**South Carolina General Assembly**

119th Session, 2011-2012

**H. 3448**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. R.L. Brown and Hixon

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Introduced in the House on January 26, 2011

Currently residing in the House Committee on **Judiciary**

Summary: Landlords

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/26/2011 House Introduced and read first time ([House Journal‑page 12](file:///h:\hj%20archive\2011\01-26-11.docx))

1/26/2011 House Referred to Committee on **Judiciary** ([House Journal‑page 12](file:///h:\hj%20archive\2011\01-26-11.docx))

4/6/2011 House Member(s) request name added as sponsor: Hixon

**VERSIONS OF THIS BILL**

[1/26/2011](file:///p:\pprever\2011-12\3448_20110126.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 27‑40‑735 SO AS TO PROVIDE A LANDLORD MAY OBTAIN JUDGMENT TO ENFORCE COLLECTION OF RENT BY GARNISHMENT OF THE WAGES OF A TENANT.

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

SECTION 1. Subarticle II, Article 7, Chapter 40, Title 27 of the 1976 Code is amended by adding:

“Section 27‑40‑735. (A) In addition to the other provisions of this subarticle, a landlord who recovers a judgment against a tenant for unpaid rent, related attorney’s fees, or both may obtain from the magistrate court a writ of garnishment to satisfy the judgment by garnishing the income, wages, interest, rent, capital gains, distribution of earnings, bonuses, and commissions of the tenant against whom the judgment is obtained.

(B) In order to obtain a writ of garnishment provided in this section, a landlord who has obtained a judgment for unpaid rent must serve notice of his intent to apply for a writ of garnishment to the person against whom the judgment was rendered and attach to this notice an affidavit of search.

(1) The notice must:

(a) give the person against whom the judgment is granted thirty days to respond in writing by serving this response on the landlord; and

(b) be in writing and conspicuously state:

(i) the name, address, and telephone number of the landlord to whom the garnished payments must be made;

(ii) a brief identification of the debt;

(iii) a statement that if the debit is not paid, the landlord may apply for a writ of garnishment;

(iv) the right of the tenant to cure the debt; and

(v) the amount of payment and the date by which payment must be made to cure the debt before garnishment may commence.

(2) The affidavit of search required in this subsection:

(a) may be filed before or after the return of execution; and

(b) must state:

(i) the amount of the judgment; and

(ii) that the landlord searched for and was unable to find property on which a levy may be made sufficient to satisfy the judgment of unpaid rent.

(C)(1) Thirty days after service of the notice under subsection (B), the landlord may file with the magistrate court the original notice, affidavit of search, affidavit of service, any response from the tenant, and a motion for writ of garnishment. The landlord must pay a twenty‑five dollar fee with this filing.

(2) The court shall set a hearing for the motion of the landlord if the tenant serves an answer to the notice during the thirty day period provided in item (1).

(D) Upon receipt of the writ of garnishment, the tenant shall forward a copy of this writ to his employer or other garnishee of the landlord. This writ must provide for the periodic payment of a stated portion of the salary or wages of the tenant. The landlord also shall forward instructions on the manner for making the remittance to the employer or other garnishee of the landlord who will make the remittance.

(E)(1) Within thirty days after the debit is fully paid, the landlord shall:

(a) give written notice of this payment to the entity through which the garnishment is being effected;

(b) file a satisfaction of the judgment with the clerk of court; and

(c) forward any overpayment received to the person whose income, wage, interest, rent, capital gain, distribution of earning, bonus, or commission was garnished.

(2) Failure to comply with the provisions of this subsection or within thirty days of receipt of a written demand for compliance with this subsection from the person described in subitem (c) entitles the person described in subitem (c) to an award of reasonable attorney’s fees and costs associated with obtaining the compliance of the landlord with this subsection and damages of five hundred dollars or less.”

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

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