**South Carolina General Assembly**

120th Session, 2013-2014

**S. 299**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Alexander and Ford

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Introduced in the Senate on January 29, 2013

Currently residing in the Senate Committee on **Banking and Insurance**

Summary: Mortgage satisfaction

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/29/2013 Senate Introduced and read first time ([Senate Journal‑page 3](file:///h:\SJ%20Archive\2013\01-29-13.docx))

1/29/2013 Senate Referred to Committee on **Banking and Insurance** ([Senate Journal‑page 3](file:///h:\SJ%20Archive\2013\01-29-13.docx))

**VERSIONS OF THIS BILL**

[1/29/2013](file:///p:\pprever\2013-14\299_20130129.docx)

**A** **BILL**

TO AMEND SECTION 29‑3‑330, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO METHODS OF ENTERING SATISFACTION, SO AS TO AUTHORIZE A LICENSED ATTORNEY WHO CAN PROVIDE CERTAIN PROOF TO RECORD AN AFFIDAVIT WHICH STATES THAT FULL PAYMENT ON THE BALANCE OF A MOBILE HOME LIEN HAS BEEN MADE, AND THAT THIS AFFIDAVIT SHALL SERVE AS NOTICE OF SATISFACTION OF THE LIEN.

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

SECTION 1. Section 29‑3‑330 of the 1976 Code, as last amended by Act 19 of 2011, is further amended to read:

“Section 29‑3‑330. Any mortgage, assignment of rents and profits, deed of trust, or other written instrument securing the payment of money and being a lien upon real property or a mobile home may be ~~cancelled~~ canceled, discharged, and released by any of the following methods:

(a) The mortgagee or other person being the owner or holder of the mortgage, as appears by the record of the instrument or any assignment of the instrument, or the legal representative or attorney in fact, under a written instrument duly recorded, of the holder of the instrument, may exhibit the instrument to the officer or his deputy who has charge of the recording of the instrument and then in the presence of the officer or his deputy write across the face of the record of the instrument the words ‘The debt secured is paid in full and the lien of this instrument is satisfied’, or words of like meaning and date the notation and sign it, the signature to be witnessed by the officer or his deputy;

(b) The satisfaction of the mortgage, deed of trust, or other instrument securing the payment of money and being a lien upon real property or a mobile home may be written upon or attached to the original instrument and executed by any person above named in the presence of one or more witnesses, in which event the satisfaction must be recorded across the face of the record of the original instrument; or

(c)(i) In case the original mortgage, assignment of rents or profits, deed of trust, or other instrument securing the payment of money and being a lien upon real property or a mobile home has been lost or destroyed it may be satisfied, either by the owner and holder of the instrument in person or his personal representative or duly authorized attorney in fact, by an instrument in writing duly executed in the presence of two witnesses and acknowledged pursuant to the Uniform Recognition of Acknowledgments Act in Chapter 3, Title 26, and in addition the person executing the satisfaction shall make an affidavit that he or the person he represents is at the time of the satisfaction a bona fide owner and holder of the mortgage, deed of trust, or other instrument securing the payment of money and being a lien upon real property or a mobile home and that has not been assigned, hypothecated, or otherwise disposed of. The affidavit must be recorded along with the satisfaction. The maker of any affidavit which is false is guilty of perjury and punished as by law provided for the punishment of perjury.

(ii) The signature of the owner or holder of the instrument which has been lost or destroyed to which this section applies may be proved in the manner provided above or in the alternative may also be acknowledged by the owner or holder of the instrument in the presence of two witnesses, taken before an officer competent to administer an oath. The form of the acknowledgement must be as provided in Section 30‑5‑30(C) and if the acknowledgement is taken outside this State, it may be taken in the manner provided in Section 30‑5‑30(B).

(d) If the mortgage, assignment of rents or profits, deed of trust, or other written instrument was recorded in counterparts, the original of the instrument need not be presented and the satisfaction of it may be evidenced by an instrument of satisfaction, release, or discharge, which may be executed in counterparts, executed by the mortgagee, the holder of the mortgage, the legal representative, or the attorney‑in‑fact. Upon presentation of the instrument of satisfaction, release, or discharge, or a counterpart of it, the officer or his deputy having charge of the recording of instruments shall record the same.

(e)(i)(A) Any licensed attorney admitted to practice in the State of South Carolina who can provide proof of payment of funds by evidence of payment made payable to the mortgagee, holder of record, servicer, or other party entitled to receive payment may record, or cause to be recorded, an affidavit, in writing, duly executed in the presence of two witnesses and acknowledged pursuant to the Uniform Recognition of Acknowledgments Act in Chapter 3, Title 26, which states that full payment of the balance or payoff amount of the mortgage or other instrument securing the payment of money and being a lien upon real property or a mobile home has been made and that evidence of payment from the mortgagee, assignee, or servicer exists. This affidavit, duly recorded in the appropriate county, shall serve as notice of satisfaction of the mortgage or assignment of rents and profits, and release of the lien upon the real property or mobile home. The filing of the affidavit shall be sufficient to satisfy, release, or discharge the lien. Upon presentation of the instrument of satisfaction, release, or discharge, the officer or his deputy having charge of the recording of instruments shall record the same. This section may not be construed to require an attorney to record an affidavit pursuant to this item or to create liability for failure to file such affidavit. The licensed attorney signing any such instrument which is false is guilty of perjury and subject to Section 16‑9‑10 and shall be liable for damages that any person may sustain as a result of the false affidavit, including reasonable attorney’s fees incurred in connection with the recovery of such damages. The affidavit referred to in this item, for real property, ~~shall~~ must be as follows:

‘STATE OF SOUTH CAROLINA MORTGAGE LIEN

COUNTY OF \_\_\_\_\_\_\_\_\_\_ SATISFACTION AFFIDAVIT

PURSUANT TO Section 29‑3‑330

OF SC CODE OF LAWS

FOR BOOK \_\_\_\_\_ PAGE \_\_\_\_\_

The undersigned on oath, being first duly sworn, hereby certifies as follows:

1. The undersigned is a licensed attorney admitted to practice in the State of South Carolina.

2. That with respect to the mortgage given by \_\_\_\_\_\_\_\_\_\_\_\_\_ to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ dated \_\_\_\_\_\_\_ and recorded in the offices of the Register of Deeds in book \_\_\_\_\_\_\_\_\_ at page \_\_\_\_\_\_\_\_:

a. [ ] That the undersigned was given written payoff information and made such payoff and is in possession of a canceled check or other evidence of payment to the mortgagee, holder of record, or representative servicer;

b. [ ] That the undersigned was given written payoff information and made such payoff by wire transfer or other electronic means to the mortgagee, holder of record, or representative servicer and has confirmation from the undersigned’s bank of the transfer to the account provided by the mortgagee, holder of record, or representative servicer.

Under penalties of perjury, I declare that I have examined this affidavit this \_\_\_ day of \_\_\_\_ and, to the best of my knowledge and belief, it is true, correct, and complete.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Witness) (Signature)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Witness) (Name‑‑Please Print)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Attorney’s S.C. Bar number)

STATE OF SOUTH CAROLINA ACKNOWLEDGEMENT

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public for South Carolina

My Commission Expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_’

(B) Upon presentation to the office of the Register of Deeds, the register is directed to record pursuant to Section 29‑3‑330(e) and mark the mortgage satisfied of record.

(ii)(A) The affidavit referred to in this item, for a mobile home, must be as follows:

‘STATE OF SOUTH CAROLINA MOBILE HOME LIEN

COUNTY OF \_\_\_\_\_\_\_\_\_\_ SATISFACTION AFFIDAVIT

PURSUANT TO Section 29‑3‑330

OF SC CODE OF LAWS

IF APPLICABLE, FOR BOOK \_\_\_\_\_ PAGE \_\_\_\_\_

The undersigned on oath, being first duly sworn, hereby certifies as follows:

1. The undersigned is a licensed attorney admitted to practice in the State of South Carolina.

2. That with respect to the mobile home lien given by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ dated \_\_\_\_\_\_\_ and, if applicable, recorded in the offices of the Register of Deeds in book \_\_\_\_\_\_\_\_\_ at page \_\_\_\_\_\_\_\_:

a. [ ] That the undersigned was given written payoff information and made such payoff and is in possession of a canceled check or other evidence of payment to the holder of record or representative servicer;

b. [ ] That the undersigned was given written payoff information and made such payoff by wire transfer or other electronic means to the holder of record or representative servicer and has confirmation from the undersigned’s bank of the transfer to the account provided by the holder of record or representative servicer.

Under penalties of perjury, I declare that I have examined this affidavit this \_\_\_ day of \_\_\_\_ and, to the best of my knowledge and belief, it is true, correct, and complete.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Witness) (Signature)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Witness) (Name‑‑Please Print)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Attorney’s S.C. Bar number)

STATE OF SOUTH CAROLINA ACKNOWLEDGEMENT

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public for South Carolina

My Commission Expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_’

(B) Upon presentation to the office of the Register of Deeds, the register is directed to record pursuant to Section 29‑3‑330(e) and mark the mortgage satisfied of record.”

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

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