**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 34 TO TITLE 27 SO AS TO PROVIDE FOR LIENS FOR NONPAYMENT OF FEES, FINES, ASSESSMENTS, OR OTHER CHARGES OWED TO A HOMEOWNERS ASSOCIATION AND, AFTER THE EFFECTIVE DATE OF THIS ACT, TO PROHIBIT A HOMEOWNERS ASSOCIATION FROM FORECLOSING ON A LIEN IF THE LIEN IS SOLELY FOR NONPAYMENT OF FEES, FINES, ASSESSMENTS, OR OTHER CHANGES.

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

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

”CHAPTER 34

Homeowners Associations’ Liens and Foreclosures

Section 27‑34‑10. As used in this chapter:

(1) ‘association’ means an incorporated entity with:

(a) the responsibility to manage and maintain a planned community or horizontal property regime; and

(b) a voting membership of owners required by the governing documents to pay assessments to the association.

An ‘association’ does not include a vacation time sharing plan organized and subject only to the provisions of Chapter 32 of this title or a voluntary organization entered into by individual agreement that does not pass with the sale of the property and is not required by the deed, covenants, conditions, or restrictions upon property.

(2) ‘board’ means the representative body designated in the governing documents to govern and act on behalf of the association.

(3) ‘homeowner’ means a person who owns a unit in a homeowners association, but does not include a person having an interest in such a unit solely as security for an obligation.

Section 27‑34‑20. (A) A lien for nonpayment of fees, fines, assessments, or other charges owed to a homeowners association and filed in the official public records of a county is a legal instrument affecting title to real property.

(B) After the effective date of this section,

(1) a homeowners association is prohibited from foreclosing on a lien if the debt securing the lien consists solely of:

(a) nonpayment of fees, fines, assessments, or other charges; or

(b) attorney’s fees incurred by the homeowners association solely associated with fees, fines, assessments, and other charges by the association.

(2) no association may foreclose against a homeowner on any lien without express authority granted by the declaration.

(a) Foreclosure power cannot be added by amendment, except by a unanimous vote of all homeowners.

(b) A provision in the declaration granting a right to foreclose a lien on real property for unpaid amounts due to an association may be removed from a declaration by a vote of at least seventy percent of the total votes allocated to homeowners in the association. Homeowners holding at least ten percent of all voting interests in the association may petition the association and require a special meeting to be called for the purposes of taking a vote pursuant to this subsection.

(C) Notwithstanding the provisions of subsection (B), any lawfully recorded lien, including liens that do not themselves provide a suitable basis for foreclosure, may be enforced on conveyance of any interest in a home, including conveyance by otherwise proper foreclosure sale.

Section 27‑34‑30 Each association shall, in governing documents, establish rights to make payments that ensure the following:

(1) Homeowners may at any time make full or partial payment on any amount due. Any homeowner payment shall be credited first toward any past due assessment or other amount due to avoid foreclosure.

(2) At least for homeowners who suffer job loss, disability, divorce, or family medical expenses, the association shall without penalty allow a homeowner thirty days after an assessment to propose an installment plan. Upon receiving the homeowner’s installment proposal, the board shall designate a committee to meet with the homeowner privately, and the association shall provide a written response to the homeowner. If the association does not approve the request in full, the response shall allow the homeowner at least fifteen days after denying the request to pay without incurring attorney fees. Nothing prohibits the board from approving an installment plan more lenient than provided by existing rules, in which case the board shall amend the existing rules so that all homeowners shall receive fair notice and equal treatment.”

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

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