**South Carolina General Assembly**

120th Session, 2013-2014

**H. 4534**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Stavrinakis, McCoy, Sottile and Merrill

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Introduced in the House on January 22, 2014

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

Summary: Cause of action for foreclosure

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/22/2014 House Introduced and read first time ([House Journal‑page 12](file:///H:\HJ%20Archive\2014\01-22-14.docx))

1/22/2014 House Referred to Committee on **Judiciary** ([House Journal‑page 12](file:///H:\HJ%20Archive\2014\01-22-14.docx))

**VERSIONS OF THIS BILL**

[1/22/2014](file:///p:\pprever\2013-14\4534_20140122.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 29‑3‑635 SO AS TO PROVIDE NO CAUSE OF ACTION FOR FORECLOSURE OF A REAL ESTATE MORTGAGE MAY BE COMMENCED IF THE ALLEGED DEFAULT WAS BASED SOLELY ON A FAILURE TO PURCHASE OR MAINTAIN FLOOD INSURANCE COVERING THE MORTGAGED PROPERTY; TO PROVIDE NO CAUSE OF ACTION EXISTS FOR FORECLOSING A REAL ESTATE MORTGAGE WHEN THE ALLEGED DEFAULT WAS BASED SOLELY ON A FAILURE TO PURCHASE OR MAINTAIN FLOOD INSURANCE COVERING THE MORTGAGED PROPERTY; TO PROVIDE REMAINING PROVISIONS IN A MORTGAGE REMAIN IN FULL FORCE AND EFFECT DESPITE A FAILURE TO PURCHASE OR MAINTAIN FLOOD INSURANCE COVERING THE MORTGAGED PROPERTY; AND TO PROVIDE COMPLIANCE WITH THESE PROVISIONS DOES NOT CONSTITUTE A WAIVER OF ANY OTHER RIGHTS OR TERMS OF A MORTGAGE AND DOES NOT ESTOP A MORTGAGOR OR MORTGAGEE FROM ASSERTING THOSE OTHER RIGHTS.

Whereas, the South Carolina General Assembly finds that the Biggert‑Waters Flood Insurance Reform Act of 2012 has had the practical impact of invalidating provisions of real estate loans and mortgages, specifically the conditions assumed by both mortgagors and mortgagees at the time of contracting; and

Whereas, the South Carolina General Assembly finds that the unconstitutional invalidation of assumed conditions of contract between parties requires remedial action to protect lenders from being forced to bring foreclosure actions and consequently threaten the banking system with ownership of nonperforming real estate that has become unmarketable or may become unmarketable. Now, therefore,

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

SECTION 1. Article 7, Chapter 3, Title 29 of the 1976 Code is amended by adding:

“Section 29‑3‑635. (A) No cause of action for foreclosure of a real estate mortgage may be commenced if the alleged default was based solely on a failure to purchase or maintain flood insurance covering the mortgaged property.

(B) No cause of action exists for foreclosing a real estate mortgage when the alleged default was based solely on a failure to purchase or maintain flood insurance covering the mortgaged property.

(C) Remaining provisions in a mortgage remain in full force and effect despite a failure to purchase or maintain flood insurance covering the mortgaged property.

(D) Compliance with the provisions of this section does not constitute a waiver of any other rights or terms of a mortgage and does not estop a mortgagor or mortgagee from asserting those other rights.”

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

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