**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 29‑3‑665 SO AS TO PROHIBIT DEFICIENCY JUDGMENTS AGAINST A UNIT OR PROPERTY OWNER IN A HORIZONTAL PROPERTY REGIME OR PLANNED UNIT DEVELOPMENT IF THE HOMEOWNERS’ ASSOCIATION OR SIMILAR ENTITY TAKES TITLE TO THE UNIT OR PROPERTY BY WAY OF A MASTER’S DEED DUE TO THE FAILURE OF THE OWNER TO PAY REQUIRED REGIME FEES OR DUES AND IF THE HOMEOWNERS’ ASSOCIATION OR OTHER ENTITY, AFTER TAKING AND KEEPING TITLE, FAILS TO SERVICE THE DEBT ON THE UNIT OR PROPERTY, THEREBY SUBJECTING IT TO ANOTHER FORECLOSURE ACTION, AND TO PROVIDE FOR OTHER PROCEDURAL PROVISIONS PERTAINING TO THE ABOVE INCLUDING A LIMITATION ON ATTORNEY FEES WHERE THE UNIT OR PROPERTY IS SUBJECT TO FORECLOSURE BY THE HOMEOWNERS’ ASSOCIATION OR OTHER ENTITY FOR NONPAYMENT OF DUES OR REGIME FEES.

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

SECTION 1. Article 7, Chapter 3, Title 29 of the 1976 Code is amended by adding:

“Section 29‑3‑665. (A) The provisions of this section apply to a mortgage foreclosure action involving a horizontal property regime or planned unit development (PUD) where the unit or property owner is required to pay homeowners’ association dues or regime fees for the purpose of maintaining or improving the common areas or elements where these homeowners’ association dues or regime fees constitute a lien on the unit or property, if not paid.

(B) If the homeowners’ association or other entity to which homeowners’ association dues or regime fees are owed brings a foreclosure action against the unit or property for nonpayment of the homeowners’ association dues or regime fees, takes legal title to the unit or property by way of a master’s deed and thereafter while continuing to hold legal title to the unit or property fails to make the required mortgage payments on the unit or property, any bank, financial institution, or other person or entity holding the first mortgage lien or any lien of secondary priority on the unit or property when bringing a subsequent foreclosure action against the unit or property, only may name the homeowners’ association or entity as a defendant, and may not name the prior owner as a party defendant. In addition, the bank, financial institution, or other person or entity may not seek a deficiency judgment against the prior owner if the prior owner was a signatory to the applicable note and mortgage obligation regardless of whether the prior owner was released from the mortgage or other obligation, the nonpayment of which gave rise to the foreclosure.

(C) Attorney fees in foreclosure actions brought by a homeowners’ association against a unit or property owner for nonpayment of homeowners’ association dues or regime fees, may not exceed three times the unpaid dues or regime fees, plus fees and costs.

(D) Notwithstanding the provisions of law governing mortgage foreclosures and deficiency judgments as contained in this article or chapter, the provisions of this section control to the extent they conflict with any other provision of this article or chapter.

(E) The provisions of this section apply to any mortgage lien recorded after the effective date of this section.”

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

‑‑‑‑XX‑‑‑‑