

South Carolina General Assembly
120th Session, 2013-2014

A218, R226, S1007

STATUS INFORMATION

General Bill

Sponsors: Senators Campbell and O'Dell

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Companion/Similar bill(s): 4670

Introduced in the Senate on February 6, 2014

Introduced in the House on March 19, 2014

Last Amended on March 13, 2014

Passed by the General Assembly on May 22, 2014

Governor's Action: June 2, 2014, Signed

Summary: Mortgage foreclosures

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
2/6/2014	Senate	Introduced and read first time (Senate Journal-page 8)
2/6/2014	Senate	Referred to Committee on Banking and Insurance (Senate Journal-page 8)
2/27/2014	Senate	Committee report: Favorable with amendment Banking and Insurance (Senate Journal-page 11)
2/28/2014		Scrivener's error corrected
3/13/2014	Senate	Committee Amendment Amended and Adopted (Senate Journal-page 23)
3/13/2014	Senate	Read second time (Senate Journal-page 23)
3/13/2014	Senate	Roll call Ayes-41 Nays-1 (Senate Journal-page 23)
3/14/2014		Scrivener's error corrected
3/18/2014	Senate	Read third time and sent to House
3/18/2014		Scrivener's error corrected
3/19/2014	House	Referred to Committee on Judiciary (House Journal-page 8)
5/14/2014	House	Committee report: Favorable Judiciary (House Journal-page 5)
5/15/2014		Scrivener's error corrected
5/20/2014	House	Debate adjourned until Tues., 5-27-14 (House Journal-page 51)
5/21/2014	House	Reconsidered (House Journal-page 8)
5/21/2014	House	Read second time (House Journal-page 106)
5/21/2014	House	Roll call Yeas-102 Nays-2 (House Journal-page 106)
5/22/2014	House	Read third time and enrolled (House Journal-page 5)
5/29/2014		Ratified R 226
6/2/2014		Signed By Governor
6/11/2014		Effective date 06/02/14
6/12/2014		Act No. 218

VERSIONS OF THIS BILL

[2/6/2014](#)

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(A218, R226, S1007)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 29-3-625 SO AS TO PROVIDE A PROCESS FOR EXPEDITING MORTGAGE FORECLOSURES AND TO DEFINE NECESSARY TERMINOLOGY.

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

Expedited mortgage foreclosures for abandoned property

SECTION 1. Article 7, Chapter 3, Title 29 of the 1976 Code is amended by adding:

“Section 29-3-625. (A) For the purposes of this section, ‘abandoned property’ means real property subject to a mortgage where either:

(1) the mortgaged property is not occupied and at least two of the following conditions exist:

(a) windows or entrances to the property are boarded up or closed off or multiple window panes are damaged, broken, or unrepaired;

(b) doors to the property are smashed through, broken off, unhinged, or continuously unlocked;

(c) hazardous, noxious, or unhealthy substances or materials have accumulated on the property;

(d) gas, electric, or water utility services have been terminated by the utility for at least thirty days due to failure to pay by the property owner;

(e) a risk to the health, safety, or welfare of the public exists due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;

(f) an uncorrected violation of a building, housing, or similar code during the preceding year that the property owner has received notice to correct and has failed to do so;

(g) an order by governmental authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;

(h) a written statement issued by any mortgagor expressing the clear intent of all mortgagors to abandon the property;

(i) written statements of neighbors, delivery persons, or governmental employees indicating that the property is abandoned; or

(j) any other indicia of abandonment; or

(2) the mortgaged property is vacant, unimproved land and is in need of maintenance, repair, or securing;

(3) a showing under items (1) or (2) of this section must be proven by clear and convincing evidence.

(B) For the purposes of this section, real property must not be considered 'abandoned' if, on the property, there is:

(1) an unoccupied building which is undergoing construction, renovation, or rehabilitation that is proceeding diligently to completion, and the building is in compliance with all applicable ordinances, codes, regulations, and statutes;

(2) a building occupied on a seasonal basis, but otherwise secure;

(3) a building that is secure, but is the subject of a probate action, action to quiet title, or other ownership dispute; or

(4) a building owned by a property owner who is deceased and the heirs can be identified. The mortgage holder must submit proof that efforts were made to identify and contact heirs.

(C) A mortgagee or successor in interest to a mortgagee may move the court for an expedited judgment of foreclosure and sale of real property that is considered 'abandoned' pursuant to this section. The motion must be a motion to expedite foreclosure and sale, which:

(1) must be supported by affidavit and must set forth the facts pursuant to subsection (A) demonstrating that the mortgaged property is abandoned; and

(2) may be filed by the mortgagee at the time the Order of Reference is filed or any time thereafter.

(D) In addition to any notices required to be served by law or the South Carolina Rules of Civil Procedure, a mortgagee shall, in a motion to proceed pursuant to this section or with any rule to show cause served as original service of process, serve a notice on each defendant that the mortgagee is seeking an entry of a judgment and decree of foreclosure on the date fixed by the court or on the return date of the rule to show cause.

(E) A motion to expedite foreclosure and sale may be heard by the master-in-equity or special referee, or in those counties without a master-in-equity, by a circuit judge.

(F) A motion to expedite a foreclosure action is designated as a priority matter pursuant to the South Carolina Rules of Civil Procedure and should be heard by the court as quickly as possible.

(G) The court, after a hearing, shall grant the motion to expedite foreclosure and sale and enter a judgment of foreclosure and sale upon a finding by clear and convincing evidence that:

(1) the mortgaged property is abandoned as defined under subsection (A); and

(2) the pleadings, documents filed with the court, and testimony supports the entry of a final judgment of foreclosure and sale.

(H) The court shall not grant the motion to expedite foreclosure and sale or enter a judgment of foreclosure and sale if the court finds that:

(1) the mortgaged property is not abandoned; or

(2) the mortgagor or any other defendant has filed an answer, appearance, or other written objection that is not withdrawn and the defenses or objections asserted provide cause to preclude the entry of a judgment of foreclosure and sale.

(I) If a motion to expedite foreclosure and sale is denied, the court may direct that the foreclosure action continue pursuant to standard procedure under South Carolina law for mortgage foreclosure actions for properties that are not abandoned.

(J) Nothing in this section may be construed to supersede or limit procedures adopted by the South Carolina Supreme Court to resolve residential mortgage foreclosure actions.”

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.
