COMMITTEE REPORT

May 5, 2009

**S. 277**

Introduced by Senator Alexander

S. Printed 5/5/09--S. [SEC 5/6/09 12:14 PM]

Read the first time January 15, 2009.

**THE COMMITTEE ON BANKING AND INSURANCE**

To whom was referred a Bill (S. 277) to amend Chapter 15, Title 29 of the 1976 Code of Laws, by adding Section 29‑15‑15, to provide that certain liens obtained by a homeowners’ association, etc., respectfully

**REPORT:**

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

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. Chapter 15, Title 29 of the 1976 Code is amended by adding:

“Section 29‑15‑15. (A) A judgment lien obtained by a homeowners’ association against real property subject to the association’s covenants or other governing agreement may not be extinguished by a tax sale.

(B) A judgment lien under this section is enforceable when recorded in the county where the property is situated.

(C)(1) When an attempt to sell real property at a tax sale is unsuccessful and the property is transferred to the Forfeited Land Commission in the county where the real property is situated, the commission or county may not be assessed a fee or other financial obligation by a homeowners’ association of which the real property is a part.

(2) During the time the commission holds the property, the homeowners’ associations shall maintain a record of the accrual of unpaid fees or other financial obligations associated with the property and monthly shall provide this report to the commission. The homeowners’ association may collect these accrued fees or other financial obligations from a party to which the commission transfers the property.

(3) Prior to transferring the property from the commission to another party, the commission has an affirmative duty to disclose these accrued, unpaid fees and financial obligations to this party or the commission is liable for the accrued fees and other financial obligations.”

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

Renumber sections to conform.

Amend title to conform.

DAVID L. THOMAS for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Judicial Department indicates this bill will have no fiscal impact on the General Fund of the State, nor on federal and/or other funds.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND CHAPTER 15, TITLE 29 OF THE 1976 CODE OF LAWS, BY ADDING SECTION 29‑15‑15, TO PROVIDE THAT CERTAIN LIENS OBTAINED BY A HOMEOWNERS’ ASSOCIATION AGAINST REAL PROPERTY ARE SUPERIOR TO CLAIMS OF OTHER CREDITORS.

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

SECTION 1. Chapter 15, Title 29 of the 1976 Code is amended by adding:

“Section 29‑15‑15. (A) A judgment lien obtained by a homeowners’ association against real property subject to the association’s covenants or other governing agreement is:

(1) superior to all claims of creditors against the property if the judgment lien arose from an unsatisfied assessment or other obligation of the property owner to the association under the association’s covenants; and

(2) appurtenant to the subject real property.

(B) Proceeds from the property’s sale first must be used to satisfy the association’s judgment lien. Remaining funds may be used to satisfy other liens against the property based on priority.

(C) A judgment lien under this section is enforceable when recorded in the county where the property is situated.”

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

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