reissue a license when it appears that a producer has been convicted of a crime involving moral turpitude, has violated this title or any regulation promulgated by the department, or has willfully deceived or dealt unjustly with the citizens of this State.

(C) The words "deceived or dealt unjustly with the citizens of this State" include, but are not limited to; action or inaction by the producer as follows:

(2) violating insurance laws, or violating any regulation, subpoena, or order of the director or of another state's director or his designee; and

(7) failure to comply with or violation of the provisions of this chapter or of any order of the director or his designee or regulation of the department;

II. S.C. Code Ann. §§ 38-53-150 (A)(2) and (7)(2015) provides that the director or his designee may deny, suspend, revoke or refuse to renew any license issued under chapter 53 for any of the causes listed in that section. Specifically, this section lists the following as causes for the suspension or revocation of a license:

(2) violation of any laws of this State relating to bail in the course of dealings under the license issued to a bondsman or runner by the director or his designee; and

(7) failure to comply with or violation of the provisions of this chapter or of any order of the director or his designee or regulation of the department.

III. S.C. Code Ann. §§ 38-53-170 states that no bondsman or runner may:

(e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond. Conditions of the bond, which expressly or implicitly require payment of monies in excess of the premium, as a cost of satisfying the condition of the bond, shall not be considered part of the bondsman's premium, and are not affected by this code provision. The bondsman may collect these fees from the defendant and is not limited by any language requirements of this code provision.

However, the bondsman is permitted to enter into a payment agreement by attaching a statement of bondsman to the bond proceeding form and this agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars. This payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed..."

5. A brief summary of the facts to be presented at the hearing is as follows:

- I. Respondent was first licensed with the Department as a producer on August 21, 2014; she was first licensed as a bondsman on August 26, 2014. Respondent remains licensed with NPN 17352185.
- II. During May 2025 and June 2025, Respondent failed to charge and collect 10% of the bond for at least ten (10) bonds posted for defendants in South Carolina.
- III. The Department issued Order No. 2024-07 which was signed by the Department's Director on December 11, 2024. This order was distributed to all licensed surety bondsman, professional bondsman, and runners authorized to conduct business in the State of South Carolina. This order provided guidance for compliance with the premium, minimum fee and payment agreement requirements of Act No. 93 of 2023, requiring that ten percent of the bond must be charged and collected prior to posting the bond.

6. A summary of any motions expected to be raised at the hearing and the appropriate authority underlying the motion is as follows:

None is anticipated at this time.

7. A list of proposed witnesses and exhibits are:

As of this filing, the Department's proposed witnesses include:

- Michael Beauford, Investigator (DOI)
- Andrea Burgoin, Program Manager I/Individual Licensing (DOI)
- Representative from Lexington County Clerk of Court

Exhibits include:

- S.C. Dept. of Insurance Order Number 2024-7
- Respondent's Response to the Department via her former attorney dated June 6, 2025
- Bail Proceeding Form II, Promissory Note and Installment Payment Plan for Unpaid Premium, and Statement of Charges for Defendant Myers, Defendant Byrd, Defendant Keldsen, Defendant Williams, Defendant Womack, Defendant Turnipseed, Defendant Myers, Defendant Johnston, and Defendant Buff

8. A statement regarding the necessity of discovery, if any, is:

The Department would like to conduct limited discovery.

9. The estimated length of the hearing is:

One half day to three-quarters of a day.

10. Any dates in the next one hundred twenty (120) days when you will not be available for a hearing are; and

The Department is not available for a hearing on the following dates:

Month	Dates
October	24, 27-31
November	3-4, 7, 24, 25, 26
December	12, 22-23
January	9

11. An email address where I can be reached is:

Shanika J. Moore- smoore@doi.sc.gov

By my signature below, I certify that a copy of this Respondent's Prehearing Statements has been served on all parties and/or protestants by first class mail on the date shown below.

Shanika J. Moore

Name: Shanika J. Moore
Associate General Counsel
SC Bar #: 79808
Address: 1201 Main Street, Suite 1000
Columbia, SC 29201

October 20, 2025
Columbia, South Carolina.

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Insurance,

Petitioner,

vs.

Joyce Freeman,

Respondent.

Docket No.: 25-ALJ-09-0270-CC

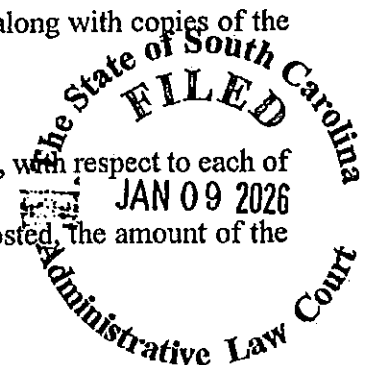
**RESPONDENT JOYCE FREEMAN'S
MOTION FOR SUMMARY JUDGMENT**

Respondent Joyce Freeman, pursuant to Rule 19 of the Administrative Law Court Rules and Rule 56 of the South Carolina Rules of Civil Procedure, hereby moves for an order granting summary judgment in her favor and vacating the South Carolina Department of Insurance's (the "Department") imposition of a \$25,000 fine on Respondent for purported violations of S.C. Code Ann § 38-53-170(e).

BACKGROUND

This matter arises from the South Carolina Department of Insurance's imposition of a \$25,000 fine upon Ms. Freeman for alleged violations of S.C. Code Ann § 38-53-170(e) concerning the collection of bail bond premiums. More particularly, on August 18, 2025 the Department issued an "Administrative Order Imposing Fine and Notice of Opportunity for Hearing" (the "Administrative Order") finding that Ms. Freeman violated § 38-53-170(e) in ten separate instances between May and June 2025. *See Exhibit A* (Aug. 18, 2025 Administrative Order). The Administrative Order demonstrates that Ms. Freeman cooperated with the Department's investigation, providing copies of the ten bonds requested along with copies of the payment agreements and receipts for each of the bonds. Admin Order ¶ 8.

The Administrative Order contains a chart in paragraph 8 that lists, with respect to each of these ten bonds, the last name of the defendant, the date the bond was posted, the amount of the



bond, the premium charged by Ms. Freeman, the amount of the premium that was collected at the time the bond was posted, and whether a payment agreement accompanied the bond. Ms. Freeman agrees with the Department's chart with one exception—with respect to "Defendant Williams," the total amount of the bond was \$12,840, and the chart lists the premium charged as \$1,280. The receipts and payment agreement provided to the Department by Ms. Freeman, and produced by the Department in this case, show that the amount of the premium charged in that case was actually \$1,284.00, which represents the full 10% of the bond amount.¹

The chart contained in the Administrative Order demonstrates that, with respect to each of these bond transactions, the amount of the premium charged by Ms. Freeman was equal to 10% of the bond; the amount of the premium collected at the time the bond was posted was less than the full amount of the premium charged, but greater than \$100; and a payment agreement was executed between Freeman Bail Bonds and the defendant in each case. Admin. Order ¶ 8. The payment agreements themselves demonstrate that they each required payment of the balance of the full amount of the premium via regular monthly payments for a period of time less than 18 months.

The Administrative Order concluded that these transactions violated § 38-53-170(e) for failure to collect the full amount of the 10% premium prior to the execution of the bond. The Administrative Order provided the following reasoning:

The language of Section 38-53-170(e) requires a minimum fee of \$100 or 10% whichever is greater, to be **charged and collected** prior to the execution of the bond). Enforcing this requirement does not negate the need for a payment

¹ The documents provided by Ms. Freeman to the Department, and produced by the Department in this case, include with respect to each of these ten defendants the bond forms, receipts of payment, payment agreements, and other documents related to these transactions. The documents include the full names of these defendants, the crimes with which they were charged, and the names of other persons who are not a party to this action. In respect of those individuals' privacy, and assuming that the Department does not contest the recitation of the facts contained herein, Respondent is not attaching those documents to this motion. However, should these documents become necessary to resolve a question of fact in this case, or if the Court would prefer to have them for any reason, Respondent will be pleased to submit these documents to the Court for review.

agreement. Section 38-53-170(e) allows the bondsman to enter into a payment agreement for amounts that exceed the minimum fee that must be collected by attaching a statement of bondsman to the bond proceeding form; 2) provides the agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars to finance the amount in excess of the minimum fee; and 3) provides the payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed.

Administrative Order ¶ 19 (emphasis in original). Based on this interpretation of § 38-53-170(e), the Administrative Order imposed a fine of \$25,000 upon Ms. Freeman and further threatened that “[i]f the total fine amount is not timely paid as required by this Order, Respondent’s bail bondsman and producer licenses will be revoked without any further disciplinary proceedings by this agency.” Administrative Order ¶ 22.

Ms. Freeman timely filed a request for a contested case hearing on the Department’s Administrative Order on September 2, 2025. This case was assigned to this Honorable Court on September 10, 2025. By order dated December 19, 2025, and by agreement of the parties, the Court directed motions for summary judgment and supported briefs to be filed on or before January 9, 2026.

LEGAL STANDARD

Rule 56 of the South Carolina Rules of Civil Procedure provides that summary judgment shall be rendered if there is no genuine issue as to any material fact. Rule 56(c), SCRPC. Where a dispute turns solely on statutory interpretation, summary judgment is appropriate because statutory construction presents a question of law for the court. *See Hock RH, LLC v. S.C. Dep’t of Revenue*, 423 S.C. 208, 212, 813 S.E.2d 540, 542 (Ct. App. 2018) (“A question of statutory interpretation is one of law for the court to decide.”) (quoting *Alltel Commc’ns, Inc. v. S.C. Dep’t of Revenue*, 399 S.C. 313, 316, 731 S.E.2d 869, 870–71 (2012)); *Wright v. PRG Real Estate Mgmt., Inc.*, 426 S.C. 202, 211, 826 S.E.2d 285, 290 (2019) (“The purpose of summary judgment is to expedite

disposition of cases which do not require the services of a fact finder.”) (quoting *George v. Fabri*, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001)).

As a general rule, “[t]he construction of a statute by the agency charged with its administration will be accorded the most respectful consideration and will not be overruled absent compelling circumstances.” *Dunton v. S.C. Bd. of Exam’rs in Optometry*, 291 S.C. 221, 223, 353 S.E.2d 132, 133 (1987). “Even so, an administrative construction affords no basis for the perpetuation of a patently erroneous application of the statute.” *State v. Sweat*, 386 S.C. 339, 351, 688 S.E.2d 569, 575–76 (2010) (quoting *Monroe v. Livingston*, 251 S.C. 214, 217, 161 S.E.2d 243, 244 (1968)); see also *Jack’s Custom Cycles, Inc. v. S.C. Dep’t of Revenue*, 439 S.C. 35, 48, 885 S.E.2d 433, 440 (Ct. App. 2023) (noting that courts will reject an agency’s interpretation of a statute “where the plain language of the statute is contrary to the agency’s interpretation”); *CFRE, LLC v. Greenville Cnty. Assessor*, 395 S.C. 67, 77, 716 S.E.2d 877, 882 (2011) (“[W]e will reject an agency’s interpretation if it conflicts with the statute’s plain language.”).

ARGUMENT

Freeman believes that the facts of this case are not in dispute. The only question presented by this case is whether the Department’s interpretation of S.C. Code Ann. § 38-53-170(e) is the correct one. For aid in this discussion, the entirety of that statutory provision is contained below.

Section 38-53-170. Unlawful acts.

No bondsman or runner may:

(e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond. Conditions of the bond which expressly or implicitly require payment of monies in excess of the premium, as a cost of satisfying the condition of the bond, shall not be considered part of the bondsman’s premium, and are not affected by this code

provision. The bondsman may collect these fees from the defendant and is not limited by any language requirements of this code provision.

However, the bondsman is permitted to enter into a payment agreement by attaching a statement of bondsman to the bond proceeding form and this agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars. This payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed. If the payment has not been made for two consecutive months, the bondsman must send a certified notice to the last known address of the principal and indemnitor demanding payment be made within ten days to bring the agreement current. If no payment is received by the end of the notice period, the bondsman must surrender the principal to the proper detention facility for holding and file a motion to be relieved as provided in Section 38-53-50(A) or (B), at which time the agreement must be accelerated, and the balance paid in full, before or at the motion hearing for the principal to be rereleased on bond. The bondsman may accept collateral security or other indemnity from the principal which must be returned within ten days after final termination of liability on the bond unless a bench warrant has been issued. The bondsman shall identify who is paying the premium and shall represent that the collateral security or other indemnity has not been obtained from any person who has a greater interest in the principal's disappearance than appearance for trial. The collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond. If the bond is forfeited, a bondsman may not convert collateral described in the collateral receipt to cash until he has provided a ten-day notice of this pending conversion to the depositor. This notice must be sent by certified mail to the last known address of the depositor. After the conversion, the bondsman must disclose the actual amount received to the depositor and must return any amount received that exceeds the final judgement or consent amount, less any reasonable expenses. These reasonable expenses include apprehension and legal costs incurred as a result of the violation of the bond. The bondsman must provide the depositor copies of all receipts and, if applicable, the overage money within three days after settlement;

Of note, this statutory provision was amended in 2023. *See Exhibit B*, 2023 S.C. Act 83 (H. 3532)

(enacted June 20, 2023). Prior to that time, § 38-53-170(e) read, in its entirety, as follows:

(e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of twenty-five dollars. However, the bondsman is permitted to accept collateral security or other indemnity from the principal which must be returned upon final termination of liability on the bond. The bondsman shall identify who is paying the premium and shall represent that the collateral security or other indemnity has not been obtained from any person who has a greater interest in the principal's disappearance than appearance for trial. The collateral security or other indemnity by the bondsman must be reasonable in relation to the amount of the bond;

Exhibit C, S.C. Code Ann. § 38-53-170 (enacted by 1998 Act No. 425, § 2).

As noted *supra*, the Department's position is that § 38-53-170(e) requires a bail bondsman to collect a minimum fee of one hundred dollars or ten percent of the bond before the bond is executed in all cases. Respondent maintains that the statute plainly allows the bondsman to enter into a payment agreement with the principal for the payment of the premium over time in lieu of collecting the entire minimum payment at the time the bond is executed. The Department's fine against Respondent was based on its interpretation, as Freeman entered into a payment agreement with each of the identified principals (defendants) in lieu of collecting 10% of the bond up-front. The Administrative Order did not cite Freeman for any other purported violation of § 38-53-170(e).

A. The Plain Language of S.C. Code Ann. § 38-53-170(e) Provides that Payment Agreements Are Permitted in Lieu of Collecting the Full Minimum Premium Up Front.

"In construing statutory language, the statute must be read as a whole and sections which are part of the same general statutory law must be construed together and each one given effect." *Denene, Inc. v. City of Charleston*, 352 S.C. 208, 212, 574 S.E.2d 196, 198 (2002) (citing *TNS Mills, Inc. v. S.C. Dep't of Revenue*, 331 S.C. 611, 503 S.E.2d 471 (1998)). "All rules of statutory construction are subservient to the one that the legislative intent must prevail if it can be reasonably discovered in the language used, and that the language used must be construed in the light of the intended purpose of the statute." *Kiriakides v. United Artists Comms., Inc.*, 312 S.C. 271, 275, 440 S.E.2d 364, 366 (1994). "When the language of a statute is clear and explicit, a court cannot rewrite the statute and inject matters into it which are not in the legislature's language." *Hodges v. Rainey*, 341 S.C. 79, 87, 533 S.E.2d 578, 582 (2000). Further, "[t]he Court must presume the legislature did not intend a futile act, but rather intended its statutes to accomplish something." *Denene*, 352 S.C. at 212, 574 S.E.2d at 198.

Freeman submits that the plain language of § 38-53-170(e) explicitly permits bail bondsmen to enter into payment agreements with principals in lieu of collecting the full minimum 10% premium prior to the execution of the bond. The statute contains two operative components. The first paragraph addresses the premium generally and provides that a minimum fee of \$100 or ten percent of the bond, whichever is greater, “must be charged and collected by the bondsman before the execution of the bond.” The second paragraph immediately follows and begins with the word “however,” followed by a comma, and states that the bondsman is permitted to enter into a payment agreement with the principal subject to enumerated statutory requirements, followed by a detailed framework governing such agreements.

The Legislature’s use of the word “however” is dispositive, and it must be presumed to have been intentional. *Sweat*, 386 S.C. at 351, 688 S.E.2d at 575 (“A statute should be so construed that no word, clause, sentence, provision or part shall be rendered surplusage, or superfluous.”) (quoting *In re Decker*, 322 S.C. 215, 219, 471 S.E.2d 462, 463 (1995)). The use of the word “however” followed by a comma signifies a contradiction or exception to the general requirement for up-front premium collection. See *However*, def. 2, Merriam-Webster’s Dictionary (online edition 2025; available at <https://www.merriam-webster.com/dictionary/however>) (“in spite of that : on the other hand”). Reading the statute as a whole, the only reasonable interpretation is that the Legislature created an alternative mechanism for collecting the premium: either the bondsman collects the full minimum 10% up front, or the bondsman enters into a statutorily compliant payment agreement requiring a minimum down payment of \$100, with payments not to exceed 18 months. Any other reading would render the word “however” superfluous in the statute.

This “however” framework enacted by the Legislature makes sense. As noted *supra*, the prior version of the statute capped the premium that a bail bondsman may charge at 15% (as it

does now), but then set a minimum fee of \$25. *See* Ex. C. The effect of this was that criminal defendants facing all manner of charges could, theoretically, pay \$25 to a bail bondsman and then skip town or otherwise not return for their court date, having lost only their \$25. The 2023 amendments upped the ante—now, criminal defendants are expected to pay a minimum of \$100 (representing a 300% increase) *or* 10% of the face amount of the bond, whichever is greater. The financial stakes for violating the conditions of the bond thus became significantly higher.

But that solution poses its own problem: In South Carolina and beyond, criminal defendants have a constitutional right against excessive bail. *See* S.C. Const. art. I § 15 (“All persons shall be, before conviction, bailable by sufficient sureties Excessive bail shall not be required . . .”). What qualifies as “excessive” might mean different things for different people and depends, at least in part, on that defendant’s financial resources. *See* S.C. Code Ann. § 17-15-30 (listing among the factors courts may consider in setting a bond, the charged person’s “employment” and “financial resources”). A defendant facing a \$50,000 bond may or may not be able to pay \$5,000 to secure a bond, in which case that defendant would remain in jail rather than his appearance in court being reasonably assured. *See id.* (the purpose of a bond is to “reasonably assure appearance” of the defendant). The ranks of Alvin S. Glenn would grow substantially, and unnecessarily, at significant expense to the state.

Thus, the “however,” provision. Rather than paying the entire amount of the 10% premium up front, the Legislature devised a framework whereby defendants could avail themselves of a payment plan, provided they pay the minimum \$100 fee. *See* § 38-53-170(e). The statute goes on to provide that such payment agreements “must not exceed eighteen months after the date on which the bond was executed,” and then sets out in detail what happens in the event payments are not timely made under the agreement, including that the bondsman must send a certified letter to the

last known address of the principal demanding payment within ten days, surrender the principal to the proper detention facility if the payments are not brought current within that time, file a motion to be relieved pursuant to S.C. Code Ann. § 38-53-50, and accelerate the payments due under the bond. *Id.* Thus, while the Legislature expanded access to surety bonds by this provision, it also put in place additional safeguards to ensure the principal's compliance with his payment obligations, and a swift mechanism for ensuring his appearance in court if he defaults on those obligations.

Freeman submits that this is the most logical reading of the statute and the Legislature's intent in drafting it. *See Kiriakides*, 312 S.C. at 275, 440 S.E.2d at 366 ("All rules of statutory construction are subservient to the one that the legislative intent must prevail if it can be reasonably discovered in the language used, and that the language used must be construed in the light of the intended purpose of the statute."). Notably, the statute does not state that payment agreements apply only to amounts exceeding the minimum premium. Nor does the "however" paragraph contain its own minimum premium requirement, indicating that it was intended to follow and incorporate the preceding language—that is, the payment agreement is intended to allow payments on the minimum premium described in the preceding paragraph. This reading of the statute ensures that it is read as a whole, and each portion of it is given effect. *Denene*, 352 S.C. at 212, 574 S.E.2d at 198 ("In construing statutory language, the statute must be read as a whole and sections which are part of the same general statutory law must be construed together and each one given effect."). And it negates any need to read additional or limiting language into the statute, such as a different minimum premium amount applicable to the payment agreement, which method of statutory construction South Carolina courts consistently forbid. *Hodges*, 341 S.C. at 87, 533 S.E.2d at 582.

B. The Department's Interpretation of the Statute Is Illogical and Would Produce Absurd Results.

From its Administrative Order in this matter, the Department's position appears to be that the payment agreements envisioned by the Legislature apply only to "amounts that exceed the minimum fee that must be collected." Respectfully, this makes no sense. The minimum fee that must be collected is "one hundred dollars or ten percent of the bond, whichever is greater." § 38-53-170(e). The maximum fee that may be collected is fifteen percent of the bond. *Id.* Thus, under the Department's reading, a bondsman must collect ten percent of the bond before the bond is executed in all cases, and then enter into a separate payment agreement with the principal in the event the bondsman decides to charge the principal another five percent (which is optional), and the payment agreement can only apply to the additional five percent of the bond. This reading is nonsensical and would vitiate the obvious purpose of the statute, which was to provide criminal defendants access to bonds in the form of a payment plan if they cannot afford the minimum ten percent fee. And, more importantly, the plain language of the statute provides no such restrictions on the amount of the premium that may be collected by way of a payment agreement—it requires only that the principal make a minimum down payment of one hundred dollars when he enters into the agreement, and obligate himself by the agreement to pay the premium over time. § 38-53-170(e).

Indeed, the Department's formulation would lead to an absurd result. Under the Department's interpretation, if the bondsman elected to enter into a payment agreement with the principal, he would be required at the time the bond is executed to (1) collect ten percent of the bond; (2) charge the principal an *additional* \$100; and (3) execute a payment plan for no more than five percent of the bond, to be collected over eighteen months upon pain of imprisonment if the payments are not met. That would be an absurd and overly complicated transaction that the

Legislature could not have intended. *See Stone v. State (City of Orangeburg)*, 313 S.C. 533, 535, 443 S.E.2d 544, 545 (1994) (“This Court must avoid construing a statute so as to lead to an absurd result.”) (citing *State v. Allen*, 314 S.C. 539, 431 S.E.2d 563 (1993)). And it would render as surplusage the thorough and thoughtful procedure crafted by the Legislature for ensuring that a criminal defendant meets his obligations under the payment agreement, relegating it only to a narrow subset of transactions where the bondsman elects to charge more than the minimum premium of 10%. *Sweat*, 386 S.C. at 351, 688 S.E.2d at 575; *Denene*, 352 S.C. at 212, 574 S.E.2d at 198 (“The Court must presume the legislature did not intend a futile act, but rather intended its statutes to accomplish something.”).

Perhaps the best argument against the Department’s position is contained in an opinion from the South Carolina Attorney General issued on June 17, 2024. *See The Honorable B. Lee Miller*, Op. S.C. Att’y Gen., 2024 WL 3186557 (July 17, 2024) (attached as **Exhibit D**). In that opinion, offered in response to an inquiry from a municipal judge, the Attorney General rejected the position that the Department now espouses, finding that § 38-53-170(e) “allows a bondsman to accept a minimum down payment of one hundred dollars along with a payment agreement for the remaining amount of the minimum premium as long as the bondsman attaches the agreement to the bond processing form and complies with the other requirements for the agreement contained in section 38-53-170(e).” *Id.* at *3. In order to reach this conclusion, the Attorney General performed a thorough analysis of the statute, taking into account its plain language and legislative history. The Attorney General specifically found that the interpretation of § 38-53-170(e) now adopted by the Department “could lead to an absurd result” and offered the following reasoning:

First, we are at a loss as to why the Legislature would find it necessary to give permission for a payment agreement for an amount that the bondsman is not required to charge in the first place. Second, this reading would require the principal to pay not only the ten percent bond up front, but also an additional one hundred

dollars for the opportunity to finance the premium in excess of the ten percent. We do not believe such an interpretation is in line with the intent of the Legislature.

Id. at *2.

The Attorney General further observed that the Department's interpretation of § 38-53-170(e) could raise constitutional concerns:

Lastly, we must keep in mind that the South Carolina Constitution affords defendants the right to bail. S.C. Const. Art. I § 15 (2009). As our Supreme Court stated, "all statutes are presumed constitutional and, if possible, will be construed to render them valid." *State v. Neuman*, 384 S.C. 395, 402, 683 S.E.2d 268, 271 (2009) (quoting *Curtis v. State*, 345 S.C. 557, 569, 549 S.E.2d 591, 597 (2001)). While the revisions to section 38-53-170(c) [sic] indicate the intent of the Legislature to increase the premium charged and paid by defendants, we believe by giving defendants the ability to enter into a payment agreement with the bondsman, the Legislature is balancing its desire to increase and standardize premiums with defendants' ability to pay those premiums and ensuring compliance with defendants' constitutional rights.

Id. at *3. Indeed, "[t]he provisions of the state constitution are not a grant but a limitation of legislative power, so that the Legislature may enact any law not expressly, or by clear implication, prohibited by the state or federal constitution." *Segars-Andrews v. Judicial Merit Selection Comm'n*, 387 S.C. 109, 118, 691 S.E.2d 453, 458 (2010). Had the Legislature enacted a scheme that made bail prohibitively expensive for criminal defendants, it might well have violated the prohibition contained in the South Carolina and federal constitutions against excessive bail. See S.C. Const. art. I § 15; U.S. Const. amend. VIII ("Excessive bail shall not be required . . ."). Reading the statute in the manner that the Attorney General did, which also comports with the plain language of the statute, avoids this constitutional conflict. See *City of Rock Hill v. Harris*, 391 S.C. 149, 154, 705 S.E.2d 53, 55 (2011) ("In determining whether a statute complies with the South Carolina Constitution, the Court will, if possible, construe the statute so as to render it valid.") (quoting *Moseley v. Welch*, 209 S.C. 19, 26-27, 39 S.E.2d 133, 137 (1946)).

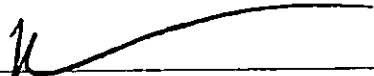
Despite the comprehensive analysis of the statute offered by the Attorney General, the Department persisted in its erroneous interpretation, even going so far as to request that the Attorney General withdraw his opinion. In response to this inquiry, the Attorney General elected to defer to the Department given its regulatory authority over Title 38, but was careful to note that “[o]ur interpretation of Section 38-53-170(e) remains unchanged . . .” *See Gwendolyn McGriff, Esquire*, Op. S.C. Att’y Gen. (July 31, 2025) (attached as **Exhibit E**). That ought to have been a signal to the Department that it was going astray in its interpretation of the statute. But alas, it now falls to this Court to correct the Department’s patently erroneous interpretation of the law. *See Jack’s Custom Cycles*, 439 S.C. at 48, 885 S.E.2d at 440 (“[A]n administrative construction affords no basis for the perpetuation of a patently erroneous application of the statute.”).

CONCLUSION

For these reasons, Respondent Freeman submits that the Department’s interpretation of S.C. Code Ann. § 38-53-170(e) is erroneous, and its decision to impose a \$25,000 fine on Freeman was in error. Accordingly, Respondent respectfully requests that the Court: (1) grant summary judgment in Freeman’s favor; (2) vacate the Department’s determination and the \$25,000 fine imposed on Freeman; and (3) grant Freeman such other and further relief as the Court deems just and proper.

[Signature on following page]

Respectfully submitted,


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Attorneys for Respondent Joyce Freeman

January 9, 2026
Columbia, South Carolina.

South Carolina Department of Insurance v. Joyce Freeman
Docket No. 25-ALJ-09-0270-CC
Respondent Joyce Freeman's Motion for Summary Judgment

EXHIBIT A

(Administrative Order, April 18,
2025)

**BEFORE THE STATE OF SOUTH CAROLINA
DEPARTMENT OF INSURANCE**

IN THE MATTER OF:

SCDOI File # 2025-7722

JOYCE W. FREEMAN
4265 Augusta Rd., Ste J
Lexington, SC 29073

Producer/Surety Bondsman
NPN 17352185,
Respondent.

**ADMINISTRATIVE ORDER
IMPOSING FINE AND NOTICE OF
OPPORTUNITY FOR HEARING**

Pursuant to the authority granted to the Director of Insurance under the insurance laws of the State of South Carolina, notice is provided that the South Carolina Department of Insurance (hereafter referred to as the "Department") proposes an administrative fine for producer/surety bondsman Joyce W. Freeman, (hereafter referred to as "Respondent") for the violation(s) of law described herein. This Order shall become effective as a final order without further notice, upon expiration of the thirty (30) day period referenced herein if no request for a hearing is made pursuant to S.C. Code Ann. §38-43-130 (2015).

After careful review of the evidence presented, I find as follows:

FINDINGS OF FACT

1. The Department is the regulatory agency charged with the responsibility of implementing and enforcing the insurance laws of the State of South Carolina.
2. Respondent was initially licensed with the Department as a producer on August 21, 2014; she was first licensed as a surety bondsman on August 26, 2014. Respondent is currently licensed as a producer and surety bondsman with NPN 17352185 in South Carolina. South Carolina law requires all surety bondsmen to be licensed as producers. A producer license is a prerequisite for a surety bondsman license.
3. Respondent is appointed as a producer and surety bondsman with Allegheny Casualty Company, Bankers Insurance and Palmetto Surety Corporation.
4. On or about June 2, 2025, the Department received a complaint alleging Respondent charged ten percent for a bail bond for Defendant E.B., but Respondent failed to collect the full ten percent minimum fee required by statute when the bond was posted with the court.

5. A copy of the power of attorney (power) for Defendant E.B. was obtained during the investigation into the allegation. The power, indicating Allegheny Casualty Company as the surety insurer, showed that the bond was executed on June 1, 2025, in Lexington County. The power reflected that Respondent was the surety bondsman that executed the bond. The bond amount was \$35,000. Respondent charged a premium of \$3,500, but Respondent only collected \$500 according to the payment agreement and payment receipts. Respondent allowed the balance of the 10 percent to be paid via a payment agreement.
6. On or about June 5, 2025, a Notice of Investigation letter was sent by certified mail to Respondent's address on file: 4265 Augusta Rd. Ste. J., Lexington, S.C. 29073.
7. On June 6, 2025, Respondent responded to the allegations made against her via her attorney. Respondent does not deny failing to collect the required minimum 10% fee. Respondent contends that she did not act inappropriately by accepting less than ten percent when the bond was posted because the law permits bondsmen to create a payment plan to receive the full ten percent.
8. Respondent provided copies of ten bonds she executed after charging but not collecting the ten percent minimum fee required by the statute before posting the bond. She also provided copies of the payment agreement and receipts, for the following bonds she posted:

Defendants Defendants	Date Posted	Bond Amt	Premium Charged	Premium Collected	Payment Agreement
Defendant Myers	5/29/25	\$25,000	\$2,500	\$480	Yes
Defendant Byrd	5/28/25	\$2,500	\$250	\$150	yes
Defendant Keldsen	5/27/25 5/27/25	\$2,100 \$5,000	\$710	\$200	Yes
Defendant Williams	5/27/25 5/27/25	\$2,840 \$10,000	\$1,280	\$400	Yes
Defendant Womack	5/28/25	\$25,000	\$2,500	\$360	Yes
Defendant Anderson	5/02/25	\$47,000	\$4,700	\$600	Yes
Defendant Turnipseed	5/02/25	\$5,000	\$500	\$200	Yes
Defendant Myers	5/06/25	\$22,500	\$2,250	\$350	Yes
Defendant Johnston	5/06/25	\$15,000	\$1,500	\$300	Yes
Defendant Buff	6/01/25	\$35,000	\$3,500	\$500	Yes

9. Beginning May 2, 2025, through June 1, 2025, Respondent wrote ten (10) bonds for which she charged, but she failed to collect the ten percent minimum fee before posting the bond.
10. The Department issued SCDOI Order No. 2024-07 (Order 2024-07) on December 11, 2024. Order No. 2024-07 was distributed to Respondent and all licensed surety bondsmen, professional bondsmen, and runners authorized to conduct bail bond business in the State of South Carolina. The Order provided guidance for compliance with the bond premium and 10% minimum fee and payment agreement requirements of Act No. 93 of 2023 (i.e., the South Carolina Bond Reform Act) set forth in S.C. Code Ann. §38-53-170(e) as unlawful acts.

11. Additionally, that Order informed licensees that South Carolina law requires \$100 or 10% whichever is greater to be charged and collected prior to execution of the bond as the minimum fee.
12. S.C. Code Ann. § 38-53-95 requires bondsmen to supply the department with a business, email, mailing, and residential street addresses and to notify the department within thirty days of any change in legal name or any of these addresses.
13. A copy of the Order was emailed to Respondent's email address on record on December 11, 2024. Additionally, a hard copy of the Order was sent via certified mail to Respondent's address on record on December 11, 2024. Neither communication was returned to the Department as undeliverable.
14. On August 15, 2025, via her attorney, Respondent was emailed a copy of a letter dated July 31, 2025 from the Office of the State of South Carolina Attorney General that stated it *defers to the interpretation of the Department of Insurance as the agency with regulatory authority and advised any bail bondsmen and runners to follow the department's instructions and orders pending judicial or legislative clarification.*

CONCLUSIONS OF LAW

15. Pursuant to the authority granted to the Director of Insurance by S.C. Code Ann. §§38-1-10 *et seq.*, *The Insurance Law* and §§38-2-10 *et seq.*, the South Carolina Department of Insurance has jurisdiction over Respondent and the subject matter of this order.
16. S.C. Code Section 38-43-130(A)(C) (2) states:
 - (A) The director or his designee may place on probation, revoke, or suspend a producer's license after ten days' notice...when it appears that a producer... has violated this title or any regulation promulgated by the department, or has willfully deceived or dealt unjustly with the citizens of this State...(C) The words "deceived or dealt unjustly with the citizens of this State" include, but are not limited to, action or inaction by the producer as follows:
 - (2) violating insurance laws, or violating any regulation, subpoena, or order of the director or of another state's director or his designee.
17. S.C. Code Ann. §§ 38-53-150(A)(2) provides, in relevant part:
 - (A)The director or his designee may deny, suspend, revoke, or refuse to renew any license issued under this chapter for any of the following causes:
 - (2) violation of any laws of this State relating to bail in the course of dealings under the license issued to a bondsman or runner by the director or his designee;
 - (7) failure to comply with or violation of the provisions of this chapter or of any order of the director or his designee or regulation of the department;

(B) The director or his designee, in lieu of revoking or suspending a license in accordance with the provisions of this chapter, in any one proceeding, by order, may require the licensee to pay to the director or his designee to be deposited in the general fund of the State a monetary penalty as provided in Section 38-2-10(2) for each offense. Upon failure of the licensee to pay the penalty within twenty days after the mailing of the order, postage prepaid, registered, and addressed to the last known place of business of the licensee, unless the order is stayed by an order of a court of competent jurisdiction, the director or his designee may revoke the license of the licensee or may suspend the license for a period as he determines.

18. S.C. Code Ann. §§ 38-53-170 states that no bondsman or runner may:

(e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond. Conditions of the bond, which expressly or implicitly require payment of monies in excess of the premium, as a cost of satisfying the condition of the bond, shall not be considered part of the bondsman's premium, and are not affected by this code provision. The bondsman may collect these fees from the defendant and is not limited by any language requirements of this code provision.

However, the bondsman is permitted to enter into a payment agreement by attaching a statement of bondsman to the bond proceeding form and this agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars. This payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed..."

19. The language of Section 38-53-170(e) requires a minimum fee of \$100 or 10% whichever is greater, to be charged and collected prior to execution of the bond). Enforcing this requirement does not negate the need for the payment agreement. Section 38-53-170(e) allows the bondsman to enter into a payment agreement for amounts that exceed the minimum fee that must be collected by attaching a statement of bondsman to the bond proceeding form; 2) provides the agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars to finance the amount in excess of the minimum fee; and 3) provides the payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed.

20. S. C. Code Ann. §§ 38-2-10 (A)(2) and 38-53-150(B) provide for administrative penalties.

Section 38-53-150 (B) provides

The director or his designee, in lieu of revoking or suspending a license in accordance with the provisions of this chapter, in any one proceeding, by order, may require the licensee to pay to the director or his designee to be deposited in the general fund of the State a

monetary penalty as provided in Section 38-2-10(2) for each offense. Upon failure of the licensee to pay the penalty within twenty days after the mailing of the order, postage prepaid, registered, and addressed to the last known place of business of the licensee, unless the order is stayed by an order of a court of competent jurisdiction, the director or his designee may revoke the license of the licensee or may suspend the license for a period as he determines.

Section 38-2-10 provides:

If the violator is a person, other than an insurer, pharmacy benefits manager, or a health maintenance organization, licensed by the director or his designee in this State, the director or his designee shall fine the person in an amount not to exceed two thousand five hundred dollars, suspend or revoke the license of the person, or both. If the violation is wilful, the director or his designee shall fine the person in an amount not to exceed five thousand dollars, suspend or revoke the license of the person, or both.

21. For the period May 5, 2025, through June 1, 2025, Respondent failed to charge and collect the minimum fee required by law for 10 bail bonds before posting the bonds with the court. She committed these violations even after receiving the notice from the Department and copies of the Department's order setting forth the requirements for compliance with the law. This conduct constitutes a willful violation of the laws of this state including S.C. Code Ann. §§ 38-53-170 (e), 38-43-130 (A)(C)(2), and 38-53-150(A)(B)(C)(2).

THEREFORE, THE FOLLOWING IS ORDERED:

22. After a thorough review of the record and carefully considering the recommendation of the parties, I hereby invoke the discretionary authority given to me pursuant to § 38-2-10 (A)(2) and impose an administrative penalty against Respondent in the amount of two thousand five hundred dollars per violation for a total administrative penalty amount of **Twenty-Five Thousand Dollars (\$25,000)**. If that total fine amount is not timely paid as required by this Order, Respondent's bail bondsman and producer licenses will be revoked without any further disciplinary proceedings by this agency.
23. This penalty includes all expenses related to the investigation of this matter as provided in Section 38-13-70 of the South Carolina Code of Laws. This penalty constitutes full accord and satisfaction of this matter. This administrative order as a public record is subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10.
24. Nothing contained within this administrative order should be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained within this administrative order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement officer or judicial officer. Nothing contained within this administrative order should be construed to limit the statutory duty of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the

business of insurance or the provisions of this title which he considers necessary to report." S.C. Code Ann. §§ 38-3-110.

ORDER

THEREFORE, it is ordered that Respondent shall pay the Department an administrative fine of Twenty-Five Thousand Dollars (\$25,000). Pursuant to S.C. Code Ann. §§ 38-2-10, Respondent shall pay the penalty within thirty (30) days from the date of my signature on this Order unless Respondent requests in writing within said thirty (30) day period a public hearing before the South Carolina Administrative Law Court. If Respondent fails to pay the administrative fine as stated or request a public hearing before the South Carolina Administrative Law Court within thirty (30) days from the date of my signature on this order, the Department will issue and order revoking all licenses issued to her by this Department.

IT IS FURTHER ORDERED that Respondent comply with the laws of the state of South Carolina and the orders of this Department.

IT IS FURTHER ORDERED that the National Association of Insurance Commissioners immediately be notified of this Order.

This South Carolina Department of Insurance administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§30-4-10, et seq. Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty of the Director of Insurance, exercised either directly or through the Department of Insurance, to report to the Attorney General or other appropriate law enforcement official criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report. S.C. Code Ann. §38-3-110(3).

This Order becomes effective as of the date of my signature below.


MICHAEL WISE
Director of Insurance

August 18, 2025
Columbia, South Carolina

NOTICE OF OPPORTUNITY FOR A HEARING

Joyce W. Freeman, you have the right to a public hearing before the South Carolina Administrative Law Court in which you may present evidence on all relevant matters and cross-examine witnesses before final action is taken against your license. You are also entitled to representation by an attorney if you desire to have legal representation.

If you wish to have a hearing on this matter, you must forward the original request directly to the Administrative Law Court within 30 days of receipt of this letter, along with a filing fee of \$200.00 payable to the South Carolina Administrative Law Court. If you decide to request a hearing, please send your original request and a filing fee to the following address:

South Carolina Administrative Law Court
1205 Pendleton Street, Suite 224
Edgar Brown Building
Columbia, South Carolina 29201

You must also send a copy of your request for a hearing to this Department. Please do not send the \$200 filing fee for a hearing to the South Carolina Department of Insurance. Once the Administrative Law Court receives your request and a filing fee, it will assign a judge to hear the matter.

PLEASE NOTE THAT IF YOU DO NOT REQUEST A HEARING WITHIN 30 DAYS OF RECEIPT OF THIS ORDER, YOU WILL LOSE YOUR RIGHT TO REQUEST A HEARING AND TO BE HEARD ON THIS ADMINISTRATIVE FINE NOTICE AND ORDER. IF YOU DO NOT PAY THE ADMINISTRATIVE FINE, THE ENCLOSED ORDER WILL BECOME EFFECTIVE AND A MATTER OF PUBLIC RECORD. YOUR LICENSE WILL BE REVOKED WITHOUT FURTHER NOTICE OR PROCEEDINGS.

South Carolina Department of Insurance v. Joyce Freeman
Docket No. 25-ALJ-09-0270-CC
Respondent Joyce Freeman's Motion for Summary Judgment

EXHIBIT B

(2023 S.C. Act 83 (H. 3532))

2023 South Carolina Laws Act 83 (H.3532)

SOUTH CAROLINA 2023 SESSION LAWS

REGULAR SESSION

Additions and deletions are not identified in this document.

Vetoed are indicated by ~~Text~~ ;

stricken material by ~~Text~~ .

Act 83

H.3532

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 17-15-270 SO AS TO CREATE AN ADDITIONAL OFFENSE PUNISHABLE BY UP TO FIVE YEARS IF A PERSON COMMITS A SUBSEQUENT VIOLENT CRIME WHILE SUBJECT TO A BOND ORDER OR PRETRIAL RELEASE ORDER FOR A PREVIOUS VIOLENT CRIME; BY AMENDING SECTION 17-15-15, RELATING TO CASH DEPOSITS IN LIEU OF BOND, SO AS TO PROVIDE THAT IF THE COURT FINDS THAT A DEFENDANT MAY BE RELEASED ON BOND WHO HAS BEEN CHARGED WITH A VIOLENT OFFENSE OR ANY FELONY OFFENSE INVOLVING A FIREARM WHILE OUT ON BOND OR OTHER PRETRIAL RELEASE, THE BOND MUST BE SET AT THE FULL UNITED STATES CASH CURRENCY BOND RATHER THAN TEN PERCENT; BY AMENDING SECTION 17-15-30, RELATING TO MATTERS TO BE CONSIDERED IN DETERMINING CONDITIONS OF RELEASE, SO AS TO INCLUDE WHETHER A PERSON IS CURRENTLY OUT ON BOND FOR ANOTHER OFFENSE; BY ADDING SECTION 17-15-35 SO AS TO DEFINE NECESSARY TERMS, AND TO PROVIDE PROCEDURES FOR COURT-ORDERED ELECTRONIC MONITORING IN LIEU OF SETTING BOND OR AS AN ADDITIONAL CONDITION OF BOND; BY ADDING SECTION 17-15-37 SO AS TO AUTHORIZE THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION TO PROMULGATE REGULATIONS REGARDING ELECTRONIC MONITORING AND TO PROVIDE PARAMETERS FOR WHICH AN ELECTRONIC MONITORING AGENCY MUST OPERATE WITHIN; BY AMENDING SECTION 17-15-55, RELATING TO RECONSIDERATION OF BOND BY THE CIRCUIT COURT SET BY A SUMMARY COURT, SO AS TO PROVIDE A DEFENDANT MUST BE ADVISED OF HIS RIGHT TO A SPEEDY TRIAL AND TO PROVIDE PROCEDURES RELATED TO SPEEDY TRIALS, TO PROVIDE FOR THE REVOCATION OF PREVIOUS BOND IF A PERSON COMMITS A VIOLENT OFFENSE OR A FELONY OFFENSE INVOLVING A FIREARM WHICH WAS COMMITTED WHILE THE PERSON WAS ALREADY OUT ON BOND FOR A PREVIOUS VIOLENT OFFENSE OR FELONY OFFENSE INVOLVING A FIREARM, TO REQUIRE A FULL BOND UNDER CERTAIN REPEAT OFFENDER CIRCUMSTANCES, AND TO PROVIDE CONFORMING PROCEDURES; BY AMENDING SECTION 22-5-510, RELATING TO BAIL AND BOND HEARINGS AND CONDITIONS OF RELEASE, SO AS TO INCLUDE WHETHER A PERSON IS CURRENTLY OUT ON BOND FOR ANOTHER OFFENSE; BY AMENDING SECTION 24-13-40, RELATING TO THE COMPUTATION OF TIME SERVED BY PRISONERS, SO AS TO PROHIBIT CREDIT FOR TIME SERVED PRIOR TO TRIAL AND SENTENCING WHEN THE PRISONER COMMITTED A SUBSEQUENT CRIME WHILE OUT ON BOND OR HAD BOND REVOKED ON ANY CHARGE PRIOR TO TRIAL OR PLEA; BY AMENDING SECTION 24-13-425, RELATING TO THE OFFENSE OF TAMPERING WITH AN ELECTRONIC MONITORING DEVICE, SO AS TO DELETE AN UNNECESSARY DEFINITION AND EXEMPT CERTAIN AUTHORIZED EMPLOYEES OR AGENTS FROM THE PURVIEW OF THE STATUTE; BY ADDING SECTION 17-15-500 SO AS TO ESTABLISH THE SOUTH CAROLINA PRETRIAL REFORM COMMISSION, PROVIDE FOR ITS MEMBERSHIP AND DUTIES, AND TERMINATE THE COMMISSION ON A DATE CERTAIN; BY AMENDING SECTION 38-53-10, RELATING TO DEFINITIONS FOR PURPOSES OF THE CHAPTER ON BAIL BONDSMEN AND RUNNERS,

SO AS TO REVISE THE DEFINITION OF "SURETY BONDSMAN" AND DEFINE THE TERM "ELECTRONIC MONITORING"; BY AMENDING SECTION 38-53-50, RELATING TO SURETY RELIEVED ON BOND, SO AS TO MAKE A TECHNICAL CHANGE REGARDING NONPAYMENT OF PREMIUM FEES ALONE NOT BEING SUFFICIENT TO WARRANT IMMEDIATE INCARCERATION OF THE DEFENDANT; BY AMENDING SECTION 38-53-70, RELATING TO THE ISSUANCE OF BENCH WARRANTS FOR FAILURE TO APPEAR, SO AS TO REVISE THE STATUTE TO APPLY MORE BROADLY WHEN A DEFENDANT VIOLATES THE CONDITIONS OF BOND AND REVISE TIME FRAMES PROVIDED FOR THE NOTICE OF THE BENCH WARRANT; BY ADDING SECTION 38-53-84 SO AS TO REQUIRE NOTIFICATION TO THE APPROPRIATE SOLICITOR IF A DEFENDANT VIOLATES AN ORDER FOR ELECTRONIC MONITORING, TO PROVIDE FOR RELIEF FROM THE BOND IF THE DEFENDANT FAILS TO PAY FOR THE MONITORING, AND TO PROVIDE FOR POSSIBLE REVOCATION OF A BONDSMAN'S LICENSE FOR FAILURE TO COMPLY WITH REPORTING REQUIREMENTS; BY AMENDING SECTION 38-53-170, RELATING TO UNLAWFUL ACTS BY BONDSMEN AND RUNNERS, SO AS TO PROVIDE ADDITIONAL PAYMENT PROCEDURES AND EXPENSE REIMBURSEMENT PROCEDURES; BY AMENDING SECTION 38-53-310, RELATING TO WRITTEN BAIL BOND REPORTS THAT MUST BE FILED EACH MONTH WITH THE CLERK OF COURT, SO AS TO INCLUDE CURRENT DATA RETAINED AS AN EXPRESS CONDITION OF BOND, AND TO ALLOW FOR THE USE OF A DATA MANAGEMENT SOFTWARE SYSTEM IN LIEU OF THE WRITTEN REPORT; AND BY ADDING SECTION 38-53-55 SO AS TO REQUIRE A PERSON ENGAGED IN ELECTRONIC MONITORING OF A DEFENDANT CHARGED WITH A VIOLENT OFFENSE TO REPORT TO THE COURT AND LAW ENFORCEMENT OFFICIALS IF THE DEFENDANT HAS CONTACT WITH THE ALLEGED VICTIM.

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

Additional offense for persons violating bond, violent crimes

SECTION 1. Chapter 15, Title 17 of the S.C. Code is amended by adding:

<< SC ST § 17-15-270 >>

Section 17-15-270. (A) It is unlawful for a person to commit a violent crime while under a bond order or other pretrial release order for a previous violent crime. If the person is convicted of the subsequent violent crime, and is thereafter convicted of a violation of this section, the person is guilty of a felony and must be imprisoned not more than five years. The sentence may be imposed concurrently or consecutively to the punishment for the principal offense.

(B) For purposes of this section:

(1) a violent crime is defined as those contained in Section 16-1-60;

(2) a subsequent violent crime is one that occurs at a later date and time than the offense that resulted in the imposition of the bond order or other pretrial release order.

Full cash bonds

SECTION 2. Section 17-15-15 of the S.C. Code is amended to read:

<< SC ST § 17-15-15 >>

Section 17-15-15. (A) Except as provided in subsection (D), in lieu of requiring actual posting of bond as provided in Section 17-15-10(A), the court setting bond may permit the defendant to deposit in cash with the clerk of court an amount not to exceed

ten percent of the amount of bond set, which amount, when the defendant fulfills the condition of the bond, must be returned to the defendant by the clerk except as provided in subsection (C).

(B) The cash deposit provided for in subsection (A) must be assignable at any time after it is posted with the clerk of court by written assignment executed by the defendant and delivered to the clerk. After assignment and after the defendant fulfills the condition of his bond, the clerk shall return the cash deposit to the assignee.

(C) In the event the cash deposit is not assigned but the defendant is required by the court to make restitution to the victim of his crime, the deposit may be used for the purpose of restitution.

(D) The provisions of this section do not apply if the defendant is charged with a violent offense, as defined by Section 16-1-60, or any felony offense involving a firearm while out on bond or other pretrial release. If the court, pursuant to the limitations of Section 17-15-30, finds that such defendant may be released pending trial, bond must be set at the full United States currency cash bond to the exclusion of all other forms of bond whether the bond is posted by the defendant or with a bondsman. After the defendant fulfills the conditions of the bond, the clerk shall return the cash bond amount paid to the defendant. However, in the event the defendant is required by the court to make restitution to the victim of his crime, the cash bond may be used for the purpose of such restitution.

Any currency cash bond must be conditioned on the person charged personally appearing before the court specified to answer the charge or indictment and to do and receive what is enjoined by the court, and not to leave the State, and be of good behavior toward all the citizens of the State, or especially toward a person or persons specified by the court. Additionally, the court may impose any other conditions allowed under Chapter 15, Title 17, and any other provision of law.

Conditions of release

SECTION 3. Section 17-15-30 of the S.C. Code is amended to read:

<< SC ST § 17-15-30 >>

Section 17-15-30. (A) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community or an individual, a court may, on the basis of the following information, consider the nature and circumstances of an offense charged and the charged person's:

- (1) family ties;
- (2) employment;
- (3) financial resources;
- (4) character and mental condition;
- (5) length of residence in the community;
- (6) record of convictions; and
- (7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(B) A court must consider:

- (1) a person's criminal record;
- (2) any current charges pending against a person and any prior charges against a person at the time release is requested;

- (3) all incident reports generated as a result of an offense charged;
- (4) whether a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status;
- (5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division; and
- (6) whether a person is currently out on bond for another offense.

(C)(1) Prior to or at the time of a hearing, the arresting law enforcement agency must provide the court with the following information:

- (a) a person's criminal record;
- (b) any charges pending against a person at the time release is requested;
- (c) all incident reports generated as a result of the offense charged; and
- (d) any other information that will assist the court in determining conditions of release to include, but not be limited to, notification of any existing bonds for another offense.

(2) The arresting law enforcement agency shall inform the court if any of the information is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person's hearing. Notwithstanding the provisions of this item, when a person is charged with a violation of Chapter 25, Title 16, the bond hearing may not proceed without the person's criminal record and incident report or the presence of the arresting officer. The bond hearing for a violation of Chapter 25, Title 16 must occur within twenty-four hours after the arrest.

(D) A court hearing these matters has contempt powers to enforce the provisions of this section.

Definitions, electronic monitoring as condition of bond

SECTION 4. Chapter 15, Title 17 of the S.C. Code is amended by adding:

<< SC ST § 17-15-35 >>

Section 17-15-35. (A) As used in this section:

- (1) "Approved active electronic monitoring device" and "monitoring device" means a body worn or non-body worn device or mobile phone application approved by the South Carolina Law Enforcement Division which records or transmits oral or wire communications or an auditory sound, visual images, or information regarding the person's location and activities, that must verify live biometric, photographic, or videographic identification information, and that timely records and reports the person's location.
- (2) "Approved electronic monitoring agency" means a law enforcement agency, licensed bondsman or bonding company, or electronic monitoring company that is certified by the South Carolina Law Enforcement Division to supply, maintain, and monitor electronic monitoring devices to participants ordered by the court to wear electronic monitoring devices under the provisions of this section.
- (3) "SLED" means the South Carolina Law Enforcement Division.
- (4) "Monitoring agency" or "agency" means an approved electronic monitoring agency.

(5) "Participant" means a person, ordered by the court or as a condition of bond to wear or possess an approved electronic monitoring device.

(B)(1) The court, in its discretion, may, for a person charged with a violation of criminal offense under the jurisdiction of the court of general sessions or any offense where the court finds sufficient evidence of a concern for the victim's safety or the safety of any member of the public, order that the person be placed on surveillance via an approved active electronic monitoring device which must be worn or possessed at all times for the duration specified by the court, either in lieu of setting or requiring the posting of bond or as an additional condition of the release on bond.

(2) For pretrial bond consideration, the judge is not limited to nonviolent offenses, but must take into consideration all concerns relating to the setting of an appropriate bond under Section 22-5-510, Sections 17-15-10, et seq., and Section 16-25-120. The device must be capable of recording the person's location at all times. If the court orders a device, before the participant is allowed to leave custody, the detention facility where the defendant is located, in coordination with the approved monitoring agency, must ensure the participant is fitted with an approved active electronic monitoring device, and that all appropriate bond paperwork, including the agreement with the bonding and electronic monitoring companies acknowledging the terms and restrictions of the bond, is completed.

(3) The participant who is ordered on supervision must:

(a) wear an approved device at all times to verify his compliance with the conditions of his detention or if the device is not body worn, must maintain possession of his approved device on or near his person at all times for the duration of the detention and must verify his identity and location at any time required by the order of the court and must maintain the monitoring device on or near his person at all times for the duration of the detention, subject to the order of the court and reasonable orders of an agent or employee of the monitoring agency in order to effectuate the conditions of the monitoring order. For purposes of this subsection, "near" means within hearing distance of the device's notification or call alerts but not farther than thirty feet. In areas of the State where cellular coverage requires the use of an alternate device, the approved electronic monitoring company may use an alternate approved device with approval of the court;

(b) charge and maintain the monitoring device in working order and must report any damage, destruction, or noticeable malfunction of the active monitoring device, whether the incident was accidental or intentional, and including the device having a dead battery, to at least one of the following parties within two hours of the incident: the monitoring agency, the appropriate law enforcement agency with jurisdiction over the underlying offense, or any other party specified in the order;

(c) abide by other terms and conditions set forth by the approved electronic monitoring agency with regard to the monitoring device and electronic monitoring program;

(d) turn himself in to custody of the appropriate detention facility upon the order of the monitoring agency, or the appropriate law enforcement agency with jurisdiction over the offense; and

(e) pay for the cost of the approved active electronic monitoring device and the operation of the monitoring device for the duration of the time the person is required to be electronically monitored, subject to an order of indigency by the court. The summary court or circuit court has jurisdiction upon motion of the defendant to consider exempting a person from the payment of a part or all of the cost during a part or all of the duration of the time the person is required to be electronically monitored, if it is determined that exceptional circumstances exist such that these payments cause a severe hardship to the person who is deemed indigent. If the indigency hearing is held at a time and date separate from the initial bond hearing, the defense must notify the prosecutor, the bondsman, and the monitoring agency of the date, time, and location of the hearing subject to the notice requirements of the court.

The payment of the cost must be a condition of supervision of the person and a delinquency of two weeks or more in making payments may operate as a violation of a term or condition of the electronic monitoring and bond. No person shall be denied the privilege of electronic monitoring under this statute based on inability to pay upon a finding by the court that the defendant meets the qualifications for indigency. The State shall allocate funds to be housed in an indigency fund under the control of the Department of Public Safety to be distributed to the monitoring companies as appropriate to cover the cost of indigent participants.

(C) A participant ordered by the court to be monitored under the provisions of this section, who fails to comply with any of the provisions of this section or who fails to comply with any additional condition of the court order including location restrictions, may have his bond revoked or may be punished for contempt at the discretion of the court.

(D) It is unlawful for any person, knowingly and without authority, to remove, tamper with, damage, destroy, shield the signal from, or otherwise circumvent an active electronic monitoring device, or to aid or assist a person ordered by the court to be electronically monitored under the provisions of this section to remove, tamper with, damage, destroy, shield the signal from, or otherwise circumvent a monitoring device and, upon conviction, the person must be punished under the provisions of Section 24-13-425. This subsection does not apply to a person or agent of the electronic monitoring agency or bonding company, or a member of law enforcement acting under the authority of and with compliance to the court order.

(E)(1) Upon violation of any of these requirements and a showing by affidavit and supporting records by the electronic monitoring company on a domestic violence bond or general sessions bond or where emergency circumstances exist on any other bond, the approved electronic monitoring company may approach a summary court judge for a bench warrant if one is not already provided for in the bond paperwork or other court order. Law enforcement shall immediately attempt to locate and incarcerate the defendant upon notice of the bench warrant. After incarceration, the prosecutor must be notified and the defendant must be brought before a summary court judge within three calendar days or before a circuit court judge within three business days, whichever has jurisdiction of the underlying charge, to determine whether the bond is to be reconsidered or bond conditions amended. The prosecution must provide the defense with any relevant evidence regarding the alleged violation within a reasonable time before the hearing and the hearing may be continued for cause.

(2) Nothing in this section shall reduce any duty of the bondsman to pick up the offending bailee and immediately incarcerate him for violation of bond conditions. Failure to do so may lead to bond estreatment for failure to enforce bond conditions by the bondsman and possible other administrative or criminal action.

(3) Nothing in this section may be used to hold the electronic monitoring agency civilly liable for any criminal acts of the defendant committed while being monitored.

Regulations regarding electronic monitoring by SLED, electronic monitoring agency requirements

SECTION 5. Chapter 15, Title 17 of the S.C. Code is amended by adding:

<< SC ST § 17-15-37 >>

Section 17-15-37. (A) The South Carolina Law Enforcement Division may promulgate regulations to effectuate the intent of Section 17-15-35 and this section, develop standards for the use and approval of active electronic monitoring devices, and shall certify electronic monitoring agencies, including law enforcement agencies, electronic monitoring companies, and bondsmen and bonding companies. SLED must keep a public list of those companies that are certified.

(B) The approved electronic monitoring agency must:

- (1) provide active electronic monitoring devices or mobile phone applications approved by SLED that must provide verifiable identity and location information at regular and random intervals throughout the day, and that timely record and report the person's presence near or within a prohibited area or the person's departure from a specified geographic location;
- (2) allow any law enforcement agency, including the prosecutor's office, to have access to real-time monitoring, if possible, and any reports requested by law enforcement or the prosecution must be provided within twenty-four hours of the request;
- (3) notify the solicitor having jurisdiction over the participant and the bondsman within forty-eight hours when he becomes aware or should have become aware that the participant has violated any provision of the court's order for electronic monitoring, or the participant has been surrendered to the custody of law enforcement; and
- (4) immediately notify local law enforcement and make reasonable attempts to immediately notify the victim if the participant violates any exclusion zones related to the victim.

(C) Failure of the electronic monitoring agency to maintain compliance with regulations established by SLED, the order of the court, or any applicable statute shall be reported to SLED by the solicitor for administrative action. SLED may impose a fine, or suspend or revoke the certification for any approved agency who demonstrates a failure to maintain the standards and reporting requirements set forth under the regulations and appropriate statutes.

Speedy trials, bond revocation, conforming provisions

SECTION 6. Section 17-15-55 of the S.C. Code is amended to read:

<< SC ST § 17-15-55 >>

Section 17-15-55. (A)(1) The circuit courts, at their discretion, may review and reconsider bond for general sessions offenses set by summary court judges. Also, the circuit courts may consider motions regarding reconsideration of bond for general sessions offenses set by summary court judges upon motions filed with the clerks of court. Hearings on these motions must be scheduled. The rules of evidence do not apply to bond hearings.

(2) After a circuit court judge has heard and ruled upon a defendant's motion to reconsider a bond set by a summary court judge, further defense motions to reconsider may be heard by the circuit court only upon the defendant's prima facie showing of a material change in circumstances which relate to the factors provided in Section 17-15-30, and which have arisen since the prior motion to reconsider. In addition, the circuit court may hear further defense motions to reconsider based on the length of time the defendant has been held for trial after six months. The chief judge shall schedule a hearing or if such showing is not set forth in the written motion, deny the motion for failure to make a prima facie showing of a material change in circumstances. A defendant shall be advised of his right to a speedy trial. Notwithstanding another provision of law, nothing prevents a solicitor or the defendant from filing a motion for a speedy trial or requesting the court to set a date certain for trial based on the facts and circumstances in the case. If either party fails to comply with the terms of an order granting a speedy trial, the court may reconsider the terms of the defendant's bond, may consider sanctions and may grant other just and proper relief as the court determines.

(B)(1) Motions by the State to revoke or modify a bond must be made in writing, state with particularity the grounds for revocation or modification, and set forth the relief or order sought. The motions must be filed with the clerks of court, and a copy must be served on the chief judge, defense counsel of record, and bond surety, if any. The court must have a hearing and rule on the state's motion within thirty days of the filing.

(2) After a circuit court judge has heard and ruled upon the state's motion to reconsider a bond set by a summary court judge, further state motions to reconsider may be heard by the circuit court only upon the state's prima facie showing of a material change in circumstances which have arisen since the prior motion to reconsider. The chief judge shall schedule a hearing

or if such showing is not set forth in the written motion, deny the motion for failure to make a prima facie showing of a material change in circumstances.

(3) If the state's motion to revoke or modify bond includes a prima facie showing of imminent danger to the community, imminent danger to the defendant, or flight by the defendant, the chief judge or presiding judge shall conduct or order an emergency bond hearing to be conducted by the circuit court judge within forty-eight hours of receiving service of the state's motion or as soon as practical. The chief judge shall order the solicitor to notify the defense counsel of record and bond surety of the time and date of the hearing, and the solicitor shall provide proof that reasonable efforts were made to affect the notice. Upon notice by the State, the defense counsel of record and bond surety shall make reasonable efforts to notify the defendant of the emergency hearing. The court may proceed with the hearing despite the absence of the defendant or bond surety. The court may not proceed with the hearing if the defense counsel of record is not present. If an emergency bond hearing is held without the presence of the defendant and bond is revoked, the judge having heard the matter may conduct the hearing on the defendant's motion to reconsider the revocation. Defense motions to reconsider revocation must be filed with the clerk of court and served on the solicitor and bond surety.

(C) If a person commits a violent offense, as defined in Section 16-1-60, or any felony offense involving a firearm, which was committed when the person was already out on bond for a previous violent offense or any felony offense involving a firearm and the subsequent offense did not arise out of the same series of events as the previous offense, then:

(1) the bond for the original offense must be revoked by operation of law and a hearing for the subsequent violent offense or any felony offense involving a firearm must be held in the circuit court within thirty days;

(2) during the bond hearing for the subsequent violent offense or felony offense involving a firearm, the court must issue findings of fact and conclusions of law addressing the revocation of bond for the original offense, whether a new bond is issued for the previous offense as well as if bond is appropriate for the subsequent violent offense or felony offense involving a firearm;

(3) if the court finds that certain conditions of release on bond will ensure that the person is unlikely to flee or pose a danger to any other person or the community and the person will abide by the terms of release on bond, the judge shall consider bond in accordance with the provisions of this chapter and set or amend bond accordingly. Notwithstanding the provisions of Section 17-15-15, any bond set for a violent offense or felony offense involving a firearm committed when the person was already out on bond for a previous violent offense or felony offense involving a firearm must be deposited to the court in cash or its equivalent in full, notwithstanding if posted by the person, his representative, or by a bond surety;

(4) if the court finds no such conditions will ensure that the person is unlikely to flee or not pose a danger to the community, the court shall not set a bond for the instant offense and must revoke all previously set bonds; and

(5) if a person commits a violent offense, as defined in Section 16-1-60, or felony offense involving a firearm which was committed when the person was already out on bond for a previous violent offense or felony offense involving a firearm, and the subsequent offense did not arise out of the same series of events as the previous offense, then the arresting law enforcement agency must transmit notice of the second arrest, implicating this subsection, to the solicitor of the circuit in which the offense was committed and the administrative chief judge of the circuit in which the offense was committed. The prosecuting agency must notify any victims of the initial or subsequent offenses pursuant to Chapter 3, Title 16 of any bond hearings.

(D) If a person commits a violent offense, as defined in Section 16-1-60, or felony offense involving a firearm which was committed when the person was already out on bond for two or more previous separate violent offenses or felony offenses involving a firearm for which separate bonds were set, and the subsequent offense did not arise out of the same series of events as the two or more previous separate offenses, and the court determines that under the totality of the circumstances the previous bonds should not be revoked and another bond should be set, any bond set by the court must be deposited in full and may not be posted by any bond surety company.

(E) Notwithstanding subsection (C)(2), if the original bond was set in another judicial circuit, that prosecution agency shall be notified of the revocation and any finding the court makes pursuant to this subsection. The prosecution agency having jurisdiction over the subsequent charge must make the notification required in this subsection within forty-eight hours of the conclusion of the preceding. The presiding judge has jurisdiction to make a finding on record to deny a new bond on the original charge or may order a new bond hearing to be scheduled on the original charge in the judicial circuit where the charges are pending. This hearing must be scheduled within thirty days by the prosecution agency having jurisdiction over the original charges.

(F) For the purpose of bond revocation only, a summary court has concurrent jurisdiction with the circuit court for thirty days from the date bond is first set on a charge by the summary court or the date of the grand jury indictment whichever occurs first to determine if bond should be revoked.

Conditions of release

SECTION 7. Section 22-5-510 of the S.C. Code is amended to read:

<< SC ST § 22-5-510 >>

Section 22-5-510. (A) Magistrates may admit to bail a person charged with an offense, the punishment of which is not death or imprisonment for life; provided, however, with respect to violent offenses as defined by the General Assembly pursuant to Section 15, Article I of the Constitution of South Carolina, 1895, magistrates may deny bail giving due weight to the evidence and to the nature and circumstances of the event including, but not limited to, any charges pending against the person requesting bail. "Violent offenses" as used in this section means the offenses contained in Section 16-1-60. If a person under lawful arrest on a charge not bailable is brought before a magistrate, the magistrate shall commit the person to jail. If the offense charged is bailable, the magistrate shall take recognizance with sufficient surety, if it is offered, in default whereof the person must be incarcerated.

(B) A person charged with a bailable offense must have a bond hearing within twenty-four hours of his arrest and must be released within a reasonable time, not to exceed four hours, after the bond is delivered to the incarcerating facility.

(C) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community or an individual, a court, on the basis of the following information, may consider the nature and circumstances of an offense charged and the charged person's:

- (1) family ties;
- (2) employment;
- (3) financial resources;
- (4) character and mental condition;
- (5) length of residence in the community;
- (6) record of convictions; and
- (7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(D) A court must consider:

- (1) a person's criminal record;

- (2) any charges pending against a person at the time release is requested;
- (3) all incident reports generated as a result of an offense charged;
- (4) whether a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status;
- (5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division; and
- (6) whether a person is currently out on bond for another offense.

(E) Prior to or at the time of the bond hearing, the arresting law enforcement agency must provide the court with the following information:

- (1) the person's criminal record;
- (2) any charges pending against the person at the time release is requested;
- (3) all incident reports generated as a result of the offense charged; and
- (4) any other information that will assist the court in determining conditions of release to include, but not be limited to, notification of any existing bonds for another offense.

(F) The arresting law enforcement agency shall inform the court if any of the information required in subsections (C), (D), and (E) is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person's bond hearing. Notwithstanding the provisions of this subsection, when a person is charged with a violation of Chapter 25, Title 16, the bond hearing may not proceed without the person's criminal record and incident report or the presence of the arresting officer. The bond hearing for a violation of Chapter 25, Title 16 must occur within twenty-four hours after the arrest.

(G) A court hearing this matter has contempt powers to enforce these provisions.

Credit for time served

SECTION 8. Section 24-13-40 of the S.C. Code is amended to read:

<< SC ST § 24-13-40 >>

Section 24-13-40. The computation of the time served by prisoners under sentences imposed by the courts of this State must be calculated from the date of the imposition of the sentence. However, when (a) a prisoner shall have given notice of intention to appeal, (b) the commencement of the service of the sentence follows the revocation of probation, or (c) the court shall have designated a specific time for the commencement of the service of the sentence, the computation of the time served must be calculated from the date of the commencement of the service of the sentence. In every case in computing the time served by a prisoner, full credit against the sentence must be given for time served prior to trial and sentencing, and may be given for any time spent under monitored house arrest. Provided, however, that credit for time served prior to trial and sentencing shall not be given: (1) when the prisoner at the time he was imprisoned prior to trial was an escapee from another penal institution; (2) when the prisoner is serving a sentence for one offense and is awaiting trial and sentence for a second offense in which case he shall not receive credit for time served prior to trial in a reduction of his sentence for the second offense; (3) when the prisoner commits a subsequent crime while out on bond; or (4) has bond revoked on any charge prior to trial or plea.

Tampering with an electronic monitoring device

SECTION 9. Section 24–13–425 of the S.C. Code is amended to read:

<< SC ST § 24–13–425 >>

Section 24–13–425. (A) For the purposes of this section, “electronic monitoring device” includes any device ordered by a court or pursuant to any statute that is utilized to track the location of a person.

(B) It is unlawful for any person to knowingly and without authority remove, destroy, or circumvent the operation of an electronic monitoring device which is being used for the purpose of monitoring a person who is:

- (1) complying with the Home Detention Act as set forth in Article 15, Title 24;
- (2) wearing an electronic monitoring device as a condition of bond or pretrial release;
- (3) wearing an electronic monitoring device as a condition of probation, parole, or community supervision; or
- (4) wearing an electronic monitoring device as required by any other provision of law.

(C) It shall be unlawful for any person to knowingly and without authority request or solicit any other person to remove, destroy, or circumvent the operation of an electronic monitoring device which is being used for the purposes described in subsection (B).

(D) This section does not apply to an employee or agent of the electronic monitoring company, bonding company, or law enforcement entity who removes or replaces an active electronic monitoring device in order to perform maintenance and repair on the device, who removes and replaces a non-working device, who removes the device once the person is placed into secure custody or if the underlying charges have been dismissed, or who otherwise is acting under the authority of the court order.

(E) Any person who violates the provisions of this section shall be guilty of the misdemeanor offense of tampering with the operation of an electronic monitoring device and shall be imprisoned for not more than three years, or fined up to three thousand dollars, or both.

Pretrial Reform Commission created

SECTION 10. Chapter 15, Title 17 of the S.C. Code is amended by adding:

<< SC ST § 17–15–500 >>

Section 17–15–500. (A) There is established the South Carolina Pretrial Reform Commission composed of fifteen members as follows:

- (1) three members to be appointed by the Chairman of the Senate Judiciary Committee;
- (2) three members to be appointed by the Chairman of the House of Representatives Judiciary Committee;
- (3) three members of the judiciary to be appointed by the Chief Justice of the South Carolina Supreme Court;
- (4) three members of the executive branch to be appointed by the Governor; and
- (5) three members of the directly impacted community, including one crime survivor, one person that has been through the pretrial system, and a community member at large to be jointly appointed by the Chairmen of both the House and Senate Judiciary Committees.

(B) The members of the commission may begin meeting when at least a quorum has been appointed and shall elect one member to serve as chairman. A quorum shall consist of at least eight members.

(C) The primary duty of the South Carolina Pretrial Reform Commission is to prepare a comprehensive report that reviews and recommends:

- (1) appropriate changes to the current pretrial system for all criminal offenses;
- (2) maintaining, amending, or abolishing the current system for determining pretrial release or detention; and
- (3) guidelines for legislation to improve the processing of cases in the court of general sessions, community safety, and court appearance outcomes.

(D) The purpose of the report is to enable the General Assembly to consider the Pretrial Reform Commission's findings and determine whether state laws should be amended.

(E) In making its recommendations, the commission must consider current case processing and correctional resources including, but not limited to, the capacities of local jails, community-based service providers, and state courts.

(F) The Pretrial Reform Commission must deliver its report and recommendations to the Chairman of the Senate Judiciary Committee and the Chairman of the House Judiciary Committee no later than July 1, 2024, and the commission shall terminate when the report is made.

(G) The Supreme Court shall provide appropriate staff for the commission. The Chairman of the Senate Judiciary Committee may provide additional staff for the Senate members, and the Chairman of the House Judiciary Committee may provide additional staff for the House members.

(H) Members of the Pretrial Reform Commission may receive per diem, subsistence, and mileage as provided by law for members of state boards, committees, and commissions.

Definitions, bail bondsmen and runners

SECTION 11. Section 38-53-10(12) of the S.C. Code is amended to read:

<< SC ST § 38-53-10 >>

(12) "Surety bondsman" means any person who is approved by and licensed by the director or his designee as a property and casualty insurance agent, appointed by an insurer by power of attorney to execute or countersign bail bonds for the insurer in connection with judicial proceedings, and receives or is promised money or other things of value for the execution or countersignature.

Definitions, electronic monitoring

SECTION 12. Section 38-53-10 of the S.C. Code is amended by adding:

<< SC ST § 38-53-10 >>

(15) "Electronic monitoring" means monitoring a person by the use of a device which records or transmits oral or wire communications or an auditory sound, visual images, or information regarding the person's activities.

Nonpayment of premium fees alone insufficient to warrant incarceration

SECTION 13. Section 38-53-50(B) of the S.C. Code is amended to read:

<< SC ST § 38-53-50 >>

(B) If the circumstances warrant immediate incarceration of the defendant to prevent imminent violation of one of the specific terms of the bail bond, or if the defendant has violated one of the specific terms of the bond, the surety may take the defendant to the appropriate detention facility for holding until the court orders that the surety be relieved. The surety, within three business days following recommitment, must file with the detention facility and the court an affidavit clocked in with the clerk of court on a form provided by the Division of Court Administration stating the facts to support the surrender of the defendant for good cause. Nonpayment of premium fees alone is not sufficient cause to warrant immediate incarceration of the defendant. When the defendant and the affidavit are presented at the appropriate detention facility, the facility shall take custody of the defendant. When the affidavit is filed with the court, the surety also shall file a motion to be relieved on the bond pursuant to subsection (A). A surety who surrenders a defendant and files an affidavit which does not show good cause is subject to penalties imposed for perjury as provided for in Article 1, Chapter 9, Title 16.

Violation of conditions of bond

SECTION 14. Section 38-53-70 of the S.C. Code is amended to read:

<< SC ST § 38-53-70 >>

Section 38-53-70. If a defendant violates the conditions of release on bond, the court shall issue a bench warrant for the defendant. The court must provide written or electronic notice of the issuance of the bench warrant within thirty days of its issuance to every party bound in the recognizance. If the surety fails to surrender the defendant or place a hold on the defendant's release from incarceration, commitment, or institutionalization within ninety days of the issuance of the bench warrant, the bond is forfeited. At any time before execution is issued on a judgment of forfeiture against a defendant or his surety, the court may direct that the judgment be remitted in whole or in part, upon conditions as the court may impose, if it appears that justice requires the remission of part or all of the judgment. In making a determination as to remission of the judgment, the court shall consider the costs to the State or a county or municipality resulting from the necessity to continue or terminate the defendant's trial and the efforts of law enforcement officers or agencies to locate the defendant. The court, in its discretion, may permit the surety to pay the estreatment in installments for a period of up to six months; however, the surety shall pay a handling fee to the court in an amount equal to four percent of the value of the bond. If at any time during the period in which installments are to be paid the defendant is surrendered to the appropriate detention facility and the surety complies with the recommitment procedures, the surety is relieved of further liability.

Notification when electronic monitoring violated

SECTION 15. Chapter 53, Title 38 of the S.C. Code is amended by adding:

<< SC ST § 38-53-84 >>

Section 38-53-84. (A) A person engaged in electronic monitoring of a defendant must, within forty-eight hours, notify the solicitor having jurisdiction over the defendant when he becomes aware or should have become aware that the defendant has violated any provision of the court's order for electronic monitoring. Failure of a defendant to timely pay the bondsman the full monthly electronic monitoring fee associated with the cost of the electronic monitoring device and the associated cost of the monitoring service shall, in and of itself, constitute good cause for the bondsman to file a motion to be relieved on the bond and to surrender the defendant to the custody of the appropriate detention facility pursuant to Section 38-53-50.

(B) Failure of the bondsman to maintain compliance with the reporting requirement of subsection (A) shall be reported to the South Carolina Department of Insurance by the solicitor for administrative action whereby the bondsman's license may be fined, suspended, or revoked.

Payment and expense reimbursement procedures

SECTION 16. Section 38-53-170(e) and (f) of the S.C. Code is amended to read:

<< SC ST § 38-53-170 >>

(e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond. Conditions of the bond which expressly or implicitly require payment of monies in excess of the premium, as a cost of satisfying the condition of the bond, shall not be considered part of the bondsman's premium, and are not affected by this code provision. The bondsman may collect these fees from the defendant and is not limited by any language requirements of this code provision.

However, the bondsman is permitted to enter into a payment agreement by attaching a statement of bondsman to the bond proceeding form and this agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars. This payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed. If the payment has not been made for two consecutive months, the bondsman must send a certified notice to the last known address of the principal and indemnitor demanding payment be made within ten days to bring the agreement current. If no payment is received by the end of the notice period, the bondsman must surrender the principal to the proper detention facility for holding and file a motion to be relieved as provided in Section 38-53-50(A) or (B), at which time the agreement must be accelerated, and the balance paid in full, before or at the motion hearing for the principal to be rereleased on bond. The bondsman may accept collateral security or other indemnity from the principal which must be returned within ten days after final termination of liability on the bond unless a bench warrant has been issued. The bondsman shall identify who is paying the premium and shall represent that the collateral security or other indemnity has not been obtained from any person who has a greater interest in the principal's disappearance than appearance for trial. The collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond. If the bond is forfeited, a bondsman may not convert collateral described in the collateral receipt to cash until he has provided a ten-day notice of this pending conversion to the depositor. This notice must be sent by certified mail to the last known address of the depositor. After the conversion, the bondsman must disclose the actual amount received to the depositor and must return any amount received that exceeds the final judgement or consent amount, less any reasonable expenses. These reasonable expenses include apprehension and legal costs incurred as a result of the violation of the bond. The bondsman must provide the depositor copies of all receipts and, if applicable, the overage money within three days after settlement;

(f) solicit business in any of the courts or on the premises of any of the courts of this State, in the office of any magistrate, or in or about any place where prisoners are confined. Law enforcement officers and jailers shall report any violations of this provision to the court. Any action taken pursuant to this provision resulting in a conviction, guilty plea, or plea of nolo contendere pursuant to Section 38-53-340 must be reported to the director or his designee by the court within thirty days; or

Bail Bond Reports

SECTION 17. Section 38-53-310 of the S.C. Code is amended to read:

<< SC ST § 38-53-310 >>

Section 38-53-310. (A) Each professional bondsman shall by the fifteenth of each month file with the clerk of court of the county of his principal place of business and any other county where he is doing business a written report in a form prescribed by the director or his designee regarding all bail bonds on which he is liable as of the first day of each month.

(B) Each surety bondsman shall, within thirty days of executing a bail bond, file with their respective insurance provider a written or electronic report in a form approved by the director or his designee detailing all bail bonds on which he has cause to be executed.

(C) The reports referenced in subsections (A) and (B) shall include the following:

- (1) each individual bonded;
- (2) the date the bond was given;
- (3) the principal sum of the bond;
- (4) the state or local official with whom the bond was filed;
- (5) the fee charged for the bonding service in each instance;
- (6) all pending bonds; and
- (7) any current data on monies to be collected and retained as an express condition of the bond, whether for electronic monitoring or otherwise.

(D) In lieu of the monthly submission of a written report to the clerk of court, the bondsman may utilize a data management software system, which contains the above required current information, and is capable of providing the appropriate clerk of court or his designee with real-time access to the data management system through a portal, website, or other data access system through which the clerk of court can confirm he has access to the required information.

Contact with victim violations

SECTION 18. Chapter 53, Title 38 of the S.C. Code is amended by adding:

<< SC ST § 38-53-55 >>

Section 38-53-55. When a person engaged in electronic monitoring of a defendant charged with a violent offense as defined by Section 16-1-60 becomes aware that the defendant has had contact with the alleged victim of the violent offense or with the immediate family of the alleged victim of the violent offense, he must immediately or within twenty-four hours, notify law enforcement, the solicitor, and the court having jurisdiction over the defendant of the contact.

Time effective

SECTION 19. This act takes effect upon approval by the Governor; however, the provisions of Sections 17-15-35 and 17-15-37 take effect six months after approval by the Governor, and the provisions of Section 38-53-10(12) take effect July 1, 2024.

Ratified the 14th day of June, 2023.

Approved the 20th day of June, 2023.

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EXHIBIT C

(S.C. Code Ann. § 35-53-170
(enacted by 1998 Act No.
425 § 2)

Code of Laws of South Carolina 1976 Annotated

Title 38. Insurance (Refs & Annos)

Chapter 53. Bail Bondsmen and Runners

This section has been updated. Click [here](#) for the updated version.

Code 1976 § 38-53-170

§ 38-53-170. Unlawful acts.

Effective: [See Text Amendments] to June 19, 2023

No bondsman or runner may:

(a) pay a fee or rebate or give or promise anything of value, directly or indirectly, to a jailer, law enforcement officer, committing magistrate, or any other person who has power to arrest or hold in custody, or to any public official or public employee in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or the forfeiture of the bail bond, including the payment to the law enforcement officers, directly or indirectly, for the arrest or apprehension of a principal or principals who have caused a forfeiture;

(b) pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any action on a bond;

(c) pay a fee or rebate or give or promise anything of value to the principal or anyone in his behalf;

(d) participate in the capacity of an attorney at a trial or hearing of one on whose bond he is surety, nor suggest or advise the employment of or name for employment any particular attorney to represent the principal;

(e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of twenty-five dollars. However, the bondsman is permitted to accept collateral security or other indemnity from the principal which must be returned upon final termination of liability on the bond. The bondsman shall identify who is paying the premium and shall represent that the collateral security or other indemnity has not been obtained from any person who has a greater interest in the principal's disappearance than appearance for trial. The collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond;

(f) solicit business in any of the courts or on the premises of any of the courts of this State, in the office of any magistrate, or in or about any place where prisoners are confined. Law enforcement officers and jailers shall report any violations of this provision to the court. Any action taken pursuant to this provision resulting in a conviction, guilty plea, or plea of nolo contendere pursuant to [Section 38-53-340](#) must be reported to the director or his designee by the court within thirty days;

(g) advise or assist the principal for the purpose of forfeiting bond.

§ 38-53-170. Unlawful acts., SC ST § 38-53-170

Credits

HISTORY: Former 1976 Code § 38-63-180 [1985 Act No. 189, § 1] recodified as § 38-53-170 by 1987 Act No. 155, § 1; 1988 Act No. 476; **1993 Act No. 181, § 696**; **1998 Act No. 425, § 2**.

Code 1976 § 38-53-170, SC ST § 38-53-170

Current through 2025 Act No. 94, subject to final approval by the Legislative Council, technical revisions by the Code Commissioner, and publication in the Official Code of Laws.

End of Document

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EXHIBIT D

*(The Honorable B. Lee Miller,
Op. S.C. Att'y Gen., 2024 WL
3186557 (July 17, 2024))*

2024 WL 3186557 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 17, 2024

*1 The Honorable B. Lee Miller
Municipal Judge
City of Greenwood
Post Office Box 40
Greenwood, South Carolina 29648-0040

Dear Judge Miller:

We received your request for an opinion from this Office concerning the recently adopted bond reform legislation. You state the Greenwood Clerk of Court sent out information to all the judges concerning bonding procedures under this new legislation. Specifically, the Clerk of Court stated, "the new bond law requires the defendant to post the entire ten percent (10%) with the bond company and then may make a payment plan for anything over ten percent, up until the maximum amount is reached which is fifteen (15%) percent." You informed us that you were under the impression that the defendant had to pay \$100.00, then a payment plan could be implemented for the remainder of the balance. The balance must be paid off within eighteen months of the signing of the original bond contract. If the balance is not paid in full then other measures would be triggered concerning the bond.

Thus, you ask us to resolve the conflict between these interpretations.

Law/Analysis

As you mentioned in your letter, in 2023 the Legislature enacted bond reform legislation that included changes to section 38-53-170(e) pertaining to payments to bondsmen. 2023 S.C. Acts 83. Section 38-53-170(e) prohibits bondsmen from accepting anything of value except the premium. Prior to the 2023 legislation, section 38-53-170(e) mandated that the premium "may not exceed fifteen percent of the face amount of the bond, with a minimum fee of twenty-five dollars." [S.C. Code Ann. § 38-53-170\(e\) \(2015\)](#). Thus, this provision gave bondsmen a lot of flexibility as to the premium charged and how it was collected, only requiring a minimum fee of twenty-five dollars and a maximum fee of fifteen percent of the bond.

Act 83 amended [section 38-53-170\(e\)](#), which now provides for "a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond." [S.C. Code Ann. § 38-53-170\(e\) \(Supp. 2023\)](#). But the revisions to subsection 38-53-170(e) also include the following language: However, the bondsman is permitted to enter into a payment agreement by attaching a statement of bondsman to the bond proceeding form and this agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars. This payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed. If the payment has not been made for two consecutive months, the bondsman must send a certified notice to the last known address of the principal and indemnitor demanding payment be made within ten days to bring the agreement current. If no payment is received by the end of the notice period, the bondsman must surrender the principal to the proper detention facility for holding and file a motion to be relieved as provided in Section BB-SS-5 0(A) or (B), at which time the agreement must be accelerated, and the balance paid in full, before or at the motion hearing for the principal to be rereleased on bond. The bondsman may accept collateral security or other indemnity from the principal which must be returned within ten days after final termination of liability on the bond unless a bench warrant has been issued. The bondsman shall identify who

is paying the premium and shall represent that the collateral security or other indemnity has not been obtained from any person who has a greater interest in the principal's disappearance than appearance for trial. The collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond. If the bond is forfeited, a bondsman may not convert collateral described in the collateral receipt to cash until he has provided a ten-day notice of this pending conversion to the depositor. This notice must be sent by certified mail to the last known address of the depositor. After the conversion, the bondsman must disclose the actual amount received to the depositor and must return any amount received that exceeds the final judgement or consent amount, less any reasonable expenses. These reasonable expenses include apprehension and legal costs incurred as a result of the violation of the bond. The bondsman must provide the depositor copies of all receipts and, if applicable, the overage money within three days after settlement

*2 Id. (emphasis added).

When interpreting a statute, as we are asked to do here, we start with the cardinal rule of statutory construction, which is to “to ascertain and effectuate the intent of the legislature.” Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). ““What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will. Therefore, the courts are bound to give effect to the expressed intent of the legislature.”” Id. at 85.533 S.E.2d at 581 (quoting Norman J. Singer, Sutherland Statutory Construction § 46.03 at 94 (5th ed. 1992)). “Further, statutes must be read as a whole and sections which are part of the same general statutory scheme must be construed together and each given effect, if it can be done by any reasonable construction.” Hudson ex rel. Hudson v. Lancaster Convalescent Ctr., 407 S.C. 112, 124-25, 754 S.E.2d 486, 492-93 (2014).

Initially, section 38-53-170(e) requires the charge and collection of ten percent of the bond or at a minimum one hundred dollars. Based on the plain language used in this portion of section 38-53-170(e), we are led to believe the Legislature intended for ten percent of the bond, or at a minimum one hundred dollars, to be collected prior to the execution of the bond. But, the Legislature appears to have modified this requirement by also including the language allowing a bondsman to enter into a payment agreement with the principal starting with the use of the term “However”- a term of contradiction. Thus, while the Legislature clearly intends for bondsmen to charge premiums of a minimum of ten percent of the bond, we are of the opinion that they also intended to give bondsmen the option to accept a minimum payment of one hundred dollars and allow the principal to make payments on the remaining minimum premium as long as the payment agreement is attached to the bond proceeding form and the agreement meets the requirements set forth in section 38-53-170(e).

We understand your clerk of court interprets the language allowing a bondsman to enter into a payment agreement as applying only to the premium charge that exceeds the required ten percent minimum, but reading that statute in this way could lead to an absurd result. In construing statutes courts “will reject an interpretation when such an interpretation leads to an absurd result that could not have been intended by the legislature.” Lancaster Cnty. Bar Ass'n v. S.C. Comm'n on Indigent Deft, 380 S.C. 219, 222, 670 S.E.2d 371, 373 (2008). First, we are at a loss as to why the Legislature would find it necessary to give permission for a payment agreement for an amount that the bondman is not required to charge in the first place. Second, this reading would require the principal to pay not only the ten percent bond up front, but also an additional one hundred dollars for the opportunity to finance the premium in excess of the ten percent. We do not believe such an interpretation is in line with the intent of the Legislature.

*3 Moreover, the legislative history of the amendments to section 38-53-170(e) supports our interpretation. As our court of appeals explained, “The construing court may additionally look to the legislative history when determining the legislative intent.” Ex parte Cannon, 385 S.C. 643, 655, 685 S.E.2d 814, 821 (Ct. App. 2009). In our review of the legislative history, the amendments to section 38-53-170(e) were first proposed to the Senate's version of the act. 2023 Senate Journal April 11, 2023, p. 26. While this version also required the payment and collection of a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, the language allowing for a payment agreement required a down payment of one hundred dollars or five percent of the bond. Id. If the ability to enter into a payment agreement only applies to the premium charged above the ten percent minimum, by requiring an additional five percent of the bond as the minimum down payment would leave nothing left to finance as the maximum premium is fifteen percent. Thus, we believe the legislative history supports our conclusion that

the Legislature intended to allow bondmen to enter into payment agreements for the ten percent minimum premium rather than for the excess premium they are allowed to charge.

Lastly, we must keep in mind that the South Carolina Constitution affords defendants the right to bail. S.C. Const. Art. I § 15 (2009). As our Supreme Court stated, “all statutes are presumed constitutional and, if possible, will be construed to render them valid.” State v. Neuman, 384 S.C. 395, 402, 683 S.E.2d 268, 271 (2009) (quoting Curtis v. State, 345 S.C. 557, 569, 549 S.E.2d 591, 597 (2001)). While the revisions to section 38-53-170(c) indicate the intent of the Legislature to increase the premium charged and paid by defendants, we believe by giving defendants the ability to enter into a payment agreement with the bondsman, the Legislature is balancing its desire to increase and standardize premiums with defendants' ability to pay those premiums and ensuring compliance with defendants' constitutional rights. Accordingly, we believe our interpretation of section 38-53-170(e) lends itself to a constitutional reading of the statute.

Conclusion

As you mentioned in your letter, in 2023 the Legislature enacted bond reform legislation including amendments to section 38-53-170, which prohibits certain acts by bondsmen and runners. Specifically, section 38-53-170(e) governs the premiums bondsmen and runners charge. The amendments to this provision now require all bondsmen and runners to charge and collect a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater. This change indicates the Legislature's intent to increase and standardize the premiums charged and collected by bondsmen. Nonetheless, reading section 38-53-170(e) as a whole, we agree with your interpretation that it allows a bondsman to accept a minimum downpayment of one hundred dollars along with a payment agreement for the remaining amount of the minimum premium as long as the bondsman attaches the agreement to the bond processing form and complies with the other requirements for the agreement contained in section 38-53-170(c). We believe this interpretation comports not only with the intent of the Legislature based on the plain language of statute and its legislative history, but also balances the desire of the Legislature to provide more oversight over bond premiums with defendants' constitutional rights to bail.

Sincerely,

*4 Cydney Milling
Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Solicitor General

2024 WL 3186557 (S.C.A.G.)

EXHIBIT E

*(Gwendolyn McGriff, Esquire,
Op. S.C. Att'y Gen. (July 31,
2025))*



ALAN WILSON
ATTORNEY GENERAL

July 31, 2025

Gwendolyn McGriff, Esquire
General Counsel
South Carolina Department of Insurance
PO Box 100105
Columbia, SC 29202

Dear Ms. McGriff:

Attorney General Alan Wilson referred your letter to the Opinions section for a response. In your letter, you ask that we withdraw or modify our June 17, 2024, opinion to the Honorable B. Lee Miller regarding the 2023 bond reform legislation, specifically bond premiums. Op. S.C. Att'y Gen., 2024 WL 3186557 (June 17, 2024). In your letter, you advised that the Department of Insurance's interpretation of South Carolina Code Section 38-53-170(e), differs from the one expressed in our opinion to Judge Miller. You also provided our office with a copy of Order No. 2024-07 issued by Director Wise which provides guidance on the issue. <https://doi.sc.gov/DocumentCenter/View/14862/Order-2024-07-Requirements-for-Surety-Bondsmen-Professional-Bondsmen-and-Runners>, last visited July 29, 2025.

Law/Analysis

The director of the Department of Insurance, clerks of court, and the South Carolina Law Enforcement Division have the authority and power to administer the provisions of Title 38, Chapter 53. S.C. Code Ann. § 38-53-20 (Rev. 2015). Additionally, the director is charged with promulgating regulations "to enforce the purposes and provisions" of the chapter. Id. Our interpretation of the Section 38-53-170(e) remains unchanged, but we recognize the language of the subsection can be interpreted differently. Therefore, we defer to the interpretation of the Department of Insurance as the agency with regulatory authority. Op. S.C. Att'y Gen., 2022 WL 1286845 (April 20, 2022). Further, we advise any bail bondsmen and runners to follow the department's instructions and orders regarding the issue pending any judicial or legislative clarification.

Gwendolyn McGriff, Esquire
Page 2
July 31, 2025

Sincerely,

A handwritten signature in blue ink, appearing to read "Sabrina C. Todd".

Sabrina C. Todd
Assistant Attorney General

REVIEWED AND APPROVED BY:

A handwritten signature in blue ink, appearing to read "Robert D. Cook".

Robert D. Cook
Solicitor General

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Insurance,	)	DOCKET NO.: 25-ALJ-09-0270-CC
	)	
	)	
	)	
vs.	)	<u>PETITIONER'S REPLY IN</u>
	)	<u>OPPOSITION TO RESPONDENT'S</u>
	)	<u>MOTION FOR SUMMARY JUDGMENT</u>
Joyce Freeman,	)	
	)	
	)	
Respondent.	)	
	)	
	)	

Petitioner, the South Carolina Department of Insurance ("Department"), by and through its undersigned counsel, respectfully submits this Reply in Opposition ("Reply") to Respondent Joyce Freeman's Motion for Summary Judgment ("Respondent's Motion" or "Resp't. Mot.") and to reaffirm the legal and factual grounds supporting Petitioner's Motion for Summary Judgment ("Petitioner's Motion" or "Pet'r. Mot."). Petitioner reasserts and incorporates all arguments set forth in its Memorandum in Support of its Motion for Summary Judgment ("Petitioner's Memorandum" or "Pet'r. Memo"). For the reasons set forth below, Respondent's Motion should be denied as a matter of law because it is based on an erroneous construction and misinterpretation of South Carolina law inconsistent with the rules of statutory construction. Petitioner's Motion should be granted because it is the only interpretation based on the language of the statute that supports the legislative intent of the Bail Bond Reform Act, 2023 S.C. Act No. 83, and provides a logical and purposeful interpretation of the law.

INTRODUCTION

Both parties have provided detailed factual statements that do not differ materially. (Pet'r. Memo at 9; Resp't. Mot. at 3-4). Respondent's Motion confirms that the sole issue before this

Court is one of statutory interpretation. (Resp't. Mot. at 4). Because this Reply reaffirms the legal and factual grounds from Petitioner's Memorandum and incorporates Petitioner's arguments therefrom, this Reply will focus on addressing the specific arguments raised by Respondent to support her interpretation of S.C. Code Ann. § 38-53-170(e) (Supp. 2025) and noncompliance with South Carolina law.

By way of summary, Respondent contends in her Motion that 1) the General Assembly's use of the word "however" at the beginning of Paragraph 2 of S.C. Code Ann. § 38-53-170(e) (Supp. 2025) and the comma that follows it "signifies a contradiction or exception to the general requirement for up-front premium collection"; 2) the General Assembly was motivated to release an offender for a \$100 down payment to avoid constitutional challenges of excessive bail for assessing 10% of a bond as a minimum premium to be collected and charged prior to release; 3) the Department's interpretation creates a down payment scheme that is nonsensical; and 4) the payment plan acts as a swift mechanism for ensuring appearance in court in the event of a payment default. *See generally* Resp't Motion. Contrary to Respondent's misinterpretation and erroneous assertions, the plain language of S.C. Code Ann. § 38-53-170(e) (Supp. 2025) requires bondsmen to charge and collect the greater of \$100 or 10% of the face of the bond prior to execution of the bond. The parties' Motions ask this Court to determine 1) whether S.C. Code Ann. § 38-53-170(e) (Supp. 2025) requires bondsmen to charge and collect the greater of \$100 or 10% of a bond premium prior to execution of that bond or 2) whether a criminal defendant can be released after paying a flat \$100 minimum fee, regardless of the amount of the bond.¹

¹ Respondent's Motion for Summary Judgment included a correction of the total amount of the bond charged to "Defendant Williams." The Department acknowledges that Respondent collected \$1,284.00 prior to the execution of that bond and is willing to issue an amended Order in this regard. However, this scrivener's error is immaterial; Defendant Williams only charged and collected \$400 of the premium prior to execution of the bond in violation of S.C. Code Ann. § 38-53-170(e).

ARGUMENT

I. RESPONDENT'S INTERPRETATION OF S.C. CODE ANN. § 38-53-170(E) IS CONTRARY TO THE PLAIN LANGUAGE OF THE STATUTE AND THE CANONS OF STATUTORY CONSTRUCTION.

A. Respondent's argument that "however," creates a statutory exception to the minimum bond required to be charged and collected prior to release renders the language added by the 2023 Amendments² superfluous and fails to give effect to each portion of S.C. Code Ann. § 38-53-170(e).

In her Motion for Summary Judgment, Respondent focuses on the General Assembly's use of the word "however" at the beginning of Paragraph Two of S.C. Code Ann. § 38-53-170(e) (Supp. 2025) and contends that the word "however" and the comma that follows it, "signifies a contradiction or exception to the general requirement for up-front premium collection found in the first sentence of Paragraph One." (Resp't. Mot. at 7).

Respondent asserts that her interpretation "ensures the statute is read as a whole and each portion of it is given effect . . . negat[ing] any need to read additional or limiting language into the statute." (Resp't. Mot. at 9). Moreover, Respondent contends that any other reading would render the word "however" superfluous in the statute. (Resp't Mot. at 7). This argument is meritless because it ignores the plain language and meaning of all words in the statute. Her reading of the statute not only negates the General Assembly's addition of the "must charge and collect the greater of \$100 or 10% of the face amount of the bond prior to execution of the bond" language but would also render the word "however" superfluous or unnecessary.

For ease of reference, S.C. Code Ann. § 38-53-170(e) (Supp. 2025) states

(e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, *with a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond.* Conditions of the bond, which expressly

² Through this Reply, "2023 Amendments" refers to 2023 S.C. Act 83 (H. 3532) (enacted June 20, 2023) as it impacted S.C. Code Ann. § 38-53-170(e).

or implicitly require payment of monies in excess of the premium, as a cost of satisfying the condition of the bond, shall not be considered part of the bondsman's premium, and are not affected by this code provision. The bondsman may collect these fees from the defendant and is not limited by any language requirements of this code provision.

However, the bondsman is permitted to enter into a payment agreement by attaching a statement of bondsman to the bond proceeding form and this agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars. This payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed. If the payment has not been made for two consecutive months, the bondsman must send a certified notice to the last known address of the principal and indemnitor demanding payment be made within ten days to bring the agreement current. If no payment is received by the end of the notice period, the bondsman must surrender the principal to the proper detention facility for holding and file a motion to be relieved as provided in Section 38-53-50(A) or (B), at which time the agreement must be accelerated, and the balance paid in full, before or at the motion hearing for the principal to be rereleased on bond. The bondsman may accept collateral security or other indemnity from the principal which must be returned within ten days after final termination of liability on the bond unless a bench warrant has been issued. . . . (Emphasis added).

Based on Respondent's interpretation of the statute, any criminal defendant could be released by paying \$100 and entering into a payment agreement even though this is inconsistent with the language specifically added to the statute by the 2023 Amendments requiring a minimum fee of \$100 or 10% percent of the bond, whichever is greater, to be charged and collected by the bondsman before the execution of the bond. This full clause is mandatory—a minimum fee of \$100 or 10% of the bond, whichever is greater, must be charged and collected prior to release of the criminal defendant. Respondent's interpretation requires ignoring this language in the statute, rendering it surplusage.

If the General Assembly intended criminal defendants to be released by making a flat payment of \$100, there would have been no need to add the "\$100 or 10%, whichever is greater" language. Following Respondent's interpretation to its logical conclusion, there would be no need to differentiate between whether this \$100 was a minimum fee or a downpayment. There would be no need for down payment language in Paragraph Two at all; making the "however" sentence

superfluous.³ See *In re Decker*, 322 S.C. 215, 219, 471 S.E.2d 462, 463 (1995) (stating a statute should be constructed that no word, clause, sentence, provision, or part shall be rendered surplusage, or superfluous). As discussed in Petitioner's Memorandum, only the Department's interpretation brings full effect to all language in S.C. Code Ann. 38-53-170(e) (Supp. 2025).

B. Respondent's interpretation of S.C. Code Ann. § 38-53-170(e) ignores the purpose and intent of the Bail Bond Reform Act⁴ and renders key provisions of the law meaningless in light of the purpose of bail in criminal matters.

Contrary to Respondent's position, courts will not construe a statute by concentrating on an isolated phrase. *Laurens Cnty. Sch. Dists. 55 & 56 v. Cox*, 308 S.C. 171, 174, 417 S.E.2d 560, 561 (1992) ("The true guide to statutory construction is not the phraseology of an isolated section or provision, but the language of the statute as a whole considered in the light of its manifest purpose. In applying the rule of strict construction, the courts may not give to particular words a significance clearly repugnant to the meaning of the statute as a whole, or destructive of its obvious intent.") Instead, when construing language in a statute, "the statute must be read as a whole and sections which are a part of the same general statutory law must be construed together and each one given effect." *S.C. State Ports Auth. v. Jasper County*, 368 S.C. 388, 398, 629 S.E.2d 624, 629 (2006).

Not only does Respondent's interpretation ask this Court to focus on "however" and ignore the "\$100 or 10% whichever is greater" and the "charged and collected" language added to S.C. Code Ann. § 38-53-170(e) (Supp. 2025) by the 2023 Amendments, it is inconsistent with the purpose of bail.

The primary purpose of bail in a criminal case is to relieve the accused of imprisonment, and the state of the burden of keeping him, pending the trial (or

³ As discussed *supra*, payment plans are common industry practice.

⁴ *Bail Bond Reform Act* refers to 2023 S.C. Act 83 (H. 3532) (enacted June 20, 2023).

pending appeal), and at the same time, to put the accused as much under the power of the court as if he were in the custody of the proper officer, and to secure the appearance of the accused so as to answer the call of the court and do what the law may require of him.

State v. Gibbs, 353 S.C. 226, 229, 577 S.E.2d 454, 456 (2023) (citing E.H. Schopler, *Appealability of Order Relating to Forfeiture of Bail*, 78 A.L.R.2d 1180, 1181 (1961)).

In light of the primary purpose of bail being to secure the criminal defendant's attendance at trial and compliance with the terms and conditions for pretrial release, by passing the 2023 Amendments, the General Assembly clearly intended to significantly increase the minimum bond premium that must be charged and collected prior to execution of a bond. Prior to the 2023 Amendments, a criminal defendant with a \$50,000 bond could be released for a minimum fee of \$25, as there was no statutory requirement that the \$25 be charged and collected prior to the execution of the bond. Now that the Amendments are effective, the collection of \$5,000 by the bondsmen is now required prior to execution of a \$50,000 bond, in accord with the legislative intent.

Only the Department's interpretation is consistent with the plain language of the statute and the purpose of bail and bail bond reform, i.e., securing the defendant's appearance and compliance with the terms of pretrial release and prevent criminal defendants from committing other crimes after being bonded out for minimal amounts as discussed in-depth in Petitioner's Memorandum. (Pet'r. Memo at 18 and Ex. 4).

C. Respondent's interpretation of S.C. Code Ann. § 38-53-170(e) would eviscerate the General Assembly's grant of discretion to the judicial branch to apply specific statutory factors outlined in S.C. Code Ann. § 17-15-30 to determine the appropriate amount of bail to secure a criminal defendant's appearance in court and vests that decision in bondsmen.

Courts must presume that the General Assembly is familiar with existing legislation, statutes dealing with the same subject matter must be reconciled, if possible, so as to render both

operative. *Hodges v. Rainey*, 341 S.C. 79, 88, 533 S.E.2d 578, 583 (2000). “It is well settled that statutes dealing with the same subject matter are in *pari materia* and must be construed together, if possible, to produce a single, harmonious result.” *Home Health Servs., Inc. v. South Carolina Dept. of Health and Environmental Control*, 298 S.C. 258, 379 S.E.2d 734 (Ct. App. 1989); *CFRE, LLC v. Greenville Cnty. Assessor*, 395 S.C. 67, 74, 716 S.E.2d 877, 881 (2011).

Pursuant to South Carolina law, any person charged with a noncapital offense shall be ordered released pending trial on his own recognizance without surety in an amount specified by the court, unless the court determines in its discretion that such a release will not reasonably assure the appearance of the person as required, or unreasonable danger to the community will result. S.C. Code Ann. § 17-15-10(A) (Supp. 2025). The court may impose certain conditions upon release, including the “execution of an appearance bond in a specified amount with good and sufficient surety or sureties approved by the court.” *Id.* As a part of the *Order Specifying the Methods and Conditions of Release*, the court releases the defendant to a designated person or organization, generally a surety,⁵ that agrees to supervise the defendant as set forth by the court, to use every effort to assure the appearance of the defendant at all scheduled hearings before the court and to notify the court immediately in the event the defendant violates any conditions of his release or disappears. The surety also posts a bail bond for the defendant in the amount specified by the court. That surety is generally the bail bondsman.

Bail is set by the courts upon consideration of factors set forth in South Carolina law. S.C. Code Ann. § 17-15-30 (Supp. 2025). This section provides that “in determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable

⁵See generally S.C. Department of Insurance Order 2022-04, *Handling Reports of Noncompliance with Bail Conditions Including Electronic Monitoring*, <https://doi.sc.gov/DocumentCenter/View/14072/Order-Number-2022-04-Handling-Reports-of-Noncompliance-with-Bail-Conditions-Including-Electronic-Monitoring>

danger to the community or an individual” a court **may** consider the nature and circumstances of the offense charged and the charged person’s 1) family ties; 2) employment; 3) financial resources; 4) character and mental condition; 5) length of residence in the community; 6) record of convictions; and 7) record of flight to avoid prosecution or failure to appear in other court proceedings. *Id.* Courts **must** consider 1) a person’s criminal record; 2) any charges pending against a person at the time release is requested; 3) all incident reports garnered as a result of an offense charged; 4) whether a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status; 5) whether the charged person appears in the state gang database maintained by the State Law Enforcement Division; and 6) whether a person is currently out on bond for another offense.” *Id.*

To accept Respondent’s interpretation of S.C. Code Ann. § 38-53-170(e) (Supp. 2025) would mean that after a court has applied the factors above and assessed an appropriate bond amount to both protect the public and secure the appearance of a criminal defendant at trial, a criminal defendant would only need to pay a bondsman \$100 prior to release regardless if the full bond is \$600,000, \$100,000, or \$5,000 so long as he or she entered into a payment plan with the bondsman. Respondent’s interpretation is nonsensical in light of the impetus for the passage of the 2023 Amendments—to prevent criminals from bonding out for minimal amounts and then reoffending—and renders null the court’s application of the factors to set a bail amount appropriate to the circumstances of a given case. Again, only Petitioner’s interpretation of the statute furthers the purpose of the 2023 Amendments as discussed throughout Petitioner’s Memorandum.

While Respondent argues that a \$100 down payment paid prior to release is sufficient because the statute includes a “swift mechanism for ensuring [an offender’s] appearance in court if he defaults on” the payment plan, this so-called “swift” mechanism only provides for rearrest

after two months of non-payment. (Resp't. Mot. at 9). *See* S.C. Code Ann. § 38-53-170(e) (Supp. 2025). The criminal defendant who defaults on a payment agreement remains out on bond for that period unless surrendered by the bondsmen in accordance with S.C. Code Ann. 38-53-50, 60, and 70 (2015 & Supp. 2025). The 2023 Amendments did not significantly change this process. Assuming the criminal defendant can be apprehended for violating the conditions of the bond, 60 days provides ample opportunity for a defendant to reoffend. *See generally* Pet'r. Memo at Ex. 4.

Moreover, victims of violent crimes are revictimized when a judge sets bail at half million dollars only to have a bondsman secure the defendant's release for \$100. The General Assembly increased the minimum premium and required collection of that amount prior to execution of the bond to make it sufficient to secure the defendant's appearance and compliance with the terms and conditions of release which includes not violating the law, and the determination of which includes a consideration of many factors and is appropriately made by a court—not a bondsman.

Courts do not adopt interpretations that run afoul of the plain and ordinary meaning of the words used in a statute if doing so would lead to a result so plainly absurd that it could not possibly have been intended by the legislature or would defeat the plain legislative intention. In these instances, the courts will reject the literal import of those words. *See Kiriakides v. United Artists Comm'n, Inc.*, 312, S.C. 271, 275, 312 S.C. 271, 440 S.E.2d 364, 366 (1994) (internal citations omitted). If possible, the court must construe the statute so as to escape the absurdity and carry the intention into effect. *Id.* The Department's interpretation of the amount that must be charged and collected by a bondsman prior to release is based on the language in the statute. Charging and collecting the greater of \$100 or 10% of the full bond amount set by the court in no way conflicts with, and actually enhances the effectiveness of, S.C. Code Ann. § 17-15-30 (Supp. 2025).

II. Respondent's argument that the General Assembly was motivated to release an offender for a \$100 down payment to avoid constitutional challenges of excessive bail for assessing 10% of a bond as a minimum premium to be collected and charged prior to release is without support and lacks merit.

The prohibition against excessive bail means that when the government's aim is the prevention of the defendant's flight, bail must be set by a court at a sum designed to ensure that goal, and no more; however, when pretrial detention is based on an interest other than ensuring the defendant's appearance at trial—such as when the defendant poses a threat to the community—even the Eighth Amendment does not require the grant of bail. By adding the greater of \$100 or 10% minimum fee language to S.C. Code Ann. § 38-53-170(e) (Supp. 2025), the General Assembly decided to set a minimum premium that would be sufficient to prevent the defendant's flight and attendance at trial and compliance with other terms and conditions of the bond. The Fourth Circuit has stated that the test for determining whether bail is excessive is “whether bail is ‘set at a figure higher than an amount reasonably calculated to insure that the accused will stand trial and submit to sentence if convicted.’” *United States v. Radford*, 361 F.2d 777, 781 (4th Cir.) (quoting *Forest v. United States*, 203 F.2d 83, 84 (8th Cir.1953)).

To support Respondent's Motion, she relies on language from an advisory Opinion issued by the Attorney General's Office to support her assertion that requiring payment of the greater or \$100 or 10% of the total bond amount prior to release conflicts with an offender's constitutional right to be free from excessive bail. (Resp't. Mot. at 11-12). Respondent misconstrues that language in that Opinion, which states:

While the revisions to Section 38-53-170(c) [sic] indicate the intent of the Legislature to increase the premium charged and paid by the defendants, we believe by giving defendants the ability to enter into a payment agreement with the bondsmen, the Legislature is balancing its desire to increase and standardize premiums and ensure compliance with defendants' constitutional rights.

Op. S.C. Att'y Gen. 2024 WL 3186557 (June 17, 2024).

Aside from this one statement, the AG Opinion does not discuss any of the constitutional rights of a criminal defendant, including that of excessive bail.

Respondent's argument that a minimum fee or premium of 10% constitutes excessive bail in violation of the State Constitution is meritless. This argument appears to be premised on the ability of the criminal defendant to pay the greater of \$100 or a 10% premium based on the face amount of the bond. Courts have long held that bail is not excessive merely because the criminal defendant is unable to pay it. *See Stack v. Boyle*, 342 US 1 (1951). Further, the amount charged and collected prior to release does not have to be in cash; it can be collected in the form of collateral or other securities.

Respondent asks this Court to hold that charging and collecting a 10% premium prior to release constitutes excessive bail. *See generally* Resp't. Mot. Based on the language in S.C. Code Ann. Section 38-53-170(e) (Supp. 2025), the bond premium that would be charged is illustrated in the table below.

Bond Face Amount	Minimum Fee (Premium) that Must be Collected Prior to Bond Execution	Maximum Permitted Premium under Section 38-53-170(e)
\$250	\$100	\$100
\$500	\$100	\$100
\$1000	\$100	\$150
\$10,000	\$1,000	\$1,500
\$50,000	\$5,000	\$7,500
\$100,000	\$10,000	\$15,000
\$250,000	\$25,000	\$37,500
\$500,000	\$50,000	\$75,000
\$750,000	\$75 000	\$112,500

It is unreasonable to consider charging and collecting these amounts prior to release would constitute a violation of the Constitutional rights of a criminal defendant.

It is well-established that all statutes are presumed constitutional, and the challenger bears the heavy burden of establishing the unconstitutionality of a statute beyond a reasonable doubt.

Joytime Distribs. & Amusement Co. v. State, 338 S.C. 634, 640, 528 S.E.2d 647, 650 (1999); *Y.C. Ballenger Elec. Cont'rs, Inc. v. Reach-All Sales, Inc.*, 276 S.C. 394, 397, 279 S.E.2d 127, 128 (1981). Respondent has not met her burden. Not only does Respondent not establish the unconstitutionality of S.C. Code Ann. § 38-53-170(e) (Supp. 2025), Respondent provides no support for her arguments regarding excessive bail other than a conclusory and incorrect statement that the “obvious purpose” of the 2023 Amendments “was to provide criminal defendants access to bonds in the form of a payment plan if they cannot afford the minimum 10% premium.” (Resp’t Mot. at 10). The 2023 Amendments may have codified payment plans, but the language did not create them as they existed prior to the passage of these Amendments. Respondent’s attempts to argue in her Motion that the Department’s interpretation results in a “scheme that [makes] bail prohibitively expensive for criminal defendants” and that it results in constitutional violations fails. (Resp’t. Mot. at 12). First, it fails to acknowledge that its reading does not obviate the minimum bail premium will still be 10% of the bond, and it is that amount, not the downpayment amount, that would be assessed to determine if excessive bail had been ordered by a court.

Moreover, the language of S.C. Code Ann. § 17-15-30 (Supp. 2025) includes the financial resources of an individual as only one discretionary factor—not a mandatory factor—to be considered in determining the appropriate amount of bail necessary for public protection evincing legislative intent that public protection is exponentially more relevant to a determination of bail than an offender’s ability to pay for release. Additionally, courts have upheld statutes and regulations in other states that require charging and collecting a 10% bond premium as a prerequisite for issuance of a bail bond. *See Schilb v. Kuebel*, 404 US 357 (1971), *see also People v. Lovelace*, 2018 IL App (4th) 170401, ¶ 46, 104 N.E.3d 532, 541.

To the extent Respondent argues the General Assembly was motivated to release criminal defendants for a \$100 downpayment is unsupported and totally without merit, and no evidence has been presented to support this claim. *See generally* Resp't. Mot. Moreover, the best evidence of legislative intent is the language of the statute itself. *See Creswick v. University of South Carolina*, 434 S.C. 77, 82, 862 S.E.2d 706, 708 (2021); *see generally* Pet'r Memo. Anecdotal reports and testimony about a legislator's or interested parties' intent is not competent evidence of the intent of the legislative body enacting the measure. As such, courts must disregard subsequently expressed opinions of individual legislators or others concerned with the enactment of the law, like Respondent, to ascertain the intent of the legislature as a whole when construing a statute. *Creswick v. University of South Carolina*, 434 S.C. 77, 83, 862 S.E.2d 706, 709 (2021); *see also Bowaters Carolina Corp. v. Smith*, 257 S.C. 563, 572, 186 S.E.2d 761, 764 (1972) (holding the testimony of members of the legislative delegation who authored the statute as to its meaning was inadmissible).

III. Respondent's argument that the Department's interpretation creates a down payment scheme that is nonsensical and is without merit as the language of S.C. Code Ann. § 38-53-170(e) reflects common practices for payment plans.

Respondent argues that allowing minimum payments for premium amounts between 10% and the maximum 15% "makes no sense," "is nonsensical," and "would vitiate the obvious purpose of the statute, which was to provide criminal defendants access to bonds in the form of a payment plan if they cannot afford the minimum down payment of one hundred dollars." (Resp't Mot. at 10). In support of that argument, Respondent states, "the best argument against the Department's position is contained in [a June 17, 2024 Attorney General's Opinion]" and goes on to outline the AG's opinion including its plain language analysis and its statement that:

[The AG's Office] is at a loss as to why the Legislature would find it necessary to give permission for a payment agreement for an amount that the bondsmen is not required to charge in the first place. Second, this reading would require the principal

to pay not only the ten percent bond up front, but also an additional one hundred dollars for the opportunity to finance the premium in excess of the ten percent. We do not believe such interpretation is in line with the intent of the Legislature.

(Resp't Mot. at 11-12). Respondent provides no support for why such transactions are problematic. In fact, Respondent merely argues that collecting 10% of the bond, charging \$100 for a payment plan, and executing a payment plan for 5% of a bond is "absurd" and constitutes an "overly complicated transaction that the Legislature could not have intended." (Resp't Mot. at 10-11).

It is noteworthy that the AG Opinion Respondent relies upon was drafted prior to the issuance of any formal guidance (i.e., the 2024 order) by the Department. Following the issuance of Order 2024-07, the Attorney General's Office issued a letter dated July 31, 2025, deferring to the interpretation and regulatory jurisdiction of the Department and urged licensees of this Department to comply with our instructions. (Pet'r Memo at Ex. 5, Ex. 6).

Furthermore, Respondent's argument regarding down payments is flawed. Collection of a down payment, charging for an opportunity to finance the remaining amount, and entering into a payment plan is the same process used for buying a house, buying a car, or even putting Christmas gifts on layaway at a local department store. The Department, and surely the public, would hope that a transaction allowing a known criminal defendant to be released from custody would be at least as "complicated" as those everyday transactions with which all of us are familiar.

Respondent's argument that the structure of bond payment plans outlined in S.C. Code Ann. § 38-53-170(e) (Supp. 2025) transactions are somehow flawed, unique, or otherwise "absurd" is wholly without merit. The Department's interpretation reflects the common structure of payment plans used in all facets of life and, as discussed *supra*. and in Petitioner's Memorandum, it aligns with the plain language and legislative intent of S.C. Code Ann. § 38-53-170(e) (Supp. 2025).

Respondent requests this Court ignore the plain language of the statute and instead rewrite it to conform to her erroneous interpretation. (Resp't Mot. at 13). South Carolina courts have opined that courts shall not rewrite, restate, or inject matters into it that are not in the language of legislative enactment for the purpose of resolving inconsistencies or making the language comport with another's interpretation. *See, e.g., Hodges v. Rainey*, 341 S.C. 79, 87, 533 S.E.2d 578, 582 (2000); *Bray v. Marathon*, 347 S.C. 189, 201, 553 S.E.2d 477, 483 (Ct. App. 2001); *Brunson v. Stewart*, 345 S.C. 283, 286, 547 S.E.2d 504, 505.

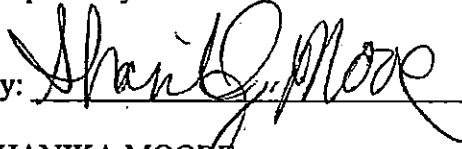
Petitioner is the agency charged with the statutory responsibility of implementing and enforcing the requirements of Title 38 including § 38-53-170(e) (Supp. 2025). Its interpretation is consistent with the plain language of the statute as well as the rules of statutory construction and is entitled to deference. Respondent cannot rewrite a statute to comport to her interpretation; this requires legislative action. Until the General Assembly amends or rewrites § 38-53-170(e) (Supp. 2025), licensees are required to comply.

CONCLUSION

For the foregoing reasons, Respondent's Motion for Summary Judgment should be denied. Although Petitioner does not believe that a hearing is necessary to resolve either party's motion, if the Court has any questions or would be inclined to grant Respondent's Motion, Petitioner would appreciate the opportunity to present oral argument.

[Signature page follows]

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