**South Carolina General Assembly**

119th Session, 2011-2012

**S. 290**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Jackson

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Introduced in the Senate on January 11, 2011

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

Summary: Commercial property

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/15/2010 Senate Prefiled

12/15/2010 Senate Referred to Committee on **Judiciary**

1/11/2011 Senate Introduced and read first time ([Senate Journal‑page 131](file:///h:\sj%20archive\2011\01-11-11.docx))

1/11/2011 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 131](file:///h:\sj%20archive\2011\01-11-11.docx))

1/9/2012 Senate Referred to Subcommittee: Malloy (ch), Ford, Massey, S.Martin

**VERSIONS OF THIS BILL**

[12/15/2010](file:///p:\pprever\2011-12\290_20101215.docx)

**A** **BILL**

TO AMEND TITLE 27 OF THE 1976 CODE, RELATING TO PROPERTY AND CONVEYANCES, TO PROVIDE THAT AN OWNER OF COMMERCIAL PROPERTY SHALL OBTAIN A COMMERCIAL PROPERTY INSPECTION REPORT FROM AN INSPECTOR AGREED UPON BY THE SELLER AND THE PURCHASER, TO PROVIDE FOR THE CONTENTS OF THE REPORT, TO PROVIDE FOR THE TRANSFERS OF PROPERTY THAT REQUIRE A REPORT, TO PROVIDE FOR EXCEPTIONS TO THE REQUIREMENT FOR AN INSPECTION REPORT, TO PROVIDE FOR THE AGENT’S DUTIES, AND TO DEFINE NECESSARY TERMS.

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

SECTION 1. Title 27 of the 1976 Code is amended by adding:

“Chapter 51

Commercial Real Estate Inspections

Section 27‑51‑10. For purposes of this chapter:

(1) ‘Commercial property’ means real property intended to generate a profit from a business on premises, capital gain, or rental income.

(2) ‘Owner’ means each person having a recorded present or future interest in real estate who is identified in a real estate contract subject to this chapter, but does not include the owner or holder of a mortgage, deed of trust, mechanic’s or materialman’s lien, or other lien or security interest in the real property. This disclosure is limited to the actual commercial property and does not address common elements or areas for which the owner has no direct and primary responsibility.

(3) ‘Purchaser’ means each person or entity named as a purchaser, buyer, or tenant in a real estate contract subject to this chapter.

Section 27‑51‑20. This chapter applies to the following transfers of commercial property:

(1) sale or exchange;

(2) installment land sales contract; or

(3) lease with an option to purchase contract.

Section 27‑51‑30. This chapter does not apply to transfers:

(1) pursuant to court order including transfers in administration of an estate, pursuant to a writ of execution, by foreclosure sale, by a trustee in bankruptcy, by a receiver, by eminent domain, and resulting from a decree for specific performance;

(2) to a mortgagee from the mortgagor or his successor in interest in a mortgage if the indebtedness is in default, by a trustee pursuant to a deed of trust or to a mortgagee pursuant to a mortgage if the indebtedness is in default, by a trustee under a mortgagee pursuant to a foreclosure sale, or by a mortgagee who has acquired the real property at a sale conducted pursuant to a judgment and order of foreclosure;

(3) by a fiduciary in the course of the administration of a decedent’s estate, guardianship, conservatorship, or trust;

(4) from one or more co‑owners solely to one or more other co‑owners;

(5) made solely to a spouse or a person or persons in the lineal line of consanguinity of one or more transferors;

(6) between spouses resulting from a divorce decree or support order or marital property distribution order;

(7) made by virtue of the record owner’s failure to pay federal, state, or local taxes;

(8) to or from the federal government;

(9) to the State, its agencies and departments, and its political subdivisions including school districts; or

(10) commercial property sold at public auction.

Section 27‑51‑40. An owner of commercial property must obtain a commercial property inspection conducted by a commercial property inspector. The commercial property inspector must be mutually agreeable to the owner and the purchaser. A commercial property inspection report must include an analysis of the following:

(1) the water supply and sanitary sewage disposal system;

(2) the roof, chimneys, floors, foundation, basement, and other structural components and modifications of these structural components;

(3) the plumbing, electrical, heating, cooling, and other mechanical systems;

(4) present infestation of wood‑destroying insects or organisms or past infestation, the damage from which has not been repaired;

(5) presence of lead‑based paint, asbestos, radon gas, methane gas, underground storage tank, hazardous material or toxic material, buried or covered, and other environmental contamination.

Section 27‑51‑50. An owner of commercial property shall submit the commercial property inspection report to the purchaser of the property before a real estate contract is signed by the purchaser and owner.

Section 27‑51‑60. (A) An owner’s agent or any real estate licensee operating for any party in a commercial real estate transaction must inform in writing each party covered by a seller’s agent agreement of the owner’s obligations prescribed in this chapter. If the agent performs this duty, he is not liable for the owner’s refusal or failure to obtain a commercial property inspection.

(B) This chapter does not conflict with or alter the duties of the real estate licensee pursuant to the regulations of the commission.

Section 27‑51‑70. Nothing in this chapter is intended to prevent the parties to a contract of sale of commercial property from entering into agreements of any kind or nature with respect to the physical condition of the property to be sold including, but not limited to, agreements for the sale of commercial property ‘as is’.”

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

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