



May 27, 2014

The Honorable Nikki R. Haley
Governor, State of South Carolina
State House, 1st Floor
Columbia, South Carolina, 29201

Re: S1007 – Foreclosure of Abandoned Properties

Dear Governor Haley:

On behalf of the South Carolina Bankers Association, I write to ask that you sign into law S1007, a recently enrolled bill that creates an expedited process for the foreclosure of abandoned properties.

A June 2014 RealtyTrac study found that South Carolina ranked ninth in the nation with abandoned properties in foreclosure – alongside much larger states like Pennsylvania and Ohio and even ahead of North Carolina and Georgia – states that have twice as many housing units as South Carolina. One reason why South Carolina ranks so high, even though it is relatively small, is that South Carolina is a judicial foreclosure state and foreclosure actions – contested and uncontested - often remain on court dockets for well over a year. Additionally, there is no formal statutory process to help courts identify uncontested, abandoned properties and move them quickly off the dockets. Since abandoned properties cannot be foreclosed expeditiously, there is a back log on court dockets of these properties that otherwise could be marketed and productive on the private market.

Leaving abandoned properties on court dockets can have a financial cost to the state. A March 2014 study by the Federal Reserve Bank of Cleveland found that in Ohio and Pennsylvania (judicial foreclosure states) expedited foreclosure of abandoned properties would result in a savings of at least \$24 million to possibly as much as \$129 million to the state and local governments.

S1007 was drafted by the South Carolina Bankers Association and the Mortgage Bankers Association of the Carolinas, along with their counsels, to create a process within the present judicial foreclosure system to quickly identify abandoned properties and move them to sale and back on the market. It is modeled after statutes recently passed in Illinois, Colorado, Indiana and New Jersey. Minnesota has had a similar process since 1989. Amendments to S1007 were added after consultation with the Department of

Consumer Affairs, the Appleseed Legal Justice Center and certain masters in equity and clerks of court.

Highlights of the process include:

- The foreclosing party moves that the trial court certify that the property is abandoned and foreclosure should be expedited. Notice is given to all parties.
- Evidence of abandonment is set forth in the statute. Indicia of abandonment include:
 - Smashed or broken windows and doors;
 - Termination of utilities;
 - Reports of vandalism, loitering and other criminal activity;
 - Accumulation of hazardous materials;
 - Violations of building codes concerning health, safety or welfare; or
 - Written statements from the mortgagor or others that the property is abandoned.
- The property cannot be owner-occupied. (Owner-occupied properties are protected by the May 2011 Supreme Court order governing foreclosure of those properties.)
- The foreclosing party must show by clear and convincing evidence that the property is abandoned.
- If the property owner makes an appearance to contest the foreclosure at any time, then the foreclosure can no longer be expedited.
- Once certified as abandoned then the court may place the case at the front of the docket for foreclosure.

Abandoned properties negatively affect neighborhood property values, reduce the tax base, increase crime, place neighbors at a higher risk for foreclosure, and impose additional costs on local governments along with increasing the burdens of the court system. Expediently foreclosing on these abandoned properties stabilizes property values and the tax base, decreases crime, reduces the risk of foreclosure for nearby properties; thus reducing costs for local governments and making substantial contributions to the operation and maintenance of the court system by reducing the volume of cases.

If you have any question or concerns about S1007, please direct them to me or SCBA counsel, Neil Rashley (nrashley@scbankers.org).

Sincerely,



Fred Green
President and CEO