~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 4, 2020

**S. 983**

Introduced by Senator Rankin

S. Printed 3/4/20--S.

Read the first time January 14, 2020.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 983) to amend Section 15‑39‑20, Code of Laws of South Carolina, 1976, relating to the enforcement of judgment executions, so as to provide for a new, 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, page 2, by striking lines 1 through 6 in their entirety, and inserting therein the following:

/ (B) Notwithstanding subsection (A), an execution may issue upon such final judgment or decree and shall have active energy beyond the ten-year period against real property or any other property that represents an ownership interest in said real property, including, but not limited to, a membership interest in a limited liability company or corporate stock, when: /

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 14, 2020**

**State Expenditure**

This bill allows a writ of execution on a final judgment to be issued beyond the ten-year period after the entry for judgment when the judgment creditor has commenced proceedings for a discovery of property within the ten-year period and, as a result of discovery action, brought an action and received final judgment to set aside a debtor’s fraudulent transfer of property. A writ of execution is a judicial order that a prior judgment is to be enforced. Currently, a writ of execution on a final judgment must be issued within the ten-year period after the entry for judgment. This bill may result in additional court proceedings for those cases that meet the specific criteria discussed above to allow an extension beyond the normal ten-year execution limitation. However, these instances are expected to be minimal, and managing proceedings is within the normal course of business for the courts. Therefore, this bill is not expected to impact expenditures.

**Local Expenditure**

This bill may result in a few additional writs of execution to enforce the collection of property. Writs of execution are issued to the sheriff’s office in the county where the property is located. Therefore, this bill may result in additional work for the local sheriff’s office. However, it is anticipated any additional writs of execution will be minimal, and can be managed with existing staff and within existing funds. Therefore, this bill will have no local expenditure impact.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 15‑39‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ENFORCEMENT OF JUDGMENT EXECUTIONS, SO AS TO PROVIDE FOR A NEW PROCEDURE; AND TO AMEND SECTION 15‑39‑30, RELATING TO ISSUANCE OF EXECUTIONS, SO AS TO PROVIDE THE CIRCUMSTANCES IN WHICH A FINAL JUDGMENT SHALL HAVE ACTIVE ENERGY BEYOND THE TEN-YEAR PERIOD.

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

SECTION 1. Section 15‑39‑20 of the 1976 Code is amended to read:

“Section 15‑39‑20. Writs of execution for the enforcement of judgments shall conform to this ~~Title~~ title. The party in whose favor judgment has been given and, in case of his death, his personal representatives duly appointed may at any time within ~~ten years after the entry of judgment~~ the period provided in Section 15‑39‑30 proceed to enforce such judgment as prescribed by this ~~Title~~ title.”

SECTION 2. Section 15‑39‑30 of the 1976 Code is amended to read:

“Section 15‑39‑30. (A) Executions may issue upon final judgments or decrees at any time within ten years from the date of the original entry thereof and shall have active energy during such period, without any renewal or renewals thereof, and this whether any return may or may not have been made during such period on such executions.

(B) Notwithstanding subsection (A), an execution may issue upon such final judgment or decree and shall have active energy beyond the ten-year period against real property or any other property, including, but not limited to, a membership interest in a limited liability company or corporate stock that represents an ownership interest in the real property, when:

(1) the judgment creditor has commenced proceedings pursuant to Section 15‑39‑310 with respect to such final judgment or decree, within ten years from the date of the original entry of the final judgment or decree;

(2) as a result of such proceedings, the judgment creditor has commenced an action to set aside a transfer of specific real property pursuant to Section 27‑23‑10 or Section 27‑23‑20; and

(3) the judgment creditor obtains a final judgment in the action setting aside the transfer of the real property.”

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

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