

**AMENDED AND RESTATED**  
**BYLAWS OF THE**  
**HORRY COUNTY**  
**HIGHER EDUCATION COMMISSION**

June 1, 2007

Approved by full Commission on April 20, 2006  
Legislation was passed on June 1, 2007

## PREAMBLE

The Horry County Higher Education Commission was created under Act 114 of the 1959 Session of the General Assembly of South Carolina, as codified by §31-3071 *et seq.* of the Code of Laws of South Carolina (1962), as amended in part by 1963 S.C. Acts 131, as amended in part by 1965 S.C. Acts 186, as amended in part by 1973 S.C. Acts 493 (as repealed by *Horry County v. Horry County Higher Education Commission*, 306 S.C. 416, 412 S.E.2d 421 (1991)), as amended in part by 1987 S.C. Acts 273 (as repealed by *Horry County v. Horry County Higher Education Commission*, 306 S.C. 416, 412 S.E.2d 421 (1991)) (as amended from time to time, the “Act”) to develop physical facilities in which an appropriate institution of higher learning can function in Horry County. To more effectively discharge its responsibilities and duties in connection therewith, the Commission does promulgate and adopt these Bylaws.

## ARTICLE I

### NAME OF COMMISSION

The name is fixed by statute of the State of South Carolina and is the Horry County Higher Education Commission, and shall be referred to hereinafter as the “Commission”.

## ARTICLE II

### COMMISSION MEMBERS

Section 1. Members. (a) The number of voting members (the “Members”) of the Commission shall be a maximum of the greater of (i) the number of public school attendance areas in Horry County, or (ii) sixteen (16). All Members shall be appointed by the Governor upon the recommendation of a majority of the Horry County Legislative Delegation, including the Senators, provided always that there shall be at least one Member residing in each of the public school attendance areas in Horry County. The Members who are not appointed with reference to any such attendance area are referred to hereinafter as “At-Large Members;” and the Members who are appointed with reference to a particular attendance area are referred to hereinafter as “Designated Members.”

(b) Notwithstanding the foregoing, the Commission may temporarily have more Members than provided in Article II, section 1(a), where such increase results from an increase in the number of public school attendance areas in the County. Any such temporary increase shall continue until the earliest of (i) the death, resignation, or removal of an At-Large Member, in which event such At-Large Member shall be deemed to have been replaced by a Designated Member appointed with reference to the new attendance area for the balance of the term of such Designated Member; or (ii) the expiration of the term of an At-Large Member, in which event the Designated Member shall commence a four (4) year term beginning as of such expiration. In all instances in which a Designated Member so succeeds an At-Large Member, the number of At-Large Members shall be reduced accordingly.

(c) Notwithstanding the foregoing, if the number of such attendance areas increases and an At-Large Member is a resident of the attendance area not represented on the Commission

as a result of such increase, such At-Large Member shall be deemed to be a Designated Member with respect to such attendance area effective as of the effective date of the creation of such new attendance area, and the number of Members shall not increase.

(d) If the terms of two (2) or more At-Large Members expire simultaneously when one (1) new Designated Member needs to be accommodated as contemplated in Article II, section 1(b), or if two (2) or more At-Large Members qualify to become Designated Members as contemplated in Article II, section 1(c), the Horry County Legislative Delegation (including the Senators) shall determine the identity of the At-Large Member affected thereby, with the advice of the Nominating/Legislative Committee as contemplated in Article VI, section 9.

(e) The Commission shall have the power to appoint non-voting ex officio and advisory members.

Section 2. Terms. The term of service for each Member shall, subject to such Member's earlier death or resignation or removal, be four (4) years, or until his or her successor shall have been appointed.

Section 3. Absentees. Any Member failing to attend more than three (3) consecutive meetings or half of the meetings within a six month period, unless excused by the Chairman prior to the meeting for reasons beyond control of the Member (illness, death in family, etc.), shall be considered inactive and asked by the Chairman to resign.

Section 4. Vacancies. Any vacancy on the Commission shall be filled by the Governor on the recommendation of a majority of the Horry County Legislative Delegation. Such successor shall be appointed for the balance of the unexpired term, but each Member of the Commission shall hold office, subject to such Member's earlier death or resignation or removal, until his or her successor has been appointed and shall qualify.

Section 5. Compensation. Members, ex officio members, and advisory members shall serve without compensation or fees. The Commission may authorize the payment of, or reimbursement for, reasonable documented expenses of each Member related to such Member's attendance at meetings.

Section 6. Service on Other Foundations or Boards. No Member may sit, except in an ex-officio capacity, on any foundation or board of Coastal Carolina University.

### ARTICLE III

#### POWERS AND DUTIES OF THE COMMISSION

Section 1. Authority and Powers of the Commission. The Commission shall be responsible for attainment of the objectives specified in these Bylaws. The Commission is empowered to enter into contracts, make binding agreements and generally to take such actions in its name as are necessary or desirable to conduct and monitor its business. Within these fundamental responsibilities, the Commission shall have certain powers, including but not limited to the following:

1. to adopt and use a corporate seal;
2. to sue and be sued;
3. to adopt such bylaws, rules and regulations for the conduct of business and the expenditure of its funds as it may deem advisable;
4. to fix and define the terms of the officers of the Commission;
5. to operate its affairs on a fiscal year coinciding with that of Horry County;
6. to acquire an appropriate site within Horry County and to construct and equip thereon appropriate facilities of the sort authorized;
7. to acquire by gift, or purchase, or otherwise, all kinds and descriptions of real and personal property;
8. to accept gifts, grants, donations, devises and bequests;
9. to make contracts for the construction, architectural and otherwise, with competitive bids, of a suitable building and for such other purposes as may be required by the Commission, under such terms and conditions as it shall deem appropriate;
10. to expend any funds, including the proceeds of any bonds issued by Horry County, to defray costs incident to the construction and equipping of the building herein authorized;
11. to enter into leases with private eleemosynary corporations or other public agencies under which the facilities acquired and owned by the Commission may be utilized for the promotion of higher learning in Horry County; provided, that any such lease shall be subject to the provision that it may be terminated, at the option of the Commission, at the close of any school year ending three years subsequent to the date of such lease, if the Commission shall determine that the method employed by any lessee for the promotion of learning within Horry County does not fulfill the intendment of 1963 S.C. Acts 131, and in such event to enter into further leases with other eleemosynary corporations or public agencies for the utilization of the building for the purposes intended, or if it shall be determined by the Commission that the

leasing of its facilities no longer serves the purposes for which intended, then to make them available to the public school system or other agencies of Horry County;

12. to impose such terms and conditions in any lease which it shall make, which will reserve in the Commission the right to supervise the activities of any lessee, in order to insure the utilization of its facilities for the purposes herein intended; and

13. to fix and maintain such rentals, if any, as it shall determine for the use of the facilities.

#### ARTICLE IV

##### MEETINGS OF THE COMMISSION

Section 1. Regular Meetings of the Commission. The Commission may meet at such times as it may deem necessary, such meetings to be called by the Chairman, or upon the written request of at least nine (9) of the Members; provided, however, that the Members shall have an annual meeting at which, among other things, officers shall be elected.

Section 2. Notice of Regular Meetings. Notice of the time and place of all regular meetings of the Commission shall be provided in the form required by Article XII, Section 2 of these Bylaws to each Member by the Secretary not less than five (5) business days before each meeting, and, where practicable, an agenda for said meeting will accompany the notice.

Section 3. Special Meetings of the Commission. Special meetings of the Commission may be called by the Chairman or upon written request signed by any nine (9) Members of the Commission. Notice of such special meeting shall be provided in the form required by Article XII, Section 2 of these Bylaws to each Member by the Secretary not less than two (2) days in advance of the meeting.

Section 4. Waiver of Notice. A Member may waive any notice required by the Act or these Bylaws. The waiver must be in writing, signed by the Member, and filed with the minutes or the corporate records; provided, however, that a Member's attendance at or participation in a meeting waives any required notice of the meeting unless the Member, upon arriving at the meeting or prior to the vote on a matter not noticed in conformity with the Act or these Bylaws, objects to lack of notice and does not thereafter vote for or assent to the objected to action.

Section 5. Quorum. Except as otherwise provided by the Act or these Bylaws, a quorum of the Commission consists of a majority of duly appointed Members in office present at a meeting. For purposes of determining the presence of a quorum, a Member who attends a meeting for the purpose of objecting to the holding of a meeting or the transaction of business at the meeting shall not be considered present unless such Member thereafter waives notice. The Chairman may reschedule any meeting at which a quorum is not obtained.

Section 6. Voting Requirements. If a quorum is present when a vote is taken, the affirmative vote of a majority of Members present is the act of the Commission unless the Act or these Bylaws require the vote of a greater number of Members. A Member who is present at a

meeting of the Commission or of a committee of the Commission when corporate action is taken is considered to have assented to the action taken unless (i) the Member objects at the beginning of the meeting, or promptly upon arrival, to holding the meeting or transacting business at the meeting; (ii) the Member votes against the action and the vote is entered in the minutes of the meeting; (iii) the Member's dissent or abstention from the action taken is entered in the minutes of the meeting; or (iv) the Member delivers written notice of dissent or abstention to the presiding officer of the meeting before its adjournment or to the Commission immediately after adjournment of the meeting. The right of dissent or abstention is not available to a Member who votes in favor of the action.

Section 7. Proxies. Except as otherwise provided by the Act or these Bylaws, voting by proxy is prohibited.

Section 8. Informal Action by Members. Action required or permitted by the Act to be taken at a Commission meeting may be taken without a meeting if the action is taken by all Members. The action must be evidenced by one or more written consents describing the action taken, signed by each Member, and included in the minutes filed with the corporate records reflecting the action taken. Action taken under this section is effective when the last Member signs the consent, unless the consent specifies a different effective date. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

Section 9. Standard of Care. A Member shall discharge his or her duties as a Member, including his or her duties as a member of a committee, in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the Member reasonably believes to be in the best interests of the Commission. In discharging his or her duties, a Member is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by (i) one or more officers or employees of the Commission who the Member reasonably believes is reliable and competent in the matters presented, (ii) legal counsel, public accountants, or other persons as to matters the Member reasonably believes are within the person's professional or expert competence, or (iii) a committee of the Commission of which the Member is not a member, as to matters within its jurisdiction, if the Member reasonably believes the committee merits confidence. A Member is not acting in good faith if the Member has knowledge concerning the matter in question that makes reliance otherwise permitted unwarranted. A Member is not liable to the Commission, a Member, or any other person for any action taken or note taken as a Member if the Member acted in compliance with this section.

Section 10. Public Notice. Notice of meetings shall be transmitted, as appropriate, and meetings of the Commission shall be conducted in accordance with the requirements of the South Carolina Freedom of Information Act.

Section 11. Parliamentary Procedure. Questions of parliamentary procedure shall be resolved in accordance with the then-current version of Robert's Rules of Order.

## ARTICLE V

### OFFICERS OF THE COMMISSION

Section 1. Officers. The Commission shall at all times have a chairman, a vice-chairman, a secretary, and a treasurer elected from its appointed membership. The Commission may create such other offices as it deems necessary. Any two or more offices may be held by the same person, and an officer may act in more than one capacity where action of two or more officers is required. An employee of the Commission shall be ineligible to serve as an officer.

Section 2. Election. All officers shall be elected by a majority vote of the Commission at the annual meeting of the Commission.

Section 3. Vacancies. A vacancy in an office may be filled for the unexpired portion of the term by a person elected by the Members.

Section 4. Officers Pro Tem. If an officer, other than the Chairman, is absent, becomes incapacitated or is otherwise unable to perform the functions of the office, the Chairman may appoint an officer pro tem to serve until such time as the officer is able to resume his or her duties or until the officer resigns, is disqualified or is removed from office.

Section 5. Term. Unless otherwise provided by the Act or these Bylaws, an officer's term shall begin on the date of election to the office and, subject to the officer's earlier death or resignation, as a Member or as such officer, or removal, shall continue until the next annual meeting of the Commission or until his or her successor has been duly elected, qualifies, and assumes office, whichever is later. Any elected officer shall be eligible for re-election to succeed himself or herself.

Section 6. Standard of Care for Officers. An officer with discretionary authority shall discharge his duties under that authority in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the officer reasonably believes to be in the best interests of the Commission. In discharging his or her duties, an officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by (i) one or more officers or employees of the Commission who the officer reasonably believes to be reliable and competent in the matters presented, or (ii) legal counsel, public accountants, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence. An officer is not acting in good faith if the officer has knowledge concerning the matter in question that makes reliance otherwise permitted by this section unwarranted. An officer is not liable to the Commission, a Member, or other person for any action taken or not taken as an officer if the officer acted in compliance with this section.

Section 7. Resignation and Removal of Officers.

(a) An officer may resign at any time by delivering notice to the Commission. A resignation is effective when the notice is effective unless the notice specifies a future effective date. If a resignation is made effective at a future date and the Commission accepts the future

effective date, the Commission may fill the pending vacancy before the effective date if the Commission provides that the successor does not take office until the effective date.

(b) The Commission may remove an officer from that position at any time with or without cause by a majority vote.

Section 8. Chairman. The Chairman shall preside at all meetings of the Commission and of the Executive Committee and shall be the spokesman for the Commission. He or she shall also serve as Chairman of the Executive Committee. He or she shall appoint ad hoc committees as deemed appropriate; serve ex-officio, with vote, to all committees; execute in the name of the Commission and deliver on behalf of the Commission all authorized documents necessary or desirable to be executed and delivered by the Commission; and perform such other duties as may, from time to time, be prescribed by the Commission, the Act, and these Bylaws. The Chairman shall serve a term of two (2) years or until his or her successor is elected.

Section 9. Vice-Chairman. The Commission shall, at the same time and in the same manner as the Chairman was elected, elect a Vice-Chairman to serve for one (1) year. The Vice Chairman shall preside at meetings of the Commission and the Executive Committee in the absence of the Chairman. He or she shall serve as a member of the Executive Committee of the Commission and, in the absence, incapacity, or other inability to perform of the Chairman, shall discharge the duties of the Chairman.

Section 10. Secretary. The Commission shall, at the same time and in the same manner as the Chairman and Vice Chairman were elected, elect a Secretary to serve for one (1) year. The Secretary shall act as custodian of all records and reports of the Commission and shall be responsible for the keeping and reporting of adequate records of all transactions and of the minutes of all meetings of the Commission. The Secretary shall perform all such other duties as are incident to the office and shall be responsible for (i) issuing notices of all Commission meetings; (ii) receiving and attending to all correspondence of the Commission; (iii) maintaining custody at the corporate office of all documents belonging to the Commission; and (iv) performing such other duties as usually pertain to this office. The Secretary shall serve as a member of the Executive Committee.

Section 11. Treasurer. The Commission shall, at the same time and in the same manner as the Chairman and Vice Chairman were elected, elect a Treasurer to serve for one (1) year. The Treasurer shall ensure that adequate financial records are maintained; that financial data is prepared and presented periodically to the Commission; that an adequate budget process is established; that acceptable external and internal controls are at work to protect the assets of the System; that proper investment policies are established; and, that all Federal, State and local fiscal requirements are met. The Treasurer shall assist in the preparation of the annual budget of the Commission. The Treasurer shall serve as a member of the Executive Committee. The Treasurer shall also be a member of the Finance/Budget and Audit Committee and may be, but is not required to be, chairman of that Committee.

Section 12. Chairman-Elect.

(a) Not less than three (3) months prior to the end of the Chairman's term, the Commission shall elect a Chairman-Elect who shall succeed the Chairman at the end of the Chairman's term or at such sooner time if the then Chairman shall resign or cease to serve. To be eligible for election to the position of Chairman-Elect, a candidate must have at least one year remaining of his or her term as a Member of the Commission. The Vice-Chairman shall be eligible for election as the Chairman-Elect.

(b) The Chairman shall familiarize the Chairman-Elect with duties of the Office of Chairman, shall brief the Chairman-Elect on all material issues facing the Commission, and shall introduce the Chairman-Elect to the day-to-day performance of the Chairman's duties. The Chairman-Elect shall have no rights to bind the Commission or to do anything not available to other Members except to be familiarized, briefed, and introduced as described in this Section.

(c) If the Chairmanship becomes vacant because the term of the Chairman as a Member has expired and the Chairman is not reappointed as a Member, the Commission may elect a new Chairman to fill the unexpired term. In such case, the Vice-Chairman shall serve as acting Chairman until a new Chairman is elected by the Commission.

## ARTICLE VI

### COMMITTEES

Section 1. Standing Committees. The Standing Committees shall consist of the Executive Committee, the Finance/Budget and Audit Committee, the Nominating/Legislative Committee, the Contractual Agreements/Institutional Support Committee, the Development Centers Support Committee, and any further Standing Committees which may be established by the vote of the greater of a majority of all the Members in office when the action is taken or the number of Members required by these Bylaws to take action. The term of any such committee member shall begin on the date of appointment and, subject to his or her earlier death or resignation as a Member or as a committee member or removal as such committee member, shall continue until the next annual meeting of the Commission or until his or her successor has been duly elected, qualifies, and assumes office, whichever is later. Except with respect to the Executive Committee, the Chairman shall appoint all members of each such committee, who shall be subject to removal, with or without cause, by a vote of a majority of all Members then in office. Members of a committee may or may not be Members of the Commission, provided each committee shall have at least one (1) Member of the Commission as a member. The Chairman of the Commission shall name one Member as Chairman of each committee and shall serve as an ex officio voting member of all committees. The Chairman, Vice-Chairman, Secretary, and Treasurer shall constitute the Executive Committee. The Bylaw sections which govern meetings, action without meetings, notice and waiver of notice, and quorum and voting requirements of the Commission apply to committees of the Commission and their members as well.

Section 2. Special Committees. Special committees may be appointed from time to time for specific purposes by the Chairman or by action of the Commission. Special committees are not required to be comprised exclusively of Members; however, any such special committee must contain at least one Member, and the Chairman of any such special committee must be a Member. The functions of the special committees shall be reviewed at intervals and each special

committee shall dissolve when the purposes for which it was established are accomplished. The authority of special committees shall be as prescribed in the notice or motion establishing such special committee, subject to such limitations on such authority as the Commission may impose at any time and from time to time.

Section 3. Advisory Committees. The Commission may designate and appoint such advisory committees as it deems necessary. Advisory committees are not required to be comprised exclusively of Members; however, any such advisory committee must contain at least one Member, and the Chairman of any such advisory committee must be a Member. Advisory committees may not act on behalf of the Commission or bind it to any action, but may make recommendations to the Commission or to the officers.

Section 4. Quorum. A majority of the members of each committee shall constitute a quorum for all committee meetings.

Section 5. Minutes. Each committee shall keep, and the Chairman of the committee or the Secretary of the Commission shall maintain, regular minutes of its proceedings and report the same to the Commission as required.

Section 6. Rules. Except as specifically provided in this Article VI above, meetings of Committees shall be conducted in compliance with Article IV.

Section 7. Executive Committee.

(a) The Executive Committee shall have the power and authority to transact all regular business of the Commission in the intervals between meetings of the Commission when it is not practical to hold a meeting of the Commission, subject to any prior limitation imposed by the Commission, these Bylaws, or applicable law. Additionally, the Executive Committee shall make recommendations to the Commission regarding matters as may be assigned to the Executive Committee by the Commission.

(b) Among its other functions, the Executive Committee shall serve as advisors and facilitators for the Commission and its staff. Functions include rapid decision making for emergency concerns or opportunities, interpreting Commission policy and setting Commission project priorities as needed. The Executive Committee shall have authority to act on issues that must be resolved prior to the next scheduled meeting of the Commission.

(c) All actions of the Executive Committee shall be reported to the Commission, before or at the next regular meeting of the Commission, for ratification or other appropriate action, if required. Notwithstanding the above, the Executive Committee may not take any action which is in conflict with any of the provisions set forth in Article III of these Bylaws.

(d) The Executive Committee shall conduct regular or special meetings at such time and place as the Committee may determine or as may be determined by the Commission.

Section 8. Finance/Budget and Audit Committee.

(a) The Finance/Budget and Audit Committee shall make recommendations to the Commission regarding the financial affairs of the Commission and perform such other functions which may be referred to it by the Commission. The Finance Committee shall:

- (i) review and make recommendations to the Commission regarding the annual financial plan of the Commission, including both operating budgets and capital budgets;
- (ii) make recommendations to the Commission regarding investment of the Commission's assets and perform periodic reviews of the performance of the Commission's investments and report these findings to the Commission;
- (iii) conduct regular and on-going review of the financial performance of the Commission;
- (iv) make recommendations to the Commission regarding the issuance of debt and capital formation to support the activities of the Commission; and
- (v) conduct regular and special meetings at such time and place as may be determined by the Committee or the Commission.

(b) The Finance/Budget and Audit Committee shall work with the Commission, its officers, and employees of Coastal Carolina University to assess those needs that require funding for Coastal Carolina University, to develop a budget for meeting those needs, to acquire funding from local sources and to maintain accountability through written records according to sound accounting principles and practices. Functions of the Committee include developing, assessing, and applying budget and compliance procedures, issuing quarterly financial reports to the Commission for release, if desired, to other regulatory and governmental bodies, conferring regularly with the Commission, its officers, and employees regarding fiscal goals and objectives, and serving as advisors to the Commission and strengthening public awareness of fiscal responsibility.

(c) The Finance/Budget and Audit Committee, either acting as a committee of the whole or through a designated subcommittee thereof, shall be responsible for approving the retention and terms of retention of the Commission's external auditor, responsible for terminating the engagement of the Commission's external auditor although the Commission shall also have this power, and shall be the primary liaison of the Commission with the Commission's external auditor. If a subcommittee is used for such functions, no officer or employee of the Commission or of Coastal Carolina University shall be a member of such subcommittee; if no subcommittee is used for such functions, no officer or employee of the Commission or of institutions of post-secondary education in Horry County shall be a member of the Finance/Budget and Audit Committee.

(d) The Finance/Budget and Audit Committee, or any subcommittee thereof, shall make recommendations to the Commission regarding the audit activities of the Commission and perform such other functions which may be referred to it by the Commission. The Finance/Budget and Audit Committee, or such subcommittee if appropriate, shall:

- (i) regularly examine and report to the Commission the adequacy, efficiency and effectiveness of the Commission's internal control structure, including, but not limited to:
  - a. the adequacy of accounting, financial and operating controls;
  - b. the reliability and integrity of financial and operating data;
  - c. the accountability and safeguarding of assets.
- (ii) arrange for and report to the Commission regarding the external audit of the Commission's operations; and
- (iii) conduct regular meetings at such time and place as the Committee or subcommittee (if appropriate) may determine or as may be determined by the Commission.

Section 9. Nominating/Legislative Committee.

(a) The purpose of the Nominating/Legislative Committee is to develop and maintain communications with elected officials, especially the South Carolina Congressional Delegation, the Horry County Legislative Delegation, and the Horry County Council. The functions of this Committee include submitting Commission nominees to the Horry County Legislative Delegation, seeking opportunities for public funds, and keeping elected officials informed of Commission activities.

(b) The Nominating/Legislative Committee, acting as a committee of the whole or through a designated subcommittee thereof, shall be responsible for nominating individuals to serve on the Commission. If a subcommittee is used for such function, no officer or employee of the Commission or of institutions of post-secondary education in Horry County shall be a member of such subcommittee; if no subcommittee is used for such functions, no officer or employee of the Commission or of Coastal Carolina University shall be a member of the Nominating/Legislative Committee.

Section 10. Contractual Agreements/Institutional Support Committee. The purpose of the Contractual Agreements/Institutional Support Committee is to insure the legal operation and protect the assets of the Commission. The functions of this Committee include maintaining deeds and other title records, ordering and maintaining surveys and appraisals and environmental reports, purchasing and maintaining equipment and insurance, and overseeing the acquisition, disposition, and use of property and new construction projects. The Committee also provides support and establishes guidelines for awarding Commission funded scholarships to Horry County students.

Section 11. Development Centers Support Committee. The purpose of the Development Centers Support Committee is to oversee learning and development centers as and when created by the Commission. The functions of this Committee include the acquisition and disbursement of

funding, supplies, and other forms of support to Coastal Carolina University, an institutions of post-secondary education in Horry County and working with officials of such institutions and officers and employees of the Commission to develop long range plans for the centers that result in the enhancement of the such institutions and the resulting opportunities for Horry County.

## ARTICLE VII

### BOOKS AND RECORDS

Section 1. Books and Records. The Commission shall at all times keep full and accurate account of its acts and of its receipts and expenditures.

Section 2. Annual Audit. Within four (4) months following the close of each fiscal year, a complete audit of the Commission's affairs shall be made by a certified public accountant for the last concluded fiscal year. Copies of the audit shall be filed with the Clerk of Court for Horry County and with each member of the Horry County Legislative Delegation.

Section 3. Annual Report. Not less frequently than annually the Commission shall make a written report of its activities and file a copy with each member of the Horry County Legislative Delegation.

## ARTICLE VIII

### CONTRACTS, LOANS, CHECKS, DEPOSITS AND DISBURSEMENTS

Section 1. Contracts. The Members may authorize any officer or officers or agent or agents to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Commission, and such authority may be general or confined to specific instances.

Section 2. Loans. Except for loans which are incurred in the ordinary course of business, no loans shall be contracted on behalf of the Commission and no evidences of indebtedness shall be issued in its name unless authorized by the Members. Such authority may be general or confined to specific instances.

Section 3. Checks and Drafts. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Commission shall be signed by such officer or officers or agent or agents of the Commission and in such manner as shall from time to time be determined by the Members.

Section 4. Deposits. All funds of the Commission not otherwise employed shall be deposited from time to time to the credit of the Commission in such banks, trust companies or other depositaries as the Members may select.

Section 5. Disbursements. Disbursements made in accordance with the budget adopted by the Commission shall be deemed authorized by the Commission. Other disbursements may be authorized by the Commission, which shall also designate the persons authorized to direct the preparation and delivery of checks, wire transfer instructions, and other payment instructions necessary or desirable to effect such disbursement. The Commission may also delegate to specific

persons the general authority to direct the preparation and delivery of such payment instructions for disbursements approved by the Commission.

## ARTICLE IX

### INDEMNIFICATION

#### Section 1. Authority to Indemnify.

(a) To the extent permitted by the Act, the Commission may indemnify an individual made a party to a proceeding because the individual is or was a Member against liability incurred in the proceeding if the individual (i) conducted himself or herself in good faith; (ii) reasonably believed, in the case of conduct in his or her official capacity with the Commission, that his or her conduct was in its best interests, and in all other cases, that his or her conduct was at least not opposed to its best interests; or (iii) in the case of a criminal proceeding, has no reasonable cause to believe his or her conduct was unlawful.

(b) The termination of a proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the Member did not meet the standard of conduct described in this section.

(c) The Commission may not indemnify a Member under this section (i) in connection with a proceeding by or in the right of the Commission in which the Member was adjudged liable to the Commission; or (ii) in connection with any other proceeding charging improper personal benefit to the Member, whether or not involving action in his official capacity, in which the Member was adjudged liable on the basis that personal benefit was improperly received by the Member. No Member may be indemnified upon violation of the Commission's policy or the provisions of these Bylaws regarding conflicts of interest.

(d) Indemnification permitted under this Article in connection with a proceeding by or in the right of the Commission may include reasonable expenses incurred or paid in connection with the proceeding.

Section 2. Mandatory Indemnification. If a Member is wholly successful, on the merits or otherwise, in the defense of a proceeding to which the Member was a party because he is or was a Member of the Commission, the Commission shall indemnify such Member against reasonable expenses actually incurred by the Member in connection with the proceeding.

Section 3. Indemnification of Officers, Employees, and Agents. Officers, employees, ex officio members, members of advisory committees, and agents, as well as heirs and personal representatives of such persons, shall be indemnified to the same extent as Members are under this Article and to the extent permitted by the Act.

## ARTICLE X

### CONFLICTS OF INTEREST

Section 1. Conflicts of Interest. A conflict of interest transaction is a transaction with the Commission in which a Member has a direct or indirect interest. A conflict of interest is not voidable or the basis for imposing liability on the Member if the transaction was fair to the Commission at the time it was entered into or is authorized, approved, or ratified by the vote of the Commission or a relevant Committee of the Commission if the material facts of the transaction and the Member's interest are disclosed or known to the Commission or Committee of the Commission, and the Members approving the transaction in good faith reasonably believe that the transaction is fair to the Commission.

Section 2. Indirect Interest. For purposes of this Article, a Member has an indirect interest in a transaction if another entity in which the Member has a material interest or in which the Member is a general partner is a party to the transaction, or another entity of which the Member is a director, manager, officer, or trustee is a party to the transaction.

Section 3. Approval by Majority. For purposes of this Article, a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the Members or of the Committee who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved, or ratified under this section by a single Member. If a majority of the Members who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a Member with a direct or indirect interest in the transaction does not affect the validity of any action taken under this section if the transaction is otherwise as provided in this section.

Section 4. Commission Requirements. The Commission may impose additional requirements on conflict of interest transactions.

Section 5. Disclosure. The Member having an interest in a transaction approved pursuant to this Article shall have the burden of assuring that all relevant facts are fully and adequately disclosed to the Commission.

## ARTICLE XI

### AMENDMENTS

These Bylaws may be amended at any time by action of the South Carolina General Assembly. These Bylaws may also be amended by the Commission by the affirmative vote of not less than two-thirds (2/3) of the Members of the Commission, provided that notice of any proposed amendment, including the proposed draft thereof, shall have been given at least ten (10) business days preceding the meeting at which the amendment is voted upon; and provided further that such amendment does not conflict with any of the Commission's enabling legislation.

## ARTICLE XII

### MISCELLANEOUS

Section 1. Gender and Grammar. The singular whenever used herein shall be construed to mean the plural when applicable, and vice versa; and the necessary grammatical changes required to make a provision hereof apply either to entities or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 2. Notice. Notice may be oral, as provided hereinafter, or written. Notice may be communicated in person; by telephone, telegraph, Teletype, facsimile transmission (FAX), or other form of wire or wireless communication; or by mail or private carrier. Oral notice is permissible if reasonable under the circumstances and is effective when communicated if communicated in a comprehensible manner and if followed up promptly with written notice or written confirmation of such oral notice. Written notice is effective at the earliest or the following: (i) when received; (ii) five (5) days after its deposit in the United States mail, if mailed correctly addressed and with first class postage affixed; (iii) on the date of first attempted delivery shown on the return receipt, if sent by registered or certified mail, return receipt requested; (iv) three (3) business days after its placement with a private carrier or its deposit in the United States mail, if mailed correctly addressed and with other than first class, registered, or certified postage affixed. Written notice is correctly addressed to a Member if addressed to the Member's address shown in the Commission's current list of Members. If any other provision of these Bylaws prescribe notice requirements for particular circumstances, those requirements govern.

Section 3. Execution of Documents. The Chairman, Vice Chairman, or Secretary shall be authorized to sign and deliver all contracts, deeds, mortgages, and other documents in connection with real property, personal property, and financing transactions which may be authorized by the Commission, unless otherwise authorized and directed by the Commission.

Section 4. Insurance. The Commission may purchase and maintain insurance on behalf of an individual who is or was a Member, officer, employee, member of a committee, or agent of the Commission (or heirs or personal representatives of such persons), or who, while a Member, officer, employee, or agent of the Commission is or was serving at the request of the Commission as a member, manager, officer, partner, trustee, employee, or agent of another foreign or domestic business or nonprofit corporation, partnership, joint venture, limited liability company, trust, employee benefit plan, or other enterprise (or heirs or personal representatives of such person), against liability asserted against or incurred by him/her in that capacity or arising from his/her status as a Member, officer, employee, or agent, whether or not the Commission would have power to indemnify the person against the same liability under Article XI.

These Bylaws are duly adopted at a meeting of the Horry County Higher Education Commission held at Conway, South Carolina, on June 1, 2007 and supersede and restate all Bylaws previously accepted by such Commission.