COMMITTEE REPORT

February 25, 2016

**H. 4165**

Introduced by Reps. King, Henegan, Douglas, Williams and M.S. McLeod

S. Printed 2/25/16--H.

Read the first time May 12, 2015.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (H. 4165) to amend the Code of Laws of South Carolina, 1976, to enact the “Homeowners’ Association Regime Fee Fairness to Deployed Service Members Act” by adding, 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 striking all after the enacting language and inserting:

/ SECTION 1. This act must be known and may be cited as the “Homeowners’ Association Regime Fee Fairness to Deployed Service Members Act”.

SECTION 2. Chapter 1, Title 27 of the 1976 Code is amended by adding:

“Section 27‑1‑75. (A) A service member who belongs to a homeowners’ association must notify the homeowners’ association of orders of deployment upon receipt of deployment notification and pay any regime fees currently due before being deployed. However, for regime fees that become due while the homeowner is deployed, a homeowners’ association may not:

(1) enforce a lien for homeowners’ association regime fees that accrue and are not paid during the time period that the homeowner is deployed or mobilized outside of this State, and until the homeowner returns from deployment; or

(2) assess or impose penalties for homeowners’ association regime fees not paid during the time period that the homeowner is deployed or mobilized outside of this State.

(B) The provisions of this section also apply to dependents residing with the service member.

(C) The provisions of this section may not be waived by contract, and such a purported waiver is void.

(D) The provisions of this section apply only to the service member’s primary residence.

(E) Nothing in this section shall waive an obligation of the deployed service member from continuing to maintain the property as defined in declaration or otherwise by law.

(F) As used in this subsection, ‘homeowners’ association’ means an organization that is organized and operated to provide for the acquisition, construction, management, and maintenance of property.”

SECTION 3. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

LEON HOWARD for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill has no revenue or expenditure impact on the general fund, federal funds, or other funds.

This bill has no revenue or expenditure impact on local governments.

**Explanation of Fiscal Impact**

**Local Expenditure**

This bill adds Section 27-1-75, which states that a homeowners’ association may not enforce a lien, or assess or impose penalties for homeowners’ association regime fees that accrue and are not paid during the time period that the homeowner is deployed or mobilized outside of this state and until the homeowner returns from deployment. This section also applies to dependents residing with the service member and is retroactive to January 1, 2015. This bill has no revenue or expenditure impact on the general fund, federal funds, or other funds, or on local governments.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “HOMEOWNERS’ ASSOCIATION REGIME FEE FAIRNESS TO DEPLOYED SERVICE MEMBERS ACT” BY ADDING SECTION 27‑1‑75 SO AS TO PROVIDE A HOMEOWNERS’ ASSOCIATION MAY NOT ENFORCE A LIEN FOR HOMEOWNERS’ ASSOCIATION REGIME FEES THAT ACCRUE AND ARE NOT PAID DURING THE TIME PERIOD THAT THE HOMEOWNER IS DEPLOYED OR MOBILIZED OUTSIDE OF THIS STATE UNTIL THE HOMEOWNER RETURNS FROM DEPLOYMENT, TO PROVIDE A HOMEOWNERS’ ASSOCIATION MAY NOT ASSESS OR IMPOSE PENALTIES FOR HOMEOWNERS’ ASSOCIATION REGIME FEES NOT PAID DURING THE TIME PERIOD THAT THE HOMEOWNER IS DEPLOYED OR MOBILIZED OUTSIDE OF THIS STATE; TO MAKE THE PROVISIONS OF THIS ACT ALSO APPLICABLE TO DEPENDENTS RESIDING WITH THE SERVICE MEMBER; TO DEFINE NECESSARY TERMINOLOGY; AND TO MAKE THESE PROVISIONS RETROACTIVE TO JANUARY 1, 2015.

Whereas, South Carolina is deeply proud to be home to eight major military bases and approximately 111,500 active, reserve, and retired members of the armed forces; and

Whereas, South Carolina tremendously appreciates the sacrifices these soldiers have made to secure freedom for our nation; and

Whereas, the United States Congress and this State have implemented many protections to ensure our deployed service members are able to serve without having to worry about problems that might arise at home, and that their rights are protected especially during deployment; and

Whereas, to further ensure that no question exists about the protection of the rights of the deployed with respect to the payment of homeowners’ association regime fee dues assessed during their deployment, we find additional measures are appropriate. Now, therefore,

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

SECTION 1. This act must be known and may be cited as the “Homeowners’ Association Regime Fee Fairness to Deployed Service Members Act”.

SECTION 2. Chapter 1, Title 27 of the 1976 Code is amended by adding:

“Section 27‑1‑75. (A) A homeowners’ association may not:

(1) enforce a lien for homeowners’ association regime fees that accrue and are not paid during the time period that the homeowner is deployed or mobilized outside of this State, and until the homeowner returns from deployment; or

(2) assess or impose penalties for homeowners’ association regime fees not paid during the time period that the homeowner is deployed or mobilized outside of this State.

(B) The provisions of this section also apply to dependents residing with the service member.

(C) The provisions of this section may not be waived by contact, and such a purported waiver is void.

(D) As used in this subsection, ‘homeowners’ association’ means an organization that is organized and operated to provide for the acquisition, construction, management, and maintenance of property.”

SECTION 3. This act takes effect upon approval by the Governor and is retroactive to January 1, 2015.

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