~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 9, 2022

**H. 5036**

Introduced by Reps. Sandifer, West, Thigpen, Hardee, Jordan, Anderson, Bailey, Gagnon, Simrill, Thayer, White and Atkinson

S. Printed 3/9/22--H.

Read the first time February 24, 2022.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (H. 5036) to amend Article 3 of Chapter 15, Title 31, Code of Laws of South Carolina, 1976, relating to buildings unfit for habitation in counties, so as to extend, 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, by striking all after the enacting words and inserting:

/ SECTION 1. Section 6-9-10 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

“( )(1) Any action taken by a county pursuant to Sections 108, 109 or 110 of the International Property Maintenance Code on commercial or industrial property may be collected in a manner similar to property taxes. The county may enforce the lien in any manner provided by law, including utilizing Chapters 51 and 56, Title 12. However, the lien is due in five equal installments over five property tax years beginning with the property tax year in which the lien is effective. The provisions of Chapter 51, Title 12 can not be utilized until all five installments are due.

(2) This section does not authorize a county to use its authority under this section:

(a) on farmland or agricultural land; or

(b) on land containing a residential dwelling, which is any permanent building or structure, or part thereof, used and occupied for human habitation or intended to be so used and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith that is occupied by its owner may not be considered commercial or industrial for purposes of application of this Chapter; or

(c) solely for aesthetic purposes.”

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

Renumber sections to conform.

Amend title to conform.

WILLIAM E. SANDIFER III for Committee.

**A** **BILL**

TO AMEND ARTICLE 3 OF CHAPTER 15, TITLE 31, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO BUILDINGS UNFIT FOR HABITATION IN COUNTIES, SO AS TO EXTEND THE PROVISIONS OF THE CHAPTER TO BUILDINGS UNFIT FOR OCCUPATION, TO ADD A CAUSE FOR WHICH POLICE POWERS MAY BE USED REGARDING RUBBISH, AND TO DELETE AN APPROVAL REQUIREMENT.

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

SECTION 1. Article 3, Chapter 15, Title 31 of the 1976 Code is amended to read:

“Article 3

In Counties

Section 31‑15‑310. For the purposes of this article:

(1) ‘County’ shall mean that area comprising the county other than municipalities;

(2) ‘Public officer’ shall mean the officer or officers who are authorized by ordinances adopted hereunder to exercise the powers prescribed by such ordinances;

(3) ‘Owner’ shall mean the holder of the title in fee simple and every mortgagee of record;

(4) ‘Parties in interest’ shall mean all individuals, associations, corporations and others who have interests of record in a ~~dwelling~~ building and any who are in possession thereof; and

(5) ~~‘Dwelling’~~ ‘Building’ shall mean any building or structure, or part thereof, used ~~and occupied~~ for human habitation or occupation, or intended to be so used and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

Section 31‑15‑320. Whenever the governing body of any county of this State finds that there exist in the county ~~dwellings~~ buildings which are unfit for human habitation or occupation due to (a) dilapidation, (b) defects increasing the hazards of fire, accidents or other calamities, (c) lack of ventilation, light or sanitary facilities, ~~or~~ (d) other conditions rendering such ~~dwellings~~ buildings unsafe or insanitary, dangerous or detrimental to the health, safety or morals or otherwise inimical to the welfare of the residents of the county, or (e) rubbish, debris, and other unhealthy conditions that constitute a public nuisance, such county may~~, upon the approval of a majority of the resident members of the county legislative delegation which the members represent,~~ exercise its police powers to repair, close or demolish any such ~~dwelling~~ building.

However, this section does not authorize a county to use its police powers for this purpose on farmland, land used for the production of food, fiber, or other agricultural products, and archaeological land resources, to include artifacts, relics, burial objects, or material remains of past human life or activities, are specifically excluded from an ordinance enacted pursuant to this section. Further, police power may not be used pursuant to this section solely for aesthetic purposes.

Section 31‑15‑330. Upon the adoption of an ordinance finding that ~~dwelling~~ building conditions of the character described in Section 31‑15‑320 exist within the county, the county governing body may adopt ordinances relating to the ~~dwellings~~ buildings within the county which are unfit for human habitation or occupation. Such ordinances may include the following provisions:

(1) That a public officer be designated or appointed to exercise the powers prescribed by the ordinances;

(2) That whenever a petition is filed with the public officer by at least five residents of the county charging that any ~~dwelling~~ building is unfit for human habitation or occupation or whenever it appears to the public officer (on his own motion) that any ~~dwelling~~ building is unfit for human habitation or occupation, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and all parties in interest in such ~~dwelling~~ building a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer or his designated agent at a place therein fixed not less than ten days nor more than thirty days after the serving of such complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer;

(3) That if, after such notice and hearing, the public officer determines that the ~~dwelling~~ building under consideration is unfit for human habitation or occupation he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order

(a) If the repair, alteration, or improvement of the ~~dwelling~~ building can be made at a reasonable cost in relation to the value of the ~~dwelling~~ building (the ordinance of the county may fix a certain percentage of such cost as being reasonable for such purpose), requiring the owner, within the time specified in the order, to repair, alter or improve such ~~dwelling~~ building to render it fit for human habitation or occupation, as applicable, or to vacate and close the ~~dwelling as a human habitation~~ building; or

(b) If the repair, alteration or improvement of the ~~dwelling~~ building cannot be made at a reasonable cost in relation to the value of the ~~dwelling~~ building (the ordinance of the county may fix a certain percentage of such cost as being reasonable for such purpose), requiring the owner, within the time specified in the order, to remove or demolish such ~~dwelling~~ building;

(4) That, if the owner fails to comply with an order to repair, alter or improve or to vacate and close the ~~dwelling~~ building, the public officer may cause such ~~dwelling~~ building to be repaired, altered or improved or to be vacated and closed; that the public officer may cause to be posted on the main entrance of any ~~dwelling~~ building so closed, a placard with the following words: ‘This building is unfit for human habitation and/or occupation; the use or occupation of this building for human habitation and/or occupation is prohibited and unlawful’;

(5) That, if the owner fails to comply with an order to remove or demolish the ~~dwelling~~ building, the public officer may cause such ~~dwelling~~ building to be removed or demolished; and

(6) That the amount of the cost of such repairs, alterations or improvements, vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which such cost was incurred and shall be collectible in the same manner as county taxes. The county may enforce the lien in any manner provided by law, including utilizing Chapters 51 and 56, Title 12. However, the lien is due in five equal installments over five property tax years beginning with the property tax year in which the lien is effective. The provisions of Chapter 51, Title 12 may not be utilized until all five installments are due.

(7) If a county in demolishing unfit ~~dwellings~~ buildings as permitted by this article contracts with a third party not employed by the county to do the work, it must bid the work in conformity with the procurement code applicable to the county.

Section 31‑15‑340. Nothing in Section 31‑15‑330 shall be construed to impair or limit in any way the power of a county to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

Section 31‑15‑350. An ordinance adopted by the county governing body under this article shall provide that a public officer may determine that a ~~dwelling~~ building is unfit for human habitation or occupation if he finds that conditions exist in such ~~dwelling~~ building which are dangerous or injurious to the health, safety or morals of the occupants of such ~~dwelling~~ building, the occupants of neighboring ~~dwellings~~ buildings or other residents in the county. Such conditions may include the following (without limiting the generality of the foregoing): Defects therein increasing the hazards of fire, accidents or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; uncleanliness. The ordinance may provide additional standards to guide the public officer or his agents in determining the fitness of a ~~dwelling~~ building for human habitation or occupation.

Section 31‑15‑360. Complaints or orders issued by a public officer pursuant to an ordinance adopted under this article shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing it once each week for two consecutive weeks in a newspaper printed and published in the county or, in the absence of such newspaper, in one printed and published in the municipality and circulating in the county. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed with the clerk of court of the county in which the ~~dwelling~~ building is located and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law.

Section 31‑15‑370. Any person affected by an order issued by a public officer may within sixty days after the posting and service of the order petition the circuit court for an injunction restraining the public officer from carrying out the provisions of the order and the court may, upon such petition, issue a temporary injunction restraining the public officer pending the final disposition of the cause. Hearings shall be had by the court on such petitions within twenty days or as soon thereafter as possible and shall be given preference over other matters on the court’s calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. In all such proceedings the findings of the public officer as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer or because of compliance by such person with any order of the public officer.

Section 31‑15‑380. An ordinance adopted by the county governing body may authorize a public officer to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this article, including the following powers in addition to others herein granted:

(1) to investigate the ~~dwelling~~ building conditions in the county in order to determine which ~~dwellings~~ buildings therein are unfit for human habitation or occupation;

(2) to administer oaths and affirmations, examine witnesses and receive evidence;

(3) to enter upon premises for the purpose of making examinations, provided such entries be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) to appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of the ordinances; and

(5) to delegate any of his functions and powers under the ordinances to such officers and agents as he may designate.

Section 31‑15‑390. If a ~~dwelling~~ building is removed or demolished by a public officer he shall sell the materials of such ~~dwelling~~ building and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the circuit court by the public officer, shall be secured in such manner as may be directed by such court and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such court.

Section 31‑15‑400. Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of any municipality in the county to enforce any provisions of its charter or its ordinances or regulations, or to prevent or punish violations thereof and the powers conferred by this article shall be in addition and supplemental to the powers conferred by any other law.”

SECTION 2. Chapter 15, Title 31 of the 1976 Code is redesignated “Dwellings Unfit for Human Habitation or Occupation”.

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

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