~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 22, 2009

**H. 3720**

Introduced by Rep. Clemmons

S. Printed 4/22/09--H.

Read the first time March 24, 2009.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3720) to amend Section 15‑9‑720, Code of Laws of South Carolina, 1976, relating to service on unknown parties by publication, so as to provide in a mortgage, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. Section 15‑9‑720 of the 1976 Code is amended to read:

“Section 15‑9‑720. ~~In actions (1) affecting the title to real property, (2) for the partition of real estate or (3) for the foreclosure of a mortgage on real estate, if (a) any party having any interest in or lien upon such real estate is unknown to the plaintiff, (b) the residence of such party cannot, with reasonable diligence, be ascertained by him and (c) such facts shall be made to appear by affidavit to the court, judge, clerk of court, master or judge of probate of the county in which the cause is pending, such court, judge, clerk, master or judge of probate shall grant an order that the summons be served on such unknown party by publishing it once a week for three weeks in a newspaper printed in the county where the premises are situated. Such publication shall be equivalent to a personal service on such unknown party.~~ (A) For the purposes of this section, ‘court’ means a court, judge, clerk of court, master in equity, special referee, or judge of probate of competent jurisdiction in the county where the action is pending.

(B)(1) A court shall grant an order allowing a party with an interest in or lien on a parcel of real property subject to a partition action, mortgage foreclosure action, or other action affecting the property’s title to serve by publication legal notice, summons, pleadings, or other court‑required process or documents on a party unknown to the plaintiff and who has an interest in or lien on the real property, if the:

(a) residence of this unknown party cannot, with a reasonably diligent effort, be ascertained by the plaintiff; and

(b) plaintiff presents an affidavit to the court stating he has been unable to ascertain the residence of the unknown party after making a reasonably diligent effort.

(2) A court order allowing a party to serve an unknown party by publication must require the party serving by publication to publish the service once a week for three weeks in a newspaper of general circulation in the county where the property is situated. Service by publication under this section is equal to personal service on the unknown party.

(C) A party may accomplish service by publication pursuant to this section for multiple units in a single horizontal property regime by consolidating the services into a single service that identifies each apartment included in the action based on the apartment’s description in the master deed. This consolidated service must comply with the other requirements of this section and other applicable statutes, including the requirement that publication must take place once a week for three weeks in a newspaper of general circulation in the county where the property is situated.”

SECTION 2. This act takes effect upon approval by the Governor. /

Amend the bill, further, by deleting all before the enacting words and inserting:

/ A BILL

TO AMEND SECTION 15‑9‑720, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SERVICE ON UNKNOWN PARTIES BY PUBLICATION IN CERTAIN ACTIONS CONCERNING REAL PROPERTY, SO AS TO PROVIDE FOR SERVICE OF ALL COURT‑REQUIRED DOCUMENTS BY PUBLICATION AND, FURTHER, IN AN ACTION INVOLVING MULTIPLE UNITS IN A SINGLE HORIZONTAL PROPERTY REGIME, FOR SERVICE BY PUBLICATION BY CONSOLIDATING THE SERVICES INTO A SINGLE SERVICE THAT IDENTIFIES EACH APARTMENT INCLUDED IN THE ACTION BASED ON THE APARTMENT’S DESCRIPTION IN THE MASTER DEED. /

Renumber sections to conform.

Amend title to conform.

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND SECTION 15‑9‑720, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SERVICE ON UNKNOWN PARTIES BY PUBLICATION, SO AS TO PROVIDE IN A MORTGAGE FORECLOSURE ACTION INVOLVING MULTIPLE UNITS IN A SINGLE HORIZONTAL PROPERTY REGIME, A PARTY MAY ACCOMPLISH NOTICE BY PUBLICATION BY CONSOLIDATING THE NOTICES INTO A SINGLE NOTICE THAT IDENTIFIES EACH APARTMENT INCLUDED IN THE FORECLOSURE ACTION BASED ON THE APARTMENT’S DESCRIPTION IN THE MASTER DEED.

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

SECTION 1. Section 15‑9‑720 of the 1976 Code is amended to read:

“Section 15‑9‑720. ~~In actions (1) affecting the title to real property, (2) for the partition of real estate or (3) for the foreclosure of a mortgage on real estate, if (a) any party having any interest in or lien upon such real estate is unknown to the plaintiff, (b) the residence of such party cannot, with reasonable diligence, be ascertained by him and (c) such facts shall be made to appear by affidavit to the court, judge, clerk of court, master or judge of probate of the county in which the cause is pending, such court, judge, clerk, master or judge of probate shall grant an order that the summons be served on such unknown party by publishing it once a week for three weeks in a newspaper printed in the county where the premises are situated. Such publication shall be equivalent to a personal service on such unknown party.~~(A) For the purposes of this section, ‘court’ means a court, judge, clerk of court, master of equity, or judge of probate of competent jurisdiction in the county where the action is pending.

(B)(1) A court shall grant an order allowing a party with an interest in or lien on a parcel of real property subject to a partition action, mortgage foreclosure action, or other action affecting the property’s title to serve by publication a summons on a party unknown to the plaintiff and who has an interest in or lien on the real property, if the:

(a) residence of this unknown party cannot, with a reasonably diligent effort, be ascertained by the plaintiff; and

(b) plaintiff presents an affidavit to the court stating he has been unable to ascertain the residence of the unknown party after making a reasonably diligent effort.

(2) A court order allowing a party to serve an unknown party by publication must require the party serving notice by publication to publish the notice once a week for three weeks in a newspaper published in the county where the property is situated. Service by publication under this section is equal to personal service on the unknown party.

(C) A party may accomplish service by publication under this section for multiple units in a single horizontal property regime by consolidating the notices into a single notice that identifies each apartment included in the foreclosure action based on the apartment’s description in the master deed. This consolidated notice must comply with the other requirements of this section and other applicable statutes, including the requirement that publication must take place once a week by three weeks in a newspaper published in the county where the property is situated.”

SECTION 2. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑