

# Case Law & Legislative Update

**Daina M. Riley**  
SCAC Staff Attorney




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## Common Law Marriage

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"If you like it, then you shoulda put a ring on it [going forward]." – Beyoncé




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## *Stone v. Thompson*

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428, S.C. 79, 833 S.E.2d 266 (2019), *reh'g denied* (Oct. 16, 2019)

- Prospectively abolishes common law marriage in South Carolina.
- Parties may no longer enter into a valid marriage in South Carolina without obtaining a lawful marriage license.
- A party seeking to prove common law marriage exists must now demonstrate mutual assent by **clear and convincing evidence**.




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### Citizens for Quality Rural Living, Inc. v. Greenville County Planning Commission

426 S.C. 97, 825 S.E.2d 721 (Ct. App. 2019), *reh'g denied* (Apr. 18, 2019)

- Citizens for Quality Rural Living, a citizens' organization, is a person whose rights, status, or other legal relations were affected by the commission's decision
- Section 6-29-1150 regarding the submission of plans or plats to the planning commission gives the organization standing to appeal the commission's approval of a project.



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### Citizens for Quality Rural Living, Inc. cont'd

(C) Staff action, if authorized, to approve or disapprove a land development plan may be appealed to the planning commission **by any party in interest**. The planning commission must act on the appeal within sixty days, and the action of the planning commission is final.

(D)(1) An appeal from the decision of the planning commission **must** be taken to the circuit court within thirty days after actual notice of the decision.

(2) A **property owner** whose land is the subject of a decision of the planning commission may appeal by filing a notice of appeal with the circuit court **accompanied by a request for pre-litigation mediation** in accordance with Section 6-29-1155.

A notice of appeal and request for pre-litigation mediation must be filed within thirty days after the decision of the board is mailed.

(3) Any filing of an appeal from a particular planning commission decision pursuant to the provisions of this chapter must be given a single docket number, and the **appellant** must be assessed only one filing fee pursuant to Section 8-21-310(C)(1).

(4) When an appeal includes no issues triable of right by jury or when the parties consent, the appeal must be placed on the nonjury docket. A judge, upon request by any party, may in his discretion give the appeal precedence over other civil cases. Nothing in this subsection prohibits a **property owner** from subsequently electing to assert a pre-existing right to trial by jury of any issue beyond the subject matter jurisdiction of the planning commission, such as, but not limited to, a determination of the amount of damages due for an unconstitutional taking.

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### Mold Abatement

Act 112 of 2019

- Creates the **Mold Abatement and Remediation Study Committee**
  - Examines the health effects of mold in public areas, including government buildings, and the best method of mold abatement.
  - 3 House appointees; 3 Senate appointees
  - The members of the study committee shall seek assistance from state agencies and members of the private sector including, but not limited to:
    - the Department of Health and Environmental Control
    - the State Department of Education
    - the Association of Counties
    - the Municipal Association
    - the University of South Carolina Arnold School of Public Health
    - the Associations of General Contractors
    - Realtors
    - Home Builders.
- October 9, October 17, and November 4 meetings



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## Internet Sales Tax

Act 21 of 2019

- DOR estimated uncollected state and local sales tax for one three-month period is approximately \$12million or \$48million/year
- Addresses the confusion over the applicability of our state tax code on internet sales
- Clarifies that “market place facilitators” are required to remit sale and use tax on all retail sales of tangible personal property not otherwise excluded or exempt




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## Cell Phones in Jails




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## Cell Phones in Jails cont'd

Senate Bill 156

- Prohibits the introduction or possession of a telecommunication device, such as a cell phone, in a jail or prison facility unless authorized by the facility.
- The introduction or possession of a cell phone in a jail would be a misdemeanor with a sentence of up to three years and the forfeiture of all earned work credits, education credits, and good conduct credits for those already incarcerated.
- Current amendment allows an exception for vehicles on the premises
- Status: on the House calendar, positioned well for passage in 2020


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**Slide 8**


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Daina Riley, 11/19/2019

## Voting Machines

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## Poll Workers

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Act 54 of 2019

- Allows all registered voters in this state to serve as poll workers outside of their resident county.
- The chairman and clerk of a polling place must be a resident of the county or adjoining county for the polling place.

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## 2020 Vision

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- Santee Cooper
- Education Reform
- Election Year



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### Contact Info

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Questions?



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