

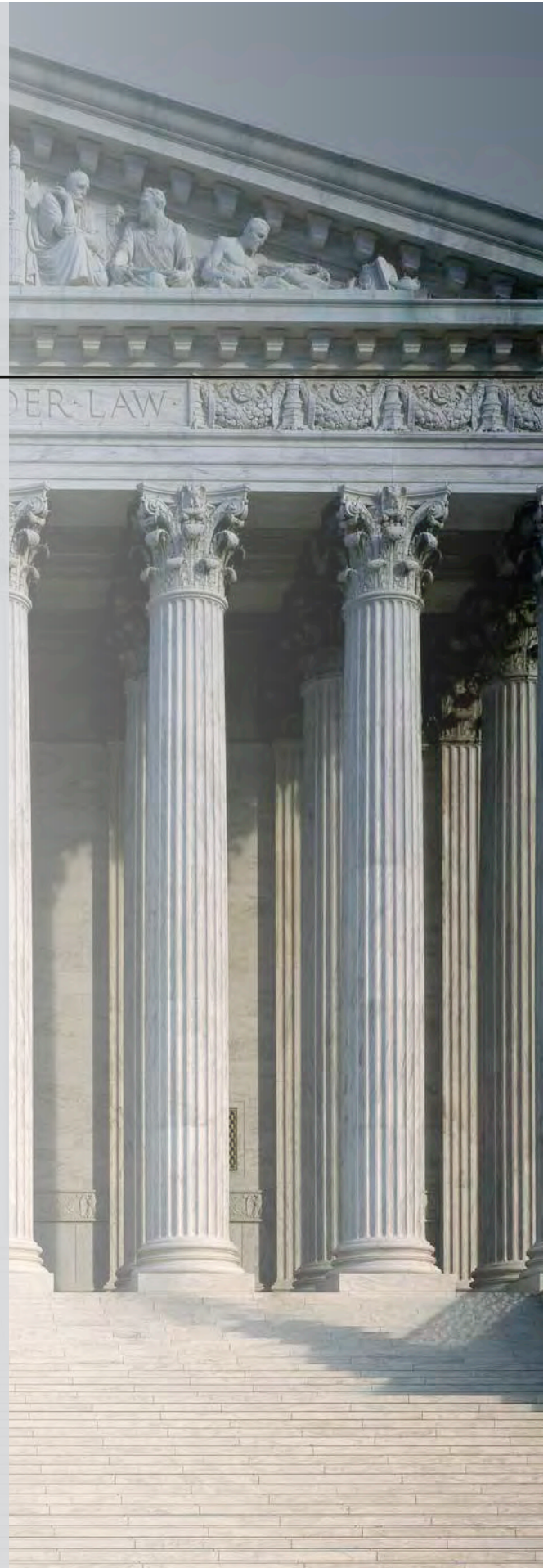


Mandatory State Bar Associations

Managing Keller

The following information regarding mandatory bars and how they manage Keller related activities was compiled by State Bar of Michigan between February 2014 and May 2014. This was a significant research initiative to support the Michigan Supreme Court Task Force on the Role of the State Bar of Michigan. As information was gathered, executive directors from several state bars expressed an interest in receiving this compilation of material. We are pleased to share this information with those who find it useful. Please note that the State Bar of Michigan does not update this compilation as policies and statutes change in various states. Users are encouraged to check with the state bars directly to learn of any relevant changes.

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the Bylaws. During each such meeting, the Assembly shall convene in sessions as determined by the Board of Governors. The Assembly may present programs of professional interest and consider resolutions presented by members.

Article VI. The House of Delegates

Section 6.1 Powers and Functions. The House of Delegates shall control and formulate policy for the Bar. It has all the powers necessary or incidental to perform those functions. It shall supervise and direct the Board of Governors, officers, divisions, sections, committees, boards, commissions, task forces, employees, and agents. It shall establish or approve the agenda for its meetings.

Section 6.2 Composition. The House of Delegates, which is designed to be representative of the Bar, is composed of the following members:

- (1) Circuit Delegates elected from each Judicial Circuit in the manner set forth herein and in the Bylaws;
- (2) The members of the Board of Governors;
- (3) The former presidents of the Bar and its predecessor organizations, the South Carolina Bar Association and the South Carolina State Bar;
- (4) One delegate representative from each section and the Young Lawyers Division;
- (5) The President and Immediate Past President of the Senior Lawyers Division;
- (6) Two delegate representatives elected by the members who reside without the State of South Carolina;
- (7) The deans of all law schools whose facilities are in South Carolina;
- (8) The State Delegate and the State Bar Delegates to the American Bar Association; and
- (9) The immediate past Chair of the House of Delegates.

Section 6.3 Circuit Delegates.

(a) The members of the Bar residing in each Judicial Circuit eligible to vote shall elect from among themselves the Circuit Delegate or Delegates to represent that Circuit in the House of Delegates. The number of Circuit Delegates from each circuit shall be proportionate to the membership in each Circuit with each Circuit having at least one Delegate. The number of Delegates from each Circuit shall be determined as follows:

- (1) Each Circuit shall be entitled to one delegate for each representative unit as defined below together with one delegate for each fraction of a unit greater than one-half.
- (2) A representative unit during any apportionment term shall be equal to eighty-five members.
- (3) The apportionment term shall be a period of ten years. The initial term shall commence March 1, 2005.
- (4) The House of Delegates shall be reapportioned each tenth year using the formula herein set forth.
- (b) The term of each Circuit Delegate shall be two years beginning the first day of July following his selection.

Section 6.4 Meetings. The House of Delegates shall meet during the Annual Meeting and at such other times and places as the Board of Governors may determine. Special meetings shall be called by the Board at the written request of one-tenth of the Delegates. Notice stating the place, day, and hour of the meeting and the purpose or purposes for which it is called shall be given to each Delegate not less than fifteen days before the date of the meetings. A quorum shall consist of thirty Delegates. Except as provided otherwise by this Constitution or the Bylaws, the vote of a majority of the Delegates present at a meeting at which a quorum is present shall be the act of the House of Delegates.

Section 6.5 Referendum. On a question relating to the substance of the law, the administration of justice, or the policy of the Bar, the House of Delegates, by the vote of a majority of the total number of Delegates then in office, may direct a referendum by mail ballot of the members of the Bar who are entitled to vote as provided by the Bylaws. A majority of the votes cast in the referendum determines the position of the Bar with respect to the question submitted.

Section 6.6 Legislative Positions and Briefs.

(a) The Bar shall publish notice of adoption of legislative positions and filing of briefs in the South Carolina Lawyer or other publication in the issue prepared immediately following the meeting at which the positions were taken or filing authorized. Annually the Bar shall publish the amount expended from unrestricted funds to support legislative policies and file briefs, which amount shall be independently verified by a certified public accountant and shall be used to determine the pro rata amount of a member's license fee expended for such activities. The pro rata amount per membership category shall be in the same proportion as the license fees are across membership categories.

(b) Within forty-five days of the first day of the month of publication of notice of adoption any member of the Bar may file with the Executive Director a written objection to a particular position on a legislative issue or brief. Failure to object within this time period shall constitute a waiver of any right to object to the particular legislative issue or filing of the brief.

(c) After a written objection has been received, the Executive Director shall promptly determine the pro rata amount of the objecting member's license fee at issue, and such amount shall be placed in escrow pending determination of the merits of the objection. Upon the deadline for receipt of written objections, the Board of Governors shall have sixty days in which to decide whether to give a pro rata refund to the objecting member (s) or to refer the action to arbitration.

(d) The arbitration panel shall be composed of three members of the Bar and shall be constituted as soon as practicable. The objecting member(s) shall select one member of the arbitration panel, the Bar shall choose the second panel member, and those two shall choose the third member. In the event the two members are unable to agree, the chief administrative judge for common pleas court in the Fifth Judicial Circuit shall appoint the third member.

The Bar shall thereafter prepare a written response to the objection and serve a copy of the response on the objecting member(s). The panel shall thereafter confer and decide whether the matters at issue are constitutionally appropriate for funding from the license fees and, if not, whether the pro rata refund was correctly computed.

The panel shall render a final written report to the objecting member(s) and the Board of Governors within forty-five days of its constitution. The decision shall be binding as to the objecting member(s) and the Bar. If the panel concludes the matters at issue are appropriately funded from license fees, there shall be no refund and the Bar shall be free to expend the amount in escrow. If the panel determines that the matters at issue are inappropriately funded from license fees, the panel shall order a refund of the pro rata amount to the objecting member(s). In the event a refund is ordered, the Bar shall provide such refund within thirty days of the date of the report, together with interest calculated at the legal rate of interest.

Article VII. The Board of Governors

Section 7.1 Powers and Functions. Between the meetings of the House of Delegates, the Board of Governors may perform, not inconsistent with any action taken by the House, the functions that the House itself might perform. The Board shall develop methods and specific plans to accomplish the purposes of the Bar not inconsistent with the policies or actions of the House of Delegates.

Section 7.2 Composition. The Board of Governors is composed of the President, the President-Elect, the Immediate Past President, the Secretary, the Treasurer, the president-elect and immediate past president of the Young Lawyers Division, a representative of the Senior Lawyers Division, and the Chair of the House of Delegates, all of whom shall be members ex officio, together with two members (the "elected members") from each judicial region and two additional members (the "at large members") who shall be elected as hereinafter provided.

Section 7.3 Eligibility and Term. To be eligible for election to the Board of Governors a member must be a resident (as qualified by Section 2.2) of the judicial region from which he is elected. The term of an elected member of the Board is three organization years, beginning the day after the close of the Annual Meeting following his election. The elected members of the Board shall serve staggered terms of three years each, i.e., two or three new members of the Board of Governors shall be elected each year to replace the members whose terms expire, and shall not be eligible to succeed themselves except as provided in Section 7.4 below. The at large members shall serve staggered terms of two years each and shall not be eligible to succeed themselves. Before assuming the office of President, the President-Elect shall appoint with the approval of the Board of Governors an at large member whose term will begin on the day after the close of the Annual Meeting. The representative from the Senior Lawyers Division shall serve a term of two years and shall be elected by a vote of two-thirds or more of the Division's Executive Council.

Section 7.4 Vacancies. A vacancy in the position of an elected member, including when the member no longer resides in the judicial region from which he was elected, of the Board of Governors shall be filled for the unexpired term by an eligible member of the Bar elected by the House of Delegates. A person so elected shall be eligible to be re-elected for a full term if he will have served less than twenty-four months at the time the unexpired term for which he was elected terminates. A vacancy in the position of an at large member of the Board of Governors shall be filled for the unexpired term by an eligible member of the Bar elected by the Board of Governors. In the event that the immediate past president of the Young Lawyers Division declines or is unable to serve, the Division's Executive Council shall designate the person to fill the vacancy.

Section 7.5 Meetings. The Board of Governors shall meet at least four times in each organizational year at such times and places as the Board may determine. Special meetings may be held at the call of the President and shall be called by the Secretary upon the request of three or more members of the Board of Governors. At any meeting a majority of the Board of Governors shall constitute a quorum.

Section 7.6 Appropriation of Funds. An annual budget shall be prepared by the Board of Governors and submitted to the House of Delegates each year for approval.

Section 7.7 Financial Review. There shall be an annual review or audit of the Bar's financial records by a certified public accountant selected by the Board of Governors.

Article VIII. Officers and Other Personnel

Section 8.1 General. The officers of the Bar are the President, the President-Elect, the Chair of the House of Delegates, the Secretary, and the Treasurer. The Board of Governors may appoint, elect, or employ and prescribe the duties of an Executive Director and such other personnel as the Board deems necessary to carry on the work of the Bar, each of whom shall serve at the pleasure of the Board.

Section 8.2 Terms.

(a) The term of office of the President, the President-Elect, the Secretary and the Treasurer shall be one year beginning the day after the close of the Annual Meeting following election. The President-Elect automatically succeeds to the office of the President. No person who has served as President of the Bar or of the South Carolina Bar Association or of the South Carolina State Bar shall be eligible for election to the Office of President or President-Elect.

(b) The term of office of the Chair of the House of Delegates shall be two organizational years beginning the day after the close of the Annual Meeting following election. During his first term of office, he may not hold any other office in the Bar. He is not again eligible for the office of Chair of the House, and during the two organizational years following the expiration of his term he is not eligible for nomination to the office of President-Elect.

Section 8.3 Vacancies. If the office of President becomes vacant, the President-Elect shall become President for the unexpired term and for the term next following. If the office of President-Elect shall become vacant, the House of Delegates shall convene at the call of the Board of Governors and elect a successor. In the event that the office of President becomes vacant at the time the office of President-Elect is also vacant, the Board of Governors shall fill the office of President from among its members until the House of Delegates can be convened to elect a successor. If any office other than that of the President or President-Elect shall become vacant, or if a vacancy occurs in the position of State Bar Delegate to the American Bar Association, the office or position shall be filled by the Board of Governors for the remainder of the term.

Article IX. Election of Officers, Governors and State Bar Delegates

Section 9.1 Nominations. Nominations for the offices of President-Elect, Secretary, Treasurer, and Chair of the House of Delegates, for the elected members of the Board of Governors, and for the State Bar Delegates to the American Bar Association shall be made only as provided in this Article.

Section 9.2 Nominating Committee.

(a) There shall be a Nominating Committee comprised of the Immediate Past President, who shall be the Chair, and two elected Nominating Delegates from each judicial region. The eight elected Nominating Delegates shall serve staggered terms of three years each commencing the first day of July following their election. Two or three Nominating Delegates shall be elected by the House of Delegates each year to succeed the Nominating Delegates whose terms expire that year. At the time of their election Nominating Delegates shall be elected members of the House of Delegates who reside in the same judicial region as the Delegates whom they succeed. No Nominating Delegate shall be eligible to succeed himself. In the event of a vacancy among the elected Nominating Delegates, including when a Delegate is no longer a regular member or no longer resides in the judicial region for which he was elected, the House of Delegates at its next meeting shall elect a successor for the unexpired term.

(b) Election of Nominating Delegates shall be supervised by the Chair of the House of Delegates, the President, and the President-Elect. If there are two or more nominees for the position of Nominating Delegate from a judicial region, the Nominating Delegate shall be elected by plurality of the votes cast.

Section 9.3 Nominating Procedure.

(a) On or before November 15 of each year the Nominating Committee shall meet at a time and place designated by its Chair and shall promptly

make nominations by majority vote for the offices of President-Elect, Secretary, and Treasurer, the members of the Board of Governors and ABA State Bar Delegates to be elected in that year, and in every alternate year the office of Chair of the House of Delegates. Only Circuit Delegates shall be eligible for nomination to the office of Chair of the House of Delegates. No one shall be eligible to be nominated or elected as State Bar Delegate who will at the time of election have served in such capacity for four years.

(b) The Board of Governors shall, on or before the following December 15, cause the name of each nominee selected by the Nominating Committee to be published. On or before the following January 15, twenty-five or more members who are entitled to vote may file with the Board of Governors a signed petition nominating a candidate or candidates for any or all offices to be filled. On January 15, the nominations shall be closed. The Board of Governors shall cause the name of each nominee to be published.

Section 9.4 Election of Officers, Governors and State Bar Delegates.

(a) If there is only one nominee for President-Elect or Secretary or Treasurer or Chair of the House of Delegates or Governor or State Bar Delegate, such nominee shall be considered elected automatically at the time the nominations are closed.

(b) If more than one person is nominated for any such office or position, ballots containing the names of all nominees for each contested position shall be mailed to all members who are eligible to vote at the same time as ballots for contested Circuit Delegate elections are distributed. The nominee who receives the greatest number of votes for each office or position shall be declared elected.

(c) The Board of Governors shall supervise all such elections and shall determine, announce, and publish the results of each election. Elections may be conducted electronically.

Article X. Divisions, Sections, Committees and Affiliates

Section 10.1 Divisions. There shall be a Young Lawyers Division and a Senior Lawyers Division with membership requirements as set forth in the bylaws adopted pursuant to Article XI.

Section 10.2 Sections. Sections may be created, existing sections may be combined or discontinued, or the name of a section may be changed by a majority vote of the members present of the House of Delegates at any annual or specially called meeting in the manner prescribed by the Bylaws.

Section 10.3 Committees. Committees, boards, task forces and commissions may be created by the Board of Governors to carry on the work of the Bar and to promote its purposes.

Section 10.4 Affiliates. There shall be Lawyer Affiliates and Law Student Affiliates with the Bar. A lawyer who is not admitted to practice law in South Carolina but who is licensed to practice law before the highest court of another state or jurisdiction of the United States, or who has retired from the practice before such court, may become a Lawyer Affiliate under such terms and conditions as may be specified in the Bylaws. A lawyer who is suspended or disbarred from the practice of law in any jurisdiction may not become a Lawyer Affiliate. A law student enrolled at a law school that has been approved or provisionally approved by the Council of Legal Education of the American Bar Association may become a Law Student Affiliate under such terms and conditions as may be specified in the Bylaws. Affiliation with the Bar does not confer any privilege to practice law in South Carolina, and affiliates are not members of the South Carolina Bar.

Article XI. The Bylaws

Section 11.1 Adoption and Amendment. The House of Delegates may adopt Bylaws not inconsistent with this Constitution to further the administration of the Bar. The Bylaws shall be adopted, and may be amended, at any annual or a special meeting by vote of a majority of the Delegates present at the meeting. Not later than thirty days before the meeting at which such an amendment or amendments will be considered, any member of the Bar desiring to propose an amendment shall furnish to the Board of Governors a copy thereof. Thereafter the Board of Governors shall, not less than fifteen days before said meeting, give notice of the substance of the proposed amendment to all members of the Bar. Unless otherwise provided, an amendment is effective upon the adjournment of the meeting at which it is adopted.

Section 11.2 Correction. Upon the adoption of an amendment to the Bylaws, the Secretary may correct punctuation, grammar, or numbering where appropriate in the Bylaws if the correction does not change the meaning.

Article XII. Amendment of Constitution

Section 12.1 Amendment. At any annual or special meeting of the Bar this Constitution may be amended upon concurrent votes of at least two-thirds of the members present who are entitled to vote in the Assembly and two-thirds of the members present in the House of Delegates. If the Assembly lacks a quorum when an amendment is scheduled to be considered, the action of the House on the amendment shall be controlling without Assembly action. If the Assembly and the House disagree, either may direct by two-thirds vote that the proposed amendment be submitted to all members of the Bar who are entitled to vote. To become effective, however, an amendment so referred must be adopted by two-thirds of the members voting. Not later than sixty days before the meeting at which the amendment or amendments will be considered, any member of the Bar desiring to propose an amendment shall furnish to the Board of Governors a copy thereof and thereafter the Board of Governors shall, not less than fifteen days before said meeting, give written notice to all members of the Bar of the proposed amendment or amendments. Amendments so approved shall be forthwith submitted to the South Carolina Supreme Court and shall become effective upon approval by it.

Section 12.2 Correction. Upon adoption of an amendment to this Constitution, the Secretary may correct punctuation, grammar, or numbering where appropriate in the Constitution, if the correction does not change the meaning, and he may make conforming changes in the Bylaws if needed.

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Bylaws

Article I. Membership

Section 1.1 Classes of Membership. Members of the South Carolina Bar are divided into seven classes: active, limited license, judicial, military, inactive, retired, and associate members. Membership status is determined as of January 1 each year. A member may change class if that member meets the requirements of the class and pays the difference in annual license fees which would have been owed if that member had been in the subsequent class as of January 1.

(a) **Active Members:** The active members are all persons licensed to practice law in the State of South Carolina who shall have paid the license fees hereinafter specified and who are not included in one of the classes defined below.

(b) **Judicial Members:** The following persons who are licensed to practice law in this State and who shall have paid the license fees hereinafter specified shall be classified as judicial members: all full-time judges, all full-time magistrates, all full-time state administrative officers who spend the majority of their time in the performance of quasi-judicial functions, all judges of Federal Courts, including Federal Magistrates and Administrative Judges, and all such judges who have retired but are eligible for temporary judicial assignment and are not engaged in the practice of law. A judicial member who is no longer a judge may change his classification to that of an active member by filing with the Secretary a written request and the license fee of an active member.

(c) **Military Members:** Military members are all persons who are licensed to practice law in the State of South Carolina and are (1) in the active military service of the United States or (2) in the reserves of a military service of the United States and only practice law when serving as a military lawyer or Judge Advocate of the military services of the United States and who shall have paid the license fees hereinafter specified.

(d) **Inactive Members:** Inactive members are all persons who are licensed to practice law in South Carolina but who do not practice law in South Carolina, have elected to become inactive members, and shall have paid the license fees hereinafter specified. An inactive member who has practiced law in South Carolina or another jurisdiction during the immediately prior twelve months may become an active member by paying the difference in license fees if that member is current with mandatory continuing legal education requirements. After the first twelve months an inactive member who has completed the equivalent of the mandatory continuing legal education requirement for the preceding calendar year and who has filed a compliance statement with the Commission on Continuing Legal Education and Specialization and paid the filing fee may become an active member upon payment of the difference in license fees.

(e) **Retired Members:** Retired members are all persons who are licensed to practice law in South Carolina but who have retired because of age, serious illness or total and permanent disability. To be eligible for retired membership by reason of age, a member shall have attained age sixty-five or more. After two years, a retired member may return to active member status after completing fourteen hours of continuing legal education, including two hours on legal ethics and professional responsibility.

(f) **Associate Members:** Associate members are all persons who are not licensed to practice law in South Carolina but who are licensed to practice before the highest court of another state or jurisdiction of the United States or have retired from practice before such court and who shall have paid the license fees hereinafter specified.

(g) **Limited License Members:** Limited license members are persons licensed to practice law in the State of South Carolina under Rules 405, 414, and 415, SCACR.

Section 1.2 Fees.

(a) The annual license fees are as follows:

(1) For active members who have been admitted to practice law in any jurisdiction for three years or more and limited license members admitted under Rule 405 or 414—\$245.

(2) For active members who have been admitted to practice law in any jurisdiction for less than three years—\$175.

(3) For judicial members—\$175.

(4) For military members—\$175. Provided, however that military members shall be exempt from the payment of license fees during the time of war declared by the Congress of the United States or when called into equivalent active duty.

(5) For inactive members—\$175.

(6) For associate members—\$175.

(7) For all active members, an additional fee designated for meeting the civil legal needs of indigents as directed by the Board of Governors, provided that any member may deduct this additional fee before remitting the payment—\$30.

(b) Retired members and limited license members admitted under Rule 415 are exempt from the payment of license fees. Each such member shall, however, during the month of January each year, notify the Secretary in writing of his then current address whether or not there has been a change.

(c) License fees are due and payable on the first day of January. Persons who become members of the Bar after the first day of January but before the first day of July shall pay on or before July 1 one half the amount set forth in paragraph (a) as for license fees for the remainder of the calendar year; persons who become members of the Bar after the last day of June shall be exempt from payment of license fees for the remainder of the calendar year. Any member who fails to pay the required license fee on or before January 31 shall be assessed a penalty in the amount of fifty percent of such license fee. If a member pays before February 1 and that check is returned to the Bar after January 31 for any reason, the fifty percent penalty will be assessed.

(d) Promptly after January 15, the Executive Director will send notice to all retired members who shall have failed to give the notice required by paragraph (b) of this Section 1.2 and to all active, limited license, judicial, military, inactive and associate members who shall have failed to pay the license fees required by paragraph (c). Membership in the Bar of all persons who remain delinquent at the close of business on January 31 shall terminate. Delinquent members shall thereafter be given notice by certified mail or by electronic mail.

(e) At any time before April 1, a terminated member may be reinstated by correcting the delinquency, which in the case of retired members shall consist of giving the notice required by paragraph (b) of this Section 1.2 and in the case of active, limited license, judicial, military, inactive and associate members shall consist of paying all license fees in arrears and penalties as required by paragraph (c) by cashiers check, certified check, or money order. After April 1, a terminated active, limited license, judicial, military, inactive or retired member may be reinstated only upon order of the Supreme Court and, in the case of active, limited license, judicial, military, inactive and associate members, payment of license fees and penalties for all years since and including the year of termination.

Section 1.3 Membership Register.

(a) The Secretary shall maintain a current membership register which shall contain as to each member the following items of information together with such other information as the Board of Governors may prescribe:

- (1) Name;
- (2) Date of registration;
- (3) Classification of membership;
- (4) Address (office or residence; if office address and the registrant maintains more than one office, the principal office);
- (5) Each jurisdiction in which licensed to practice and date licensed in each;
- (6) Date and place of birth; and
- (7) Name of law school from which graduated and year of graduation.

(b) Applications for membership shall contain the information referred to in paragraph (a) and shall be in such form as shall be prescribed by the Board of Governors.

(c) The address appearing on the register shall be the official address of the member for all purposes of the Bar including the giving of notice and for the purpose of eligibility to vote and election to office. Each member shall notify the Secretary promptly of any change in such address.

(d) At periodic intervals, not less frequently than annually, the Secretary shall furnish to the Supreme Court, to each Circuit Judge, and to the Clerk of Court of each County a list of all members. Such Judges and Clerks of Court shall notify the Secretary of any person who, to their knowledge, is engaged in the practice of law but whose name does not appear on such list.

Section 1.4 Privileges of Members.

(a) Active members and limited license members admitted under Rule 405 or 414 shall be eligible—

- (1) to engage in the practice of law in South Carolina;
- (2) to vote in the election of or serve as a member of the Board of Governors or as a circuit delegate in the House of Delegates;
- (3) to vote on any matter before the Assembly or on any matter which is the subject of a referendum directed to the membership; and
- (4) to serve as voting members of committees and sections.

Limited license members shall be eligible to engage in the practice of law only to the extent permitted by the South Carolina Appellate Court Rules.

(b) Military, judicial and associate members are entitled—

- (1) to attend meetings of the Assembly and to participate without vote in its deliberations;
- (2) to serve as nonvoting members of sections and committees; and
- (3) to receive all notices and publications of the Bar except notices relating to elections and matters upon which only active members may act.

(c) Inactive, limited license members admitted under Rule 415 and retired members shall have the same privileges as do military, judicial, and associate members except that they shall not be entitled to receive any notices or publications except the South Carolina Lawyer unless they shall request the Secretary in writing that they be sent the other notices to which military, judicial, and associ-

ate members are entitled.

Section 1.5 Change of Status. It shall be the duty of any member whose membership status changes to notify the Secretary promptly of such change.

Section 1.6 Resignation. An associate member may resign from the Bar by giving written notice of resignation to the Secretary. No member of any other class may resign except with the approval or consent of the Supreme Court of South Carolina.

Article II. Circuit Delegates

Section 2.1 Nomination and Election. Delegates from odd-numbered circuits shall be elected in even-numbered years and delegates from even-numbered circuits shall be elected in odd-numbered years. On or before the fifteenth day of January, ten or more active members residing in the circuit from which one or more delegates are to be elected may file with the Board of Governors, which shall serve as a board of electors, a signed petition nominating a candidate, or candidates, for circuit delegate from that circuit. The Board of Governors shall thereupon cause the name of each nominee to be published or otherwise distributed to all members. If the number of persons nominated does not exceed the number of delegates to be elected from a circuit, the Board of Governors shall declare the nominees elected. If fewer persons are nominated than there are delegates to be elected, the Board of Governors shall choose a sufficient number of nominees to constitute a full slate. If the number of nominees exceeds the number of delegates to be elected from a circuit, the Board of Governors shall on or before the fifteenth day of February prepare ballots bearing the names of the nominees and shall cause a ballot to be mailed to each active member residing in such circuit. In order to be effective, each ballot shall be duly marked and returned to the Board of Governors not later than the fifteenth day of March. On that date the balloting for the election of circuit delegates shall be closed and the Board of Governors shall proceed to count the ballots and determine, announce, and publish the results of such election. Where there is only one circuit delegate to be elected from a judicial circuit, the nominee receiving the greatest number of votes shall be declared. Where there are more than one circuit delegate to be elected from a judicial circuit, those nominees receiving the greatest number of votes shall be declared elected until all positions are filled. In the event of a tie vote, the Board of Governors shall declare the procedure to be followed to determine the nominee or nominees elected.

Section 2.2 Nomination and Election of Out-of-State Delegates. The out-of-state delegates shall be elected in even numbered years to serve for a term of two years. Nominations for out-of-state delegates may be made by petitions signed by ten or more active members who reside either within or without the state of South Carolina. Ballots for out-of-state delegates shall be sent to and cast by only active members who reside without the state.

The provision of Section 2.1 relating to the nomination and election of circuit delegates shall apply to the nomination and election of the out-of-state delegates except insofar as such provisions are in conflict with the provisions of this Section 2.2.

Section 2.3 Vacancies. In the event of a vacancy in the position of circuit or out-of-state delegate, the Board of Governors shall fill the vacancy for the remainder of the unexpired term. A vacancy occurs when a member is no longer an active member or the member's residence changes to another circuit.

Article III. Meetings

Section 3.1 Meeting Program. The program at all meetings of the Bar shall be supervised by the Board of Governors.

Section 3.2 Limit on Debate. No member shall, in discussion or debate at meetings of the Assembly or the House of Delegates, speak more than ten minutes at a time or more than twice on one subject.

Section 3.3 Privileges of the Floor. At any meeting of the Assembly or the House of Delegates distinguished guests may, on motion duly passed, be extended the privileges of the floor.

Section 3.4 Parliamentary Rules. Roberts Rules of Order shall govern all meetings of the Assembly and the House of Delegates except as is otherwise provided in the Constitution and these Bylaws.

Section 3.5 Amendments. Amendments proposed to matters before the Assembly or House of Delegates shall be submitted in writing to the person presiding over the meeting on the proposal.

Article IV. Resolutions

Section 4.1 General.

(a) A resolution which is offered to the Assembly shall be in writing, concise, and, including its preamble, limited to no more than three hundred words. If it supports or opposes existing or proposed legislation, it shall be accompanied by a copy of the measure concerned or by a summary of its provisions.

(b) Between meetings, a resolution may be filed with the Secretary. During a meeting, a resolution may be offered only at the first session of the Assembly.

Section 4.2 Restrictions on Resolutions. Neither the Assembly, the House of Delegates, nor any committee, section, division, task force, board or commission shall consider a resolution complimentary to an officer or member. The Board of Governors may, however, make an award or grant a citation to an officer or member or other person for services performed, a paper read, or an address delivered. The Board may approve criteria by which a committee, division or section may recognize such person.

Section 4.3 Publication. Only resolutions which have been adopted by the Assembly need to be published in the proceeding of the meeting.

Article V. Reports and Recommendations

Section 5.1 Transmittal and Calendaring. The Board of Governors shall transmit to the House of Delegates, in the manner prescribed by the House, the reports of divisions, sections, committees, boards, task forces, and commissions with any recommendations or comments which the Board may have. The Board may also have such reports placed on the calendar of the Assembly.

Section 5.2 Organization Action. A report or recommendation of a division, section, committee, board, task force, or commission becomes the action of the Bar only if it is approved by the House of Delegates or the Board of Governors.

Article VI. Representation of the Bar

Section 6.1 Representation. The President or his designee shall express the policy of the Bar as determined by the House of Delegates or the Board of Governors. No other member or employee may represent the Bar or a division, section, committee, board, task force, or commission before a legislative body, court or governmental agency, unless specifically authorized by the House of Delegates or the Board of Governors.

Section 6.2 Briefs. If representation of the Bar requires the filing of a brief, it shall be reviewed by the Board of Governors or its designees and approved by the Board before it is filed.

Section 6.3 Personal Views of Members. Any member who, when making public utterance, permits himself to be identified as having an official connection with the Bar or one of its divisions, sections, committees, boards, task forces, or commissions shall, if the policy of the Bar on the subject matter of the utterance has been determined by the House of Delegates or Board of Governors, fairly state that policy and, if he expresses views at variance with it, clearly identify the variance as his personal views only. If there has not been, or if he has no knowledge of, any such policy determination, he shall nevertheless identify his utterance as his personal views.

Section 6.4 Indemnification. The Bar shall indemnify each member of the House of Delegates, member of the Board of Governors, employee and agent who is or is threatened to be made a party of any action, proceeding or suit, whether administrative, civil, criminal, or investigative (other than any action proceeding by or in behalf of the Bar) by reason of the fact that he is or was a member of the House of Delegates, member of the Board of Governors, employee or agent of the Bar, or is or was serving at the request of the Bar in such capacity of the Bar, against expenses (including attorneys' fees), fines, judgments, and amounts paid in settlement actually and reasonably incurred by him in connection with any such action, proceeding or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Bar and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any such action, proceeding or suit by judgment, order, settlement, conviction, or a plea of nolo contendere, or its equivalent, in and of itself, shall not create a presumption that he did not act in good faith and in a manner reasonably believed to be in or not opposed to the best interests of the Bar, and, with respect to any criminal action or proceeding, had reasonable cause to believe the conduct was unlawful. In the discretion of the Board, the Bar may make advances before final disposition of any such action, proceeding or suit in respect of indemnification. The Bar may purchase and maintain insurance on behalf of itself, members of the House of Delegates, members of the Board of Governors, employees and agents against liability that may be asserted against it or against any such individual in such capacity arising out of their status as such.

Section 6.5 Delegated Authority. The officers of the Bar and the Immediate Past President shall constitute the Executive Committee. The Board of Governors may empower the Executive Committee and other ad hoc committees of the Board to act between meetings of the Board. Any committee actions must be ratified at the next meeting of the full Board.

Section 6.6 Removal for Cause. Any Board of Governors member may be removed from office for cause, as hereinafter defined, on the two-thirds affirmative vote of the membership of the Board present at a meeting called for that purpose. For purposes of this section, the term "cause" means any of the following: (a) the member's physical or mental illness rendering the member incapable of performing duties to the Bar for a period of more than three consecutive months; (b) the member's absence at two consecutive Board meetings without cause deemed adequate by the Board; (c) the member's continued neglect or failure, after written demand, to discharge duties or to obey a specific written directive from the Board; (d) conflicts which render the member incapable of fulfilling the member's duties to the Bar; (e) the member's engaging in adjudicated misconduct which is injurious to the Bar; (f) the member's conviction of any felony or any crime involving moral turpitude; (g) conduct which would seriously impair the member's ability to perform the member's duties to the Bar. In the event of removal, the position will be filled in the manner outlined in the Constitution and Bylaws.

Article VII. Finances

Section 7.1 Authority to Incur Expense. The Board of Governors shall formulate and administer policy respecting expenditures and procedures for reimbursement. If the proposal requiring the expenditure of funds originates in the House of Delegates, it may be acted on only after the Board reports on its feasibility.

Section 7.2 Payment of Authorized Expenses.

(a) The Treasurer may pay only authorized expenses that are within budget appropriations.

(b) Expenditures from section funds may be made only upon approval of the Section chair.

Section 7.3 Financial Liability. The financial liability of the Bar to any section, committee, fund, or other organization within the Bar is limited to the funds credited to it on the financial records of the Bar and the liability ceases upon the Treasurer's payment of that amount. If a section, committee, fund, or organization, or one of its members, incurs a liability that is greater than the funds so credited, it is the obligation of each person responsible for incurring or authorizing the liability.

Article VIII. Duties of Officers

Section 8.1 General Duties. The officers of the Bar shall have the duties specified below in addition to the duties normally incident to their respective offices.

Section 8.2 President. The President shall preside at all meetings of the Assembly and the Board of Governors and shall appoint the chair and members of all committees. He shall be the official spokesman for the Bar and shall have general charge and supervision of its affairs subject to the authority of the House of Delegates and Board of Governors.

Section 8.3 President-Elect. The President-Elect shall perform such duties as the President may assign and, except as otherwise provided, the duties of the President when the President is disabled from performing his duties or absent from any meeting of the Assembly, the House of Delegates, or the Board of Governors.

Section 8.4 Chair of the House of Delegates. The Chair of the House of Delegates shall—

- (a) preside at meetings of the House;
- (b) preside, in the absence of the President and the President-Elect, at meetings of the Assembly, and other meetings at which the President would preside if he were present; and
- (c) perform such other duties as shall be designated by the House of Delegates.

Section 8.5 Secretary. The Secretary shall—

- (a) keep the respective minutes and records of the Assembly, the House of Delegates, and the Board of Governors;
- (b) maintain the roster of the delegates in the House and the register of members;
- (c) receive, certify, and publish nominations of circuit delegates, officers, and governors;
- (d) receive, certify, and publish the results of mail ballots;
- (e) receive and maintain as the property of the Bar all papers, addresses, and reports to the Assembly, the House of Delegates, and the Board of Governors;
- (f) give notice when notice is required to be given to the House of Delegates, the Board of Governors, or the members; and
- (g) perform such other duties as shall be assigned to him by the President or the Board of Governors.

Section 8.6 Treasurer. The Treasurer shall supervise the safekeeping of the funds and investments of the Bar and shall report periodically on its financial condition to the House of Delegates and the Board of Governors. He shall perform such other duties as shall be assigned to him by the President or the Board of Governors.

Article IX. Executive Director

Section 9.1 Employment. The Board of Governors shall employ and supervise an Executive Director who shall manage the administrative and staff operations of the Bar and whose term of employment shall be determined by the Board.

Section 9.2 Duties. Under the direction of the officers and Board of Governors, the Executive Director shall implement the policies of the Bar as determined by the Board of Governors and House of Delegates, and shall—

- (a) advise and assist the officers in fulfilling the responsibilities of their respective offices;
- (b) report to the officers and the Board of Governors such matters as are necessary to keep them properly informed of the activities and condition of the Bar;
- (c) direct the preparation of and participate in the formulation of the annual budget for consideration by the Board of Governors and the House of Delegates;
- (d) provide staff and liaison support for all organizations and functions of the Bar;
- (e) employ, determine the compensation of, train, supervise, assign, manage, and discharge staff members to carry on the work of the Bar within the budget;
- (f) manage and maintain the Bar quarters and other property within the budget; and
- (g) perform such other specific duties as may be directed by the Board of Governors.

Article X. Divisions

Section 10.1 Membership. The Young Lawyers Division of the Bar shall consist of all members of the Bar under the age of thirty-six years (36) and all new members of the Bar thirty-six years of age or over who have never been admitted to practice in any other jurisdiction who shall be members of the Division for five years following date of admission to practice in South Carolina. There shall be a Senior Lawyers Division which shall consist of all members of the Bar who are at least sixty (60) years of age.

Section 10.2 Purposes. The purposes of the Young Lawyers Division shall be to stimulate the interest of its members in the objects of the Bar, to carry on activities which will be of assistance to its members, and to make reports and recommendations to the Board of Governors. The purposes of the Senior Lawyers Division shall be to stimulate the interest of its members in the activities of the Bar, to conduct programs of interest and value to its members, and to conduct forums for discussion among its members.

Section 10.3 Bylaws. The Young Lawyers Division and the Senior Lawyers Division shall adopt bylaws and may adopt amendments thereto which are not inconsistent with the Constitution or these Bylaws and which shall become effective when approved by the House of Delegates.

Article XI. Sections

Section 11.1 General. There shall be within the Bar such sections as the House of Delegates may authorize, each of which shall consist of not fewer than seventy members.

Section 11.2 Membership. The members of each section shall be members of the Bar and meet such other requirements as the bylaws of the section provide.

Section 11.3 Officers and Council. Each section shall have a chair. It may also have a chair-elect and such other officers and council as its bylaws may provide.

Section 11.4 Funds. With the approval of the House of Delegates, section members may be required to pay dues. Section funds shall be administered by the Treasurer but shall be accounted for separately from the general fund. No section shall accumulate an amount equal to more than five times its then current annual dues income. All funds in excess of such amount shall be transferred to the general fund of the Bar.

Section 11.5 Meetings. Each section shall meet during the year as the section may desire.

Section 11.6 Bylaws. Each section shall adopt bylaws and may adopt amendments thereto which are not inconsistent with the Constitution or these Bylaws and which shall become effective when approved by the House of Delegates. The jurisdiction of each section shall be described in its bylaws.

Section 11.7 Dissolution. During any year a section may be dissolved by vote of seventy percent of the section members. In the event that any section does not have at least one hundred members by March 31 in any year that section will be considered dissolved. Section dues paid for the year in which dissolution occurs shall be returned to the members. Remaining funds shall be deposited in the general fund of the Bar.

Article XII. Committees

Section 12.1 General. The Board of Governors may from time to time create committees, boards, task forces and commissions with such assignments and duties as the Board shall specify.

Section 12.2 Appointment. Unless the resolution or motion creating the committee, board or commission provides otherwise and except as otherwise provided in the Constitution and Bylaws (a) appointments to each committee, board or commission, including the annual appointment of its chair, shall be made by the President; and (b) if a member resigns, dies, or becomes ineligible, the President may appoint a successor for the unexpired term.

Article XIII. Notice

Section 13.1 Notice. Any notice which is required or permitted to be given to the Bar or to any officer shall be addressed to Post Office Box 608, Columbia, SC 29202, be delivered to the Bar headquarters at 950 Taylor Street, Columbia, SC, or be sent electronically to the address of the Executive Director or to scbar-info@scbar.org.

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