COMMITTEE REPORT

February 23, 2022

**S. 560**

Introduced by Senator Scott

S. Printed 2/23/22--S.

Read the first time February 17, 2021.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Joint Resolution (S. 560) to establish the Heirs’ Property Study Committee to examine current and prospective methods to address heir’s property issues in South Carolina, to provide for the membership of the committee, to require, etc., respectfully

**REPORT:**

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

Amend the joint resolution, as and if amended, page 2, by striking lines 34 through 41, and inserting therein the following:

/ (C) The members of the study committee shall seek assistance from governmental agencies and members of the private sector including, but not limited to, the South Carolina State Housing Finance and Development Authority, the Homebuilders Association of South Carolina, the Landowners Association of South Carolina, the South Carolina Association of Habitat for Humanity, the Affordable Housing Coalition of South Carolina, the Realtors Association of South Carolina, the Center for Heirs’ Property Preservation, the Municipal Association of South Carolina, and the South Carolina Association of Counties. /

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This joint resolution establishes the Heirs’ Property Study Committee. The committee is charged with examining the issue of heirs’ property in South Carolina. The study committee’s duties are as follows: determine the amount of land in South Carolina that is subject to the heirs' property system, study the impacts of federal and state legislation on the partition of the land subject to heirs' property, analyze approaches and methods undertaken by other states to address heirs' property and study if those methods could be applied to South Carolina, and determine the costs heirs' property presents to the economic well-being of South Carolina and estimate the benefits of proactive measures taken to address heirs' property.

Membership of the committee will consist of three members of the Senate and three members of the House of Representatives. The members of the study committee shall seek support from governmental agencies and members of the private sector including, but not limited to, the Center for Heirs' Property Preservation, the South Carolina State Housing Finance and Development Authority, the Homebuilders Association of South Carolina, the Landowners Association of South Carolina, the Realtors Association of South Carolina, the Municipal Association of South Carolina (MASC), and the South Carolina Association of Counties.

The committee will then prepare a report and distribute any findings to the General Assembly on or before December 31, 2022, at which time the committee will dissolve.

**House of Representatives and Senate.**

This bill would require three members of the House of Representatives, as appointed by the Speaker of the House, to serve on the study committee. The House of Representatives has indicated they anticipate being able to accomplish the duties specified in this bill using existing appropriations and staff. It would also require three members of the Senate, as appointed by the President of the Senate, to serve on the study committee. The Senate has also indicated they anticipate being able to accomplish the duties specified in this bill using existing appropriations and staff.

The expenditure impact on any other state agency as a result of supporting the committee would depend on the amount and type of assistance requested by the committee. As such, the impact on other governmental agencies is undetermined.

**Local Expenditure**

The expenditure impact on local governments as a result of supporting the committee would depend on the amount and type of assistance requested by the committee. As such, the impact on local governments is undetermined.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **JOINT RESOLUTION**

TO ESTABLISH THE HEIRS’ PROPERTY STUDY COMMITTEE TO EXAMINE CURRENT AND PROSPECTIVE METHODS TO ADDRESS HEIR’S PROPERTY ISSUES IN SOUTH CAROLINA, TO PROVIDE FOR THE MEMBERSHIP OF THE COMMITTEE, TO REQUIRE THE COMMITTEE TO PREPARE A REPORT FOR THE GENERAL ASSEMBLY, AND TO DISSOLVE THE STUDY COMMITTEE.

Whereas, heirs’ property is defined by the United States Department of Agriculture as land that has been passed down informally from generation to generation without clear title or documented legal ownership. Every heir has rights to the property but the lack of a clear title creates confusion regarding taxes, the use of the land, and the ability to sell the land; and

Whereas, one‑third of the land owned by African American landowners in the southern United States is held in the heirs’ property system. Without much trust in the legal system, many of the African American farmers who purchased or were deeded land after the Civil War died without a will and the property was passed down informally. Each successive generation of heirs further divided the title to the property and complicated the heirs’ ability to determine the legal owners of the property; and

Whereas, some of the consequences that the heirs’ property owners face are disagreements over which heirs have the right to occupy the land and how the land may be used, difficulty selling the property due to a lack of a clear title, the exclusion from some governmental support programs, including disaster relief funds, the inability to claim the land as an asset to obtain a mortgage or other loan, and the loss of land due to disagreements over responsibility for the payment of taxes; and

Whereas, heirs’ property is the leading cause of involuntary land loss among African Americans and the United States Department of Agriculture reported the loss of eighty percent of the land owned by African American farm owners since 1910; and

Whereas, the General Assembly passed the Clementa C. Pinckney Uniform Partition of Heirs’ Property Act in 2016 and it is altogether prudent to examine how the act has addressed heirs’ property in the five years since its enactment and to locate any areas where improvements may be made in the act. Now, therefore,

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

SECTION 1. (A) There is created the Heirs’ Property Study Committee to examine current and prospective methods to address heirs’ property issues in South Carolina. The study committee shall:

(1) determine the amount of land in South Carolina that is subject to the heirs’ property system;

(2) study the impacts of federal and state legislation on the partition of the land subject to heirs’ property; and

(3) analyze approaches and methods undertaken by other states to address heirs’ property and study if those methods could be applied to South Carolina; and

(4) determine the costs heirs’ property presents to the economic well‑being of South Carolina and estimate the benefits of proactive measures taken to address heirs’ property.

(B) The study committee must be comprised of three members of the Senate appointed by the President of the Senate and three members of the House of Representatives appointed by the Speaker of the House. Staff from the Senate and House of Representatives shall assist the study committee.

(C) The members of the study committee shall seek assistance from governmental agencies and members of the private sector including, but not limited to, the South Carolina State Housing Finance and Development Authority, the Homebuilders Association of South Carolina, the Landowners Association of South Carolina, the Realtors Association of South Carolina, the Center for Heirs’ Property Preservation, the Municipal Association of South Carolina, and the South Carolina Association of Counties.

(D) The study committee shall provide a report to the General Assembly by December 31, 2022, at which time the study committee shall dissolve.

SECTION 2. This joint resolution takes effect upon approval by the Governor.

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