



**THE HONORABLE CURTIS M. LOFTIS, JR.**  
State Treasurer

June 27, 2011

**HAND DELIVERED**

The Honorable Alan M. Wilson  
Attorney General  
Room 519, 1000 Assembly Street  
Rembert C. Dennis Building  
Columbia, South Carolina 29201

Dear General Wilson:

I appreciate receiving the phone call and being informed about your concerns regarding Proviso 76.14 as proposed in the Conference Committee Report on the FY 2011-12 Appropriations Act. I am, however, concerned that you may not have received all the facts regarding this initiative and would like to take this opportunity to address this matter in more detail and hopefully address any questions you may have.

This proviso, which I have attached a copy, was requested by our budget subcommittee in the House as they expressed concerns that no one was responsible for following-up on audit findings. They believed that our State may be overlooking significant revenues or cost savings because no one was accountable for such action. The subcommittee asked if we were willing to accept this task and we agreed.

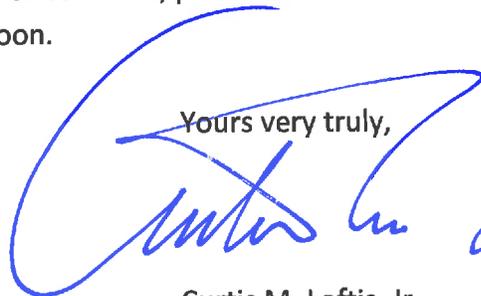
This proviso does not exempt our agency from the requirements of §1-7-40 by which your office is to represent the State. In fact, we believe it would be your role to handle this part of the recovery process if that option was chosen. Furthermore, the proviso does not exempt our office from §1-7-80 from hiring counsel without your approval. What this proviso does give our office is the additional authority to pursue potential recoveries through legal action rather than just through accounting and banking practices.

If your agency has serious concerns about this proviso, it would have been helpful had we been notified earlier as I am confident that a simple amendment could have been drafted to resolve any concerns. Unfortunately, the opportunity for amending the proviso has passed. It was not our intent, nor do I believe that of the General Assembly in adopting this proviso, to diminish your authority in legal matters and I can assure you that any legal action I believe is necessary will be done in cooperation with your office just as all other legal disputes, by law are handled. I also assure you that we are only seeking the authority to recover assets based on audit findings within the currently prescribed legal process and will work with your office in this regard. To that end, I would propose that we enter into a mutually agreed upon memorandum of understanding which would clearly set forth our respective roles with respect to initiating such appropriate legal action on behalf of the State.

My goal is to recover funds due the State and its agencies. My goal is to fight fraud, waste and mismanagement. My goal is to create systems of transparency and accountability in our financial structures. No one in state government has this unified responsibility and the General Assembly has wisely given the treasurer's office this opportunity for one year. I believe that during this year, we will create value for the citizens of South Carolina... and earn the trust they have placed in us.

If you have any other question or concerns, please do not hesitate to contact me. I look forward to hearing from you soon.

Yours very truly,



Curtis M. Loftis, Jr.  
State Treasurer

CMLjr/afw

Cc: The Honorable Nikki R. Haley, Governor  
Mr. Ted Pitts, Office of the Governor

Conference Committee Report  
H.3700, FY 2011-12 Appropriations Act

**76.14. (TREAS: Audit Finding Follow-Up) The State Treasurer is directed and empowered to:**  
**a) follow-up on audit finding issued by the Legislative Audit Council, the Office of State Auditor, or any other independent audit involving the receipt or disbursement of state funds or achieving cost savings for the State or its agencies and institutions; b) conduct additional audits or take other actions to ensure proper receipt and disbursement of state funds in accordance with legislative intent; and c) contract for or conduct recovery audits designed to identify overpayments or erroneous payments to vendors. The State Treasurer may recover any amounts due the State agencies or institutions by seeking refunds, withholding future payments or distributions, or by whatever other actions the State Treasurer deems appropriate including appropriate legal action on behalf of the State. All entities disbursing or receiving state funds shall cooperate with the State Treasurer in these activities. The State Treasurer shall deposit any funds collected by this provision in a separate account to be appropriated by the General Assembly, unless otherwise provided for by law. The State Treasurer may retain and expend a portion of any funds received to pay for costs associated with the management and enforcement of this provision. The State Treasurer shall report annually to the General Assembly on its management activities and cost recoveries regarding this directive.**