~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 17, 2016

**H. 3972**

Introduced by Reps. Loftis, Burns, Hamilton, Willis, Collins, Clyburn, Robinson‑Simpson, Bannister, Bedingfield, Gagnon, Henderson, Hosey, Nanney, G.R. Smith and Spires

S. Printed 2/17/16--S.

Read the first time May 27, 2015.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3972) to amend the Code of Laws of South Carolina, 1976, by adding Section 6‑29‑1210 so as to establish that undeveloped property may be transferred without the submission, 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 1, by striking line 27 through 42, in Section 6‑29‑1210, as contained in SECTION 1, and inserting therein the following:

/ “Section 6‑29‑1210. Under this chapter, the submission of a land development plan or land use plan is not a prerequisite and must not be required before the execution of a deed transferring undeveloped real property. A local governmental entity may still require the grantee to file a plat at the time the deed is recorded.” /

Amend the bill further, as and if amended, page 4, by striking lines 8 and 9, in Section 30-5-30, as contained in SECTION 2, and inserting therein the following:

/ (D) The submission of a land development plan or land use plan is not a prerequisite and must not be required before the execution of a deed transferring undeveloped real property. A local governmental entity may still require the grantee to file a plat at the time the deed is recorded.” /

Renumber sections to conform.

Amend title to conform.

TOM YOUNG, JR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

Due to the limited number of responses from counties, the impact on county expenditures statewide is undetermined. The bill is not expected to impact municipal expenditures.

**Explanation of Fiscal Impact**

**Explanation of Bill as Amended by the House of Representatives on May 26, 2015**

**Local Expenditure**

This bill as amended adds Section 6-29-1210, which states that there is no requirement to submit a land development plan prior to executing a deed transferring undeveloped real property. Any subdivision of land pursuant to this section is limited to the subdivision of property into one or more parcels for the purpose of transferring an ownership interest in the parcels. At no time shall the subdivision of land serve to relieve an owner of the parcel of a development restriction that was imposed by a local, municipal, or county zoning regulation that was applicable prior to the subdivision. This bill also amends Section 30-5-30, which states that the submission of a land use plan is not required to record a deed of real property.

The Revenue and Fiscal Affairs Office contacted twenty-three county governments regarding the expenditure impact of this bill. Clarendon County responded that the bill is not expected to impact county expenditures. Given the limited number of responses, we are unable to determine the impact on county expenditures statewide.

The municipal association responded that the bill is not expected to impact municipal expenditures.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 6‑29‑1210 SO AS TO ESTABLISH THAT UNDEVELOPED PROPERTY MAY BE TRANSFERRED WITHOUT THE SUBMISSION OF A LAND DEVELOPMENT PLAN; AND TO AMEND SECTION 30‑5‑30, RELATING TO PREREQUISITES TO RECORDING, SO AS TO ESTABLISH THAT A LAND USE PLAN IS NOT REQUIRED TO EXECUTE A DEED OR OTHER INSTRUMENT.

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

SECTION 1. Article 7, Chapter 29, Title 6 of the 1976 Code is amended by adding:

“Section 6‑29‑1210. Nothing contained in this chapter may be construed to require the submission of a land development plan before the execution of a deed transferring undeveloped real property. Any subdivision of land pursuant to this section must be strictly limited to the subdivision of property into one or more parcels for the purpose of transferring an ownership interest in the parcels and at no time shall the subdivision of land serve to relieve an owner of the parcel, either existing prior to the subdivision of land or acquired subsequently to the subdivision, of a development restriction that may be imposed by a local, municipal or county zoning regulation that was applicable prior to the subdivision. For purposes of applying local, municipal or county zoning development regulations to a parcel of land that is subdivided under this section, the parcel must be treated as if no subdivision had occurred unless the subdivided parcels comply with all applicable regulations that were imposed prior to its subdivision.”

SECTION 2. Section 30‑5‑30 of the 1976 Code is amended to read:

“Section 30‑5‑30. Except as otherwise provided by statute, before any deed or other instrument in writing can be recorded in this State, it must be acknowledged or proved by the method described in subsection (A) or (B)~~:~~.

(A)(1) The execution of the deed or other instrument must be first proved by the affidavit of a subscribing witness to the instrument, taken before some officer within this State competent to administer an oath. If the affidavit is taken without the limits of this State, it may be taken before:

(a) a commissioner appointed by dedimus issued by the clerk of the court of common pleas of the county in which the instrument is to be recorded;

(b) a commissioner of deeds of this State;

(c) a clerk of a court of record who shall make certificate of the deed or other instrument under his official seal;

(d) a justice of the peace who shall append to the certificate his official seal;

(e) a notary public who shall affix to the deed or other instrument his official seal within the State of his appointment, which is a sufficient authentication of his signature, residence, and official character;

(f) before a minister, ambassador, consul general, consul, or vice‑consul, or consular agent of the United States of America; or

(g) in the case of any officer or enlisted man of the United States Army, Air Force, Navy, Marine Corps, or Coast Guard on active duty outside the State or any civilian employee of any such organization on active duty outside the continental confines of the United States, any commissioned officer of the Army, Air Force, Navy, Marine Corps, or Coast Guard, if the probating officer states his rank, branch, and organization.

(2) The Uniform Recognition of Acknowledgments Act must be complied with~~;~~ or

~~(3)~~ the person executing it shall submit an affidavit subscribed to before a person authorized to perform notarial acts herein or by the Uniform Recognition of Acknowledgments Act that the signature on the deed or other instrument is his signature and that the instrument was executed for the uses and purposes stated in the instrument.

(B) A deed or other instrument must be signed by the grantor, mortgagor, vendor, or lessor and the signing must be acknowledged by the grantor, mortgagor, vendor, or lessor in the presence of two witnesses, taken before some officer within this State competent to administer an oath. If the acknowledgment is taken without the limits of this State, it may be taken before:

(1) a commissioner appointed by dedimus issued by the clerk of the court of common pleas of the county in which the instrument is to be recorded;

(2) a commissioner of deeds of this State;

(3) a clerk of a court of record who shall make certificate of the deed or other instrument under his official seal;

(4) a justice of the peace who shall append to the certificate his official seal;

(5) a notary public who shall affix to the deed or other instrument his official seal within the State of his appointment, which is a sufficient authentication of his signature, residence, and official character;

(6) before a minister, ambassador, consul general, consul, or vice‑consul, or consular agent of the United States of America; or

(7) in the case of any officer or enlisted man of the United States Army, Air Force, Navy, Marine Corps, or Coast Guard on active duty outside the State or any civilian employee of any such organization on active duty outside the continental confines of the United States, any commissioned officer of the Army, Air Force, Navy, Marine Corps, or Coast Guard, if the probating officer states his rank, branch, and organization.

(C) Where the instrument is acknowledged by the grantor or maker, the form of acknowledgement must be in substance as follows:

‘South Carolina,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County.

I (here give the name of the official and his official title), do hereby certify that (here give the name of the grantor or maker), personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and (where an official seal is required by law) official seal this the \_ day of \_ (year).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Officer’

(D) The submission of a land use plan is not a prerequisite, and may not be required to record a deed of real property.”

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

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