**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 4741**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Rutherford, Robinson, Clyburn, Brawley, Henderson‑Myers and Thigpen

Document Path: l:\council\bills\jn\3129cz20.docx

Companion/Similar bill(s): 1116

Introduced in the House on January 14, 2020

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Foreclosure

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

11/20/2019 House Prefiled

11/20/2019 House Referred to Committee on **Labor, Commerce and Industry**

1/14/2020 House Introduced and read first time ([House Journal‑page 85](file:///h:\hj\20200114.docx))

1/14/2020 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 85](file:///h:\hj\20200114.docx))

1/30/2020 House Member(s) request name added as sponsor: Henderson‑Myers, Thigpen

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**VERSIONS OF THIS BILL**

[11/20/2019](file:///p:\pprever\2019-20\4741_20191120.docx)

**A** **BILL**

TO AMEND SECTION 15‑41‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROPERTY EXEMPT FROM ATTACHMENT, LEVY, AND SALE, SO AS TO PROVIDE THAT A DEBTOR’S INTEREST IN REAL PROPERTY USED AS A PRIMARY RESIDENCE MAY NOT BE SOLD IF THE ACTION WAS INSTITUTED BY A HOMEOWNERS ASSOCIATION ATTEMPTING TO COLLECT UNPAID DUES, FEES, OR FINES; TO AMEND SECTION 27‑30‑130, RELATING TO THE ENFORCEABILITY OF A HOMEOWNERS ASSOCIATION’S GOVERNING DOCUMENTS, SO AS TO PROHIBIT THE ENFORCEABILITY OF A PROVISION GRANTING A HOMEOWNERS ASSOCIATION THE AUTHORITY TO FORECLOSE ON PROPERTY; AND BY ADDING SECTION 29‑3‑810 SO AS TO PROHIBIT A FORECLOSURE ACTION NOT AUTHORIZED BY STATUTE.

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

SECTION 1. Section 15‑41‑30(A) of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

“( ) The debtor’s interest in real property that the debtor uses as a primary residence if the sale under a mesne or final process issued by a court was solely instituted by a homeowners association attempting to collect unpaid dues, fees, or fines.”

SECTION 2. Section 27‑30‑130 of the 1976 Code is amended to read:

“Section 27‑30‑130. (A)(1) Except as otherwise provided in this section, in order to be enforceable, a homeowners association’s governing documents must be recorded in the clerk of court’s, Register of Mesne Conveyance (RMC), or register of deeds office in the county where the property is located.

(2) To continue to be enforceable, any governing document not recorded prior to the effective date of this section must be recorded by January tenth of the year following the effective date of this section in the clerk of court’s, Register of Mesne Conveyance (RMC), or register of deeds office in the county where the property is located.

(B)(1) Rules, regulations, and amendments to rules and regulations:

(a) are effective upon passage or adoption; and

(b) must be made accessible to a homeowners association member upon the request of that member of the homeowners association, and, at the option of the homeowners association, via electronic mail or through methods provided by the homeowners association’s bylaws that ensure actual notice, unless they are:

(i) posted in a conspicuous place in a common area in the community; or

(ii) available on an Internet website maintained by the homeowners association, where they may be downloaded by the homeowner.

(2) In order to remain enforceable, a homeowners association’s rules, regulations, and amendments to rules and regulations must be recorded in the clerk of court’s, Register of Mesne Conveyance (RMC), or register of deeds office in the county in which the property is located by January tenth of each year following their adoption or amendment.

(C) Homeowners associations in existence on the effective date of this section must record the documents required by subsections (A)(1) and (B)(2) by January tenth following the effective date of this section.

(D) Effective July 1, 2020, any provision in a homeowners association’s governing documents granting the homeowners association the authority to foreclose on the property of a homeowners association member may not be enforced. However, a homeowners association may place a lien on the property for unpaid dues, fines, or other fees.

(E) The recording of the rules, regulations, bylaws, and amendments to rules and regulations are not subject to the requirements of witnesses and acknowledgements required under Section 30‑5‑30.”

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

“Section 29‑3‑810. Effective July 1, 2020, all foreclosure actions must be authorized by statute. Nothing in this section affects a cause of action existing before July 1, 2020.”

SECTION 4. This act takes effect upon approval by the Governor.

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