**South Carolina General Assembly**

122nd Session, 2017-2018

**H. 3570**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Herbkersman, Erickson, W. Newton and Bradley

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Introduced in the House on January 25, 2017

Currently residing in the House Committee on **Ways and Means**

Summary: Insurance

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/25/2017 House Introduced and read first time ([House Journal‑page 15](file:///h:\hj\20170125.docx))

1/25/2017 House Referred to Committee on **Ways and Means** ([House Journal‑page 15](file:///h:\hj\20170125.docx))

1/26/2017 House Member(s) request name added as sponsor: Bradley

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**VERSIONS OF THIS BILL**

[1/25/2017](file:///p:\pprever\2017-18\3570_20170125.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 4‑1‑190 SO AS TO ALLOW A COUNTY TO ESTABLISH A WINDSTORM PROTECTION AND HOMEOWNERS INSURANCE PROGRAM TO ASSIST A HOMEOWNER WITH THE FINANCIAL COSTS OF QUALIFIED WIND RESISTANCE IMPROVEMENTS, TO ESTABLISH OPTIONS FOR FINANCING, TO PROVIDE FOR CERTAIN DETERMINATIONS THAT MUST BE MADE, TO REQUIRE CERTAIN NOTICE, TO PROVIDE THAT A LIEN FILED PURSUANT TO THIS SECTION IS CONSIDERED TO BE AN AD VALOREM TAX, TO PROVIDE FOR CERTAIN RESTRICTIONS TO AN INCREASE IN PROPERTY TAXES; AND TO ALLOW A LOCAL GOVERNMENT TO IMPOSE CERTAIN FEES.

Whereas, qualified wind resistance improvements reduce a property’s burden from potential wind damage and benefit not only the affected properties, but also promote community resilience, reduce reliance on post‑windstorm resources, and protect the community tax base; and

Whereas, qualified wind resistance improvements can reduce costly homeowners insurance premiums; and

Whereas, compelling state interests exist in enabling property owners to have access to specialized financing for wind resistance qualifying improvements. Now, therefore,

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

SECTION 1. Chapter 1, Title 4 of the 1976 Code is amended by adding:

“Section 4‑1‑190. (A) A county may establish a Windstorm Protection and Homeowners Insurance Program by passing an ordinance to assist a homeowner with the financial costs of qualified wind resistance improvements. For purposes of this section, ‘qualified wind resistance improvement’ means resilience improvements to a home that has been designated by the Insurance Institute for Business and Home Safety (IBHS) as having met the standards of the Fortified Home program, or other wind mitigation improvements certified by an independent third party approved by the county.

(B)(1) In a participating county, a homeowner may secure financing in order to add wind resistance improvements to his home with a lien against the property to be improved. A financing agreement must be recorded within sixty days of issuance of the Fortified certificate by IBHS, or other certification as approved by the county pursuant to subsection (A). The recorded agreement must provide constructive notice that the lien to be levied on the property constitutes a lien of equal dignity to county taxes and assessments from the date of the recordation.

(2) The faith and credit of the county is not pledged for the payment of the principal and interest of a lien issued pursuant to this section, and there must be on the face of a lien a statement plainly worded to that effect. A person executing the lien is not personally liable for the lien.

(3) The financing agreement must contain the following:

(a) annual percentage rate;

(b) total amount financed;

(c) total finance charges;

(d) late payment charges;

(e) prepayment penalty;

(f) amount of tax increase;

(g) possibility of foreclosure;

(h) notice of a three day right to rescind; and

(i) limits on referral fees.

(C) A homeowner may repay the loan by:

(1) an annual payment as part of the homeowner’s tax bill for the term of the financing agreement; or

(2) a payment by the homeowner directly to the lender and in the event of a default, the lender may pursue the enforcement of the lien.

(D) Before recording the financing agreement, the lender shall reasonably determine that:

(1) property taxes and any other assessment levied on the property are current and have not been delinquent in the past three years;

(2) there is no current involuntary lien on the property and there have been no liens within the past three years;

(3) there is not currently nor has there been within the past three years a recorded notice of default or other property based debt delinquency;

(4) the homeowner has not filed for bankruptcy or been adjudged bankrupt in the past three years; and

(5) the property owner is and has been current on the mortgage debt on the property for the past three years.

(E) Before entering into a financing agreement, a property owner shall provide notice to any mortgagor of his intent to enter into a financing agreement including the maximum principal amount to be financed and maximum annual assessment necessary to repay that amount. A property owner shall provide proof of notice at the time the financing agreement is filed for recording. A provision allowing for acceleration of payment of the mortgage or other unilateral modification as a result of entering into a financing agreement is not enforceable. A mortgagor may increase the monthly escrow by an amount necessary to pay the qualifying improvement assessment.

(F) The total amount of any lien may not exceed twenty percent of the value of the property as determined pursuant to Article 25, Chapter 37, Title 12, unless the mortgagor agrees to a different amount.

(G) As a result of the lien, a homeowner’s property tax may not increase by more than ninety‑percent of the homeowner’s insurance savings in the first year and may not increase further in following years.

(H) A lien filed pursuant to this section is considered to be an ad valorem tax. The county may certify the lien to the county assessor for collection and enforcement.

(I) A county may impose fees on a lender.

(J) The county may impose requirements to ensure that financing is consistent with the purposes of the program and to ensure timely payment.”

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

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