**South Carolina General Assembly**

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**S. 1136**

**STATUS INFORMATION**

General Bill

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Summary: Tenants

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

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2/3/2010 Senate Referred to Committee on **Judiciary** [SJ](file:///h:\SJ%20Archive\2010\02-03-10.docx)‑25

2/10/2010 Senate Referred to Subcommittee: Malloy (ch), Ford, Massey, S.Martin, Mulvaney

**VERSIONS OF THIS BILL**

[2/3/2010](file:///p:\pprever\2009-10\1136_20100203.docx)

**A** **BILL**

TO AMEND SECTION 27‑37‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EJECTMENT PROCEEDINGS, SO AS TO PROVIDE A MANNER FOR EJECTING TENANTS, TO REDUCE THE NUMBER OF DAYS WITHIN WHICH A TENANT MUST RESPOND TO A RULE TO VACATE, AND TO PROVIDE IF THE TENANT FAILS TO APPEAR AND SHOW CAUSE WITHIN FIVE DAYS AFTER SERVICE OF THE RULE THE MAGISTRATE SHALL ISSUE A WARRANT OF EJECTMENT AND THE TENANT MUST BE EJECTED BY CERTAIN LAW ENFORCEMENT OFFICIALS; TO AMEND SECTION 27‑37‑30, RELATING TO SERVICE OF THE RULE TO EVICT, SO AS TO PROVIDE THIS SERVICE ONLY MAY BE MADE BY LEAVING THE RULE AFFIXED TO THE MOST CONSPICUOUS PART OF THE PREMISES; TO AMEND SECTION 27‑37‑60, RELATING TO A TRIAL FOR AN EJECTMENT ACTION, SO AS TO PROVIDE A BENCH TRIAL RATHER THAN A JURY TRIAL IS AVAILABLE TO A TENANT; TO AMEND SECTION 27‑37‑70, RELATING TO THE DESIGNATION OF PARTIES IN AN EJECTMENT ACTION, SO AS TO CONFORM TO THE PROVISION THAT A BENCH TRIAL RATHER THAN A JURY TRIAL IS AVAILABLE; TO AMEND SECTION 27‑37‑100, RELATING TO THE EFFECT OF A VERDICT FOR THE PLAINTIFF, SO AS TO PROVIDE A MAGISTRATE IMMEDIATELY MUST ISSUE A WRIT OF EJECTMENT AND THE TENANT MUST BE EJECTED BY A CONSTABLE OR SHERIFF, AND TO PROVIDE A MANNER IN WHICH THE EJECTMENT MUST BE EXECUTED; AND TO REPEAL SECTION 27‑37‑40 RELATING TO THE EJECTMENT OF A TENANT FOR FAILURE TO SHOW CAUSE; SECTION 27‑37‑80 RELATING TO THE RIGHT TO A JURY TRIAL; AND SECTION 27‑37‑160 RELATING TO THE EXECUTION OF A WRIT OF EJECTMENT.

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

SECTION 1. Section 27‑37‑20 of the 1976 Code is amended to read:

“Section 27‑37‑20. ~~Any~~ (A) A tenant may be ejected ~~in the following manner, to wit:~~  upon application by the landlord ~~or~~, his agent, or his attorney. ~~any~~ A magistrate having jurisdiction shall issue a written rule requiring the tenant ~~forthwith~~ to vacate the premises occupied by him or to show cause why he should not be ejected before the magistrate within ~~ten~~ five days after service of a copy of ~~such~~ the rule upon the tenant.

(B) If the tenant fails to appear and show cause within five days after service of the rule, excluding the date of service, the magistrate shall issue a warrant of ejectment and the tenant must be ejected by the regular or special constable or the sheriff.”

SECTION 2. Section 27‑37‑30 of the 1976 Code is amended to read:

“Section 27‑37‑30. ~~(A)~~ The copy of the rule provided for in Section 27‑37‑20 ~~may~~ must be served ~~in the same manner as is provided by law for the service of the summons in actions pending in the court of common pleas or magistrates courts of this State. The methods of service described in subsections (B) and (C) may be used as alternatives to the method of service described in this subsection.~~ by leaving it affixed to the most conspicuous part of the premises.

~~(B)~~ ~~When no person can be found in possession of the premises, and the premises have remained abandoned, as defined in Section 27‑40‑730 for residential rental agreements and in Section 27‑35‑150 for nonresidential rental agreements, for a period of fifteen days or more immediately before the date of service, the copy of the rule may be served by leaving it affixed to the most conspicuous part of the premises.~~

~~(C)~~ ~~When service as provided in subsection (A) has been attempted unsuccessfully two times in the manner described in item (1), a copy of the rule may be served by affixing both it and documentation of the two service attempts to the most conspicuous part of the premises and mailing a copy of the rule in the manner described in item (2):~~

~~(1)~~ ~~Each of the two attempts to serve the defendant must be separated by a minimum of forty‑eight hours and must occur at times of day separated by a minimum of eight hours. The person attempting to serve the rule must document the date and time of the attempts by affidavit or by certificate in the case of a law enforcement officer. On the first unsuccessful attempt to serve the rule, a copy of the rule must be affixed to the most conspicuous part of the premises. On the second unsuccessful attempt to serve the rule, the documentation of the two attempts to serve the rule must be attached to the copy of the rule when it is affixed to the most conspicuous part of the premises.~~

~~(2)~~ ~~For mailing by ordinary mail to be considered to complete service under this item, it must be accomplished by placing a copy of the rule and documentation of the prior attempts at service in an envelope in the presence of the clerk of the magistrates court. The clerk is responsible for verifying that the envelope is addressed to the defendant at the address shown in the rule as the rental premises of the defendant or another address for receipt of mail furnished in writing by the tenant to the landlord, that the envelope contains the necessary documents, and that the clerk has placed the sealed and stamped envelope in the United States mail. The clerk’s verification must be made a part of the record in the case, and service by ordinary mail is not considered complete without the clerk’s verification. A fee as provided for in Section 8‑21‑1010(14) must be collected by the magistrate or his clerk for the verification and mailing in this item.~~

~~(3)~~ ~~Mailing of the rule constitutes service when the requirements of items (1) and (2) have been met and ten days have elapsed from the time of mailing. If these requirements have been met, the specified time period for the tenant to show cause why he should not be ejected as provided in Section 27‑37‑20 begins to run on the eleventh day after mailing. However, if the tenant contacts the magistrates court prior to the eleventh day, the specified time period for the tenant to show cause as provided in Section 27‑37‑20 must begin to run at the time of contact.~~”

SECTION 3. Section 27‑37‑60 of the 1976 Code is amended to read:

“Section 27‑37‑60. If the tenant ~~appear~~ appears and ~~contest~~ contests ejectment, the magistrate shall ~~forthwith~~ by a bench trial hear and determine the case as any other civil case~~, allowing trial by jury if demanded by either party~~. A trial by jury is not available.”

SECTION 4. Section 27‑37‑70 of the 1976 Code is amended to read:

“Section 27‑37‑70. In ~~any~~ a bench trial before the magistrate in an ejectment case ~~either with or without jury~~, the landlord may be designated as plaintiff and the tenant as defendant.”

SECTION 5. Section 27‑37‑100 of the 1976 Code is amended to read:

“Section 27‑37‑100. (A) If the magistrate issues a verdict ~~be~~ for the plaintiff, the magistrate immediately shall ~~within five days~~ issue a writ of ejectment and the tenant shall be ejected by the constable or special constable or the sheriff of the county.

(B) In executing a writ of ejectment, the constable or deputy sheriff shall proceed to the premises, present to the occupants a copy of the writ and give the occupants twenty‑four hours to vacate voluntarily. If the occupants refuse to vacate within twenty‑four hours or the premises appears unoccupied, the constable or deputy sheriff shall announce his identity and purpose. If necessary, the deputy sheriff, but not a constable, may then enter the premises by force, using the least destructive means possible, in order to effectuate the ejectment. If the premises appears to be occupied and the occupants do not respond, the constable or deputy sheriff shall leave a copy of the writ taped or stapled at each corner and attached at the top of either the front or back door or in the most conspicuous place. Twenty‑four hours following the posting of the writ, if the occupants have not vacated the premises voluntarily, the deputy sheriff, but not a constable, may then enter the premises by force, using the least destructive means possible, in order to effectuate the ejectment. Discretion may be exercised by the constable or deputy sheriff in granting a delay in the dispossession of ill or elderly tenants, but in no circumstances may this delay extend the time of ejectment beyond seventy‑two hours following the service of the writ as provided in this subsection.”

SECTION 6. Sections 27‑37‑40, 27‑37‑80, and 27‑37‑160 of the 1976 Code are repealed.

SECTION 7. This act takes effect upon approval by the Governor.

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