~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 17, 2010

**H. 3720**

Introduced by Rep. Clemmons

S. Printed 3/17/10--S.

Read the first time April 30, 2009.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3720) to amend Section 15‑9‑720, Code of Laws of South Carolina, 1976, relating to service on unknown parties by publication in certain actions concerning real property, 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 in Section 15-9-720, as contained in SECTION 1, by striking lines 4-10 and inserting therein the following:

/ (B)(1) A court shall grant an order allowing a party with an interest in or lien on a parcel of real property subject to a partition action, mortgage foreclosure action, or other action affecting the property’s title to serve by publication any unknown party to the action and who has an interest in or lien on the real property, any such legal notice as will accomplish the underlying purposes set forth in this section, if the:

(a) residence of the unknown party cannot, with a reasonably diligent effort, be ascertained by the plaintiff; and

(b) plaintiff presents an affidavit to the court stating he has been unable to ascertain the residence of the unknown party after making a reasonably diligent effort. /

Renumber sections to conform.

Amend title to conform.

LARRY A. MARTIN 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:**

There is no cost to the General Fund of the State with the adoption of this bill.

**LOCAL GOVERNMENT IMPACT:**

The FIST network of local governments was surveyed to determine the fiscal impact of this bill. Three counties responded that this bill would have no impact. One county indicated this bill could result in costs to them; however they were unable to provide an estimate.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND SECTION 15‑9‑720, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SERVICE ON UNKNOWN PARTIES BY PUBLICATION IN CERTAIN ACTIONS CONCERNING REAL PROPERTY, SO AS TO PROVIDE FOR SERVICE OF ALL COURT‑REQUIRED DOCUMENTS BY PUBLICATION AND, FURTHER, IN AN ACTION INVOLVING MULTIPLE UNITS IN A SINGLE HORIZONTAL PROPERTY REGIME, FOR SERVICE BY PUBLICATION BY CONSOLIDATING THE SERVICES INTO A SINGLE SERVICE THAT IDENTIFIES EACH APARTMENT INCLUDED IN THE ACTION BASED ON THE APARTMENT’S DESCRIPTION IN THE MASTER DEED.

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

SECTION 1. Section 15‑9‑720 of the 1976 Code is amended to read:

“Section 15‑9‑720. ~~In actions (1) affecting the title to real property, (2) for the partition of real estate or (3) for the foreclosure of a mortgage on real estate, if (a) any party having any interest in or lien upon such real estate is unknown to the plaintiff, (b) the residence of such party cannot, with reasonable diligence, be ascertained by him and (c) such facts shall be made to appear by affidavit to the court, judge, clerk of court, master or judge of probate of the county in which the cause is pending, such court, judge, clerk, master or judge of probate shall grant an order that the summons be served on such unknown party by publishing it once a week for three weeks in a newspaper printed in the county where the premises are situated. Such publication shall be equivalent to a personal service on such unknown party.~~ (A) For the purposes of this section, ‘court’ means a court, judge, clerk of court, master in equity, special referee, or judge of probate of competent jurisdiction in the county where the action is pending.

(B)(1) A court shall grant an order allowing a party with an interest in or lien on a parcel of real property subject to a partition action, mortgage foreclosure action, or other action affecting the property’s title to serve by publication legal notice, summons, pleadings, or other court‑required process or documents on a party unknown to the plaintiff and who has an interest in or lien on the real property, if the:

(a) residence of this unknown party cannot, with a reasonably diligent effort, be ascertained by the plaintiff; and

(b) plaintiff presents an affidavit to the court stating he has been unable to ascertain the residence of the unknown party after making a reasonably diligent effort.

(2) A court order allowing a party to serve an unknown party by publication must require the party serving by publication to publish the service once a week for three weeks in a newspaper of general circulation in the county where the property is situated. Service by publication under this section is equal to personal service on the unknown party.

(C) A party may accomplish service by publication pursuant to this section for multiple units in a single horizontal property regime by consolidating the services into a single service that identifies each apartment included in the action based on the apartment’s description in the master deed. This consolidated service must comply with the other requirements of this section and other applicable statutes, including the requirement that publication must take place once a week for three weeks in a newspaper of general circulation in the county where the property is situated.”

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

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