**South Carolina General Assembly**

119th Session, 2011-2012

**H. 4628**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. G.R. Smith, Harrison, Weeks, Johnson and Alexander

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Companion/Similar bill(s): 1117

Introduced in the House on January 18, 2012

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

Summary: Rehabilitation of Abandoned and Dilapidated Buildings Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/18/2012 House Introduced and read first time ([House Journal‑page 9](file:///h:\hj%20archive\2012\01-18-12.docx))

1/18/2012 House Referred to Committee on **Judiciary** ([House Journal‑page 9](file:///h:\hj%20archive\2012\01-18-12.docx))

1/19/2012 House Member(s) request name added as sponsor: Huggins, Weeks, G.M.Smith

1/24/2012 House Member(s) request name added as sponsor: Johnson

2/22/2012 House Member(s) request name added as sponsor: Alexander

3/7/2012 House Member(s) request name removed as sponsor: G.M.Smith

3/8/2012 House Member(s) request name removed as sponsor: Huggins

**VERSIONS OF THIS BILL**

[1/18/2012](file:///p:\pprever\2011-12\4628_20120118.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 38 TO TITLE 6 SO AS TO ENACT THE “REHABILITATION OF ABANDONED AND DILAPIDATED BUILDINGS ACT”, TO PROVIDE DEFINITIONS, TO PROVIDE A MUNICIPALITY MAY BRING A CAUSE OF ACTION AGAINST THE OWNER OF PROPERTY NOT IN SUBSTANTIAL COMPLIANCE WITH CERTAIN MUNICIPAL ORDINANCES, TO PROVIDE WHO MAY SERVE AS A COURT‑APPOINTED RECEIVER FOR PROPERTY SUBJECT TO THIS CAUSE OF ACTION, AND TO PROVIDE THE POWERS OF A COURT‑APPOINTED RECEIVER, TO PROVIDE REPORTING REQUIREMENTS OF THE MUNICIPALITY CONCERNING A VIOLATION AGAINST WHICH THE MUNICIPALITY MAY BRING A CAUSE OF ACTION UNDER THIS ACT, AND TO PROVIDE CERTAIN REMEDIES AND PROCEDURES, AMONG OTHER THINGS.

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

SECTION 1. Title 6 of the 1976 Code is amended by adding:

“CHAPTER 38

Rehabilitation of Abandoned and Dilapidated Buildings Act

Section 6‑38‑10. This chapter must be known and may be cited as the ‘Rehabilitation of Abandoned and Dilapidated Buildings Act’.

Section 6‑38‑20. A municipality may bring an action under this article in circuit court against an owner of property that is not in substantial compliance with one or more municipal ordinances regarding:

(1) the prevention of substantial risk of injury to a person;

(2) the prevention of an adverse health impact to a person; or

(3) a public nuisance, building code, or sanitary code.

Section 6‑38‑30. The court may appoint a receiver for the property if the court finds the:

(1) property or the structures on the property are in violation of one or more ordinances of the municipality described by Section 6‑38‑20;

(2) condition of the property constitutes a serious and imminent public health or safety hazard; and

(3) property is not an owner‑occupied, single‑family residence.

Section 6‑38‑40. The following may serve as a court‑appointed receiver:

(1) an entity with, as determined by the court, sufficient capacity and experience rehabilitating properties, abating code violations, or both;

(2) an individual with, as determined by the court, sufficient resources and experience rehabilitating properties, abating code violations, or both; and

(3) in the case of historic properties, an entity, nonprofit organization or individual with, as determined by the court, sufficient capacity, experience, and demonstrated record of rehabilitating historical buildings to comply with the guidelines for rehabilitating historic properties established by the United States Secretary of the Interior under 16 U.S.C. Section 470, et seq., or the historic preservation ordinance of the municipality, if applicable.

Section 6‑38‑50. (A) On or before the thirtieth day before the date a municipality files an action under this chapter, it must provide notice of an ordinance violation alleged to exist on the property by mail to the:

(1) physical address of the property; and

(2) address as indicated on the most recently approved county tax roll for the property owner or the agent of the property owner.

(B) A municipality bringing an action under this chapter shall serve notice of the proceedings to each owner of record and each lien holder of record of the property. An owner of record or lien holder of record who is not available after due diligence may be served by alternative means, including publication, as prescribed by the South Carolina Rules of Civil Procedure. Actual service or service by publication on an owner of record or lien holder of record constitutes notice to each unrecorded owner of record or lien holder of record.

Section 6‑38‑60. The court may issue a temporary restraining order or temporary injunction as necessary to protect the public health or safety on a showing of imminent risk of injury to a person occupying the property or present in the community.

Section 6‑38‑70. The rules of equity govern an action under this chapter unless inconsistent with this chapter or other law.

Section 6‑38‑80. Subject to control of the court, a court‑appointed receiver has all powers necessary and customary to the powers of a receiver under the laws of equity and may:

(1) take possession and control of the property;

(2) operate and manage the property;

(3) establish and collect rents and income on the property;

(4) lease the property;

(5) make repairs and improvements necessary to bring the property into compliance with local codes, ordinances, and state laws, including:

(a) performing and entering into contracts for the performance of work and the furnishing of materials for repairs and improvements; and

(b) entering into loan and grant agreements for repairs and improvements to the property;

(6) pay expenses, including paying for utilities and paying taxes and assessments, insurance premiums, and reasonable compensation to a property management agent;

(7) enter into contracts for operating and maintaining the property;

(8) exercise all other authority of an owner of the property other than the authority to sell the property unless authorized by the court under Section 6‑38‑90(B); and

(9) perform other acts regarding the property as authorized by the court.

Section 6‑38‑90. (A) A court‑appointed receiver may demolish a structure on the property on authorization by the court if the court finds a detailed report from the receiver establishes:

(1) it is not economically feasible to bring the structure into compliance with local codes, local ordinances, and state laws; and

(2) the structure is:

(a) unfit for human habitation;

(b) a hazard to public health or safety;

(c) unoccupied by its owners or lessees or other invitees, regardless of its structural condition;

(d) unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children, regardless of its structural condition; or

(e) boarded, fenced, or otherwise secured, but:

(i) the structure constitutes a danger to the public even though secured from entry; or

(ii) the means used to secure the structure are inadequate to prevent unauthorized entry or use of the structure in the manner described by subitem (c).

(B) On demolition of the structure, the court may authorize the receiver to sell the property to an individual or organization that will bring the property into productive use after compliance with the notice requirements of Section 6‑38‑120.

Section 6‑38‑100. (A) A receiver who completes repairs to a structure or demolishes a structure shall upon or before petitioning a court for termination of the receivership file with the court:

(1) a full accounting of all costs and expenses incurred in the repairs or demolition, including reasonable costs for labor and supervision;

(2) all income received from the property; and

(3) at the discretion of the receiver, a receivership fee not to exceed ten percent of the costs and expenses in item (1).

(B) If the property was sold under Section 6‑38‑90 and the revenue exceeds the total of the costs and expenses incurred by the receiver plus any receivership fee, any net income shall be returned to the owner. If the property is not sold and the income produced exceeds the total of the costs and expenses incurred by the receiver plus any receivership fee, the rehabilitated property shall be restored to the owner and any net income shall be returned to the owner. If the total of the costs and expenses incurred by the receiver plus any receivership fee exceeds the income produced during the receivership, the receiver may maintain control of the property until all rehabilitation and maintenance costs plus any receivership fee are recovered or until the receivership is terminated pursuant to Section 6‑38‑120.

Section 6‑38‑110. (A) A receiver shall have a lien on the property for all of the unreimbursed costs and expenses of the receiver, plus any receivership fee.

(B) A lien holder of record may, after initiation of an action under this chapter:

(1) intervene in the action; and

(2) request appointment as a receiver under this chapter if the lien holder demonstrates to the court an ability and willingness to rehabilitate the property.

Section 6‑38‑120. A receiver appointed under this chapter or the municipality that filed the action under which the receiver was appointed may petition the court to terminate the receivership and order the sale of the property if an owner has been served with notice but has failed to repay the outstanding costs and expenses of the receiver and any receivership fee on or before the ninetieth day after the date the notice was served.

Section 6‑38‑130. (A) The court may order the sale of the property if the court finds that:

(1) notice was given to each record owner of the property and each lien holder of record;

(2) the receiver has been in control of the property and the owner has failed to repay all the receiver’s outstanding costs and expenses of rehabilitation plus any receivership fee within the period prescribed by Section 6‑38‑110; and

(3) no lien holder of record has intervened in the action and tendered the costs and expenses of the receiver, plus any receivership fee, and assumed control of the property.

(B) The court may order the property sold:

(1) to a land bank or other party as the court may direct; or

(2) at public auction.

(C) The receiver may bid on the property at the sale described by this section and may use a lien granted pursuant to Section 6‑38‑110 as credit toward the purchase.

Section 6‑38‑140. (A) The court shall confirm a sale under this chapter and order a distribution of the proceeds of the sale in the following order:

(1) court costs;

(2) costs and expenses, plus a receivership fee, and any lien held by the receiver; and

(3) other valid liens.

(B) Any remaining amount must be paid to the owner. If the owner cannot be identified or located, the court shall order the remaining amount be deposited in an interest‑bearing account with the clerk of court in the county in which the action is pending. The clerk shall hold the funds until disbursement of principal and interest earned can be made to the owner.

Section 6‑38‑150. (A) The court shall award fee title to the purchaser after the proceeds are distributed. If proceeds from the sale are insufficient to pay all liens, claims, and encumbrances on the property, the court shall extinguish all unpaid liens, claims, and encumbrances on the property and award title to the purchaser free and clear.

(B) This chapter does not foreclose any right or remedy that may be available under other state law or the laws of equity.”

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

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