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CHAPTER 5.

 RECORDING GENERALLY

**SECTION 30‑5‑10.** Performance of register of deeds’ duties by clerk of court in certain counties.

In every county in the State other than Aiken, Anderson, Beaufort, Berkeley, Charleston, Chesterfield, Clarendon, Colleton, Dorchester, Georgetown, Greenville, Horry, Jasper, Kershaw, Lexington, Oconee, Orangeburg, Pickens, Richland, Spartanburg, and Sumter the duties prescribed by law for the register of deeds must be performed by the clerk of court who has all the powers and emoluments given the register of deeds in Aiken, Anderson, Beaufort, Berkeley, Charleston, Chesterfield, Clarendon, Colleton, Dorchester, Georgetown, Greenville, Horry, Jasper, Kershaw, Lexington, Oconee, Orangeburg, Pickens, Richland, Spartanburg, and Sumter counties. The registers of deeds in Berkeley and Dorchester counties are elected for terms of four years and until a successor is elected in the general election and qualifies.

**SECTION 30‑5‑12.** Appointment of register of deeds for certain counties.

The governing bodies of Anderson, Beaufort, Chesterfield, Clarendon, Colleton, Georgetown, Horry, Jasper, Kershaw, Oconee, Orangeburg, and Pickens counties shall appoint the register of deeds for its county under terms and conditions as it may agree upon. The governing body of Georgetown County may appoint a register of deeds only after advertising the information concerning the appointment for two weeks before action is taken in a newspaper of general circulation in the county.

**SECTION 30‑5‑15.** Duties of clerk of court for state tax liens to be performed by register of deeds.

Notwithstanding any other provision of law, in those counties which have a register of deeds, the duties of the clerk of court for the county pertaining to the indexing and filing of state tax liens are hereby devolved upon the register of deeds for the county and the register of deeds shall index and file such liens in his office in the same manner as required of the clerk of court by law.

**SECTION 30‑5‑16.** Records of state tax liens before and after August 1, 1978.

On the effective date of Sections 30‑5‑15 and 30‑5‑16, in those counties which have a register of deeds, all current records pertaining to state tax liens shall be maintained in the office of the register of deeds unless otherwise directed by the governing body of the county concerned. The register of deeds may begin a new record book of state tax liens beginning with liens filed after August 1, 1978, but such book shall note on the cover that the records of the clerk of court relating to state tax liens are on file in the office of the clerk of court and contain a record of state tax liens which are still effective.

**SECTION 30‑5‑20.** Certified copies of recorded instruments; effect of furnishing incorrect copy.

The register of deeds, or his deputy, shall be required, on application, to give a certified copy of any writing recorded in his office, the fees for such copy being first paid in advance, if required or tendered, as the case may be. If the register or his deputy shall furnish an incorrect transcript of any deed recorded, he shall forfeit and pay to the party the damages that may accrue in consequence thereof.

**SECTION 30‑5‑30.** Prerequisites to recording.

Except as otherwise provided by statute, before any deed or other instrument in writing can be recorded in this State, it must be acknowledged or proved by the method described in (A) or (B):

(A)(1) the execution of the deed or other instrument must be first proved by the affidavit of a subscribing witness to the instrument, taken before some officer within this State competent to administer an oath. If the affidavit is taken without the limits of this State, it may be taken before:

(a) a commissioner appointed by dedimus issued by the clerk of the court of common pleas of the county in which the instrument is to be recorded;

(b) a commissioner of deeds of this State;

(c) a clerk of a court of record who shall make certificate of the deed or other instrument under his official seal;

(d) a justice of the peace who shall append to the certificate his official seal;

(e) a notary public who shall affix to the deed or other instrument his official seal within the State of his appointment, which is a sufficient authentication of his signature, residence, and official character;

(f) before a minister, ambassador, consul general, consul, or vice‑consul, or consular agent of the United States of America; or

(g) in the case of any officer or enlisted man of the United States Army, Air Force, Navy, Marine Corps, or Coast Guard on active duty outside the State or any civilian employee of any such organization on active duty outside the continental confines of the United States, any commissioned officer of the Army, Air Force, Navy, Marine Corps, or Coast Guard, if the probating officer states his rank, branch, and organization.

(2) The Uniform Recognition of Acknowledgments Act must be complied with; or

(3) the person executing it shall submit an affidavit subscribed to before a person authorized to perform notarial acts herein or by the Uniform Recognition of Acknowledgments Act that the signature on the deed or other instrument is his signature and that the instrument was executed for the uses and purposes stated in the instrument.

(B) A deed or other instrument must be signed by the grantor, mortgagor, vendor, or lessor and the signing must be acknowledged by the grantor, mortgagor, vendor, or lessor in the presence of two witnesses, taken before some officer within this State competent to administer an oath. If the acknowledgment is taken without the limits of this State, it may be taken before:

(1) a commissioner appointed by dedimus issued by the clerk of the court of common pleas of the county in which the instrument is to be recorded;

(2) a commissioner of deeds of this State;

(3) a clerk of a court of record who shall make certificate of the deed or other instrument under his official seal;

(4) a justice of the peace who shall append to the certificate his official seal;

(5) a notary public who shall affix to the deed or other instrument his official seal within the State of his appointment, which is a sufficient authentication of his signature, residence, and official character;

(6) before a minister, ambassador, consul general, consul, or vice‑consul, or consular agent of the United States of America; or

(7) in the case of any officer or enlisted man of the United States Army, Air Force, Navy, Marine Corps, or Coast Guard on active duty outside the State or any civilian employee of any such organization on active duty outside the continental confines of the United States, any commissioned officer of the Army, Air Force, Navy, Marine Corps, or Coast Guard, if the probating officer states his rank, branch, and organization.

(C) Where the instrument is acknowledged by the grantor or maker, the form of acknowledgement must be in substance as follows:

“South Carolina,

\_\_\_\_\_\_\_\_\_\_ County.

I (here give the name of the official and his official title), do hereby certify that (here give the name of the grantor or maker), personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and (where an official seal is required by law) official seal this the \_\_\_ day of \_\_\_ (year).

\_\_\_\_\_\_\_\_\_\_

Signature of Officer”

**SECTION 30‑5‑35.** Derivation clause and address of grantee or mortgagee on deeds and mortgages.

(a) All deeds conveying an interest in land and all mortgages of real estate executed after July 1, 1976, must include a derivation clause in the property description and there must be inscribed on the deed or mortgage the mailing address of the grantee or mortgagee. When the grantor’s or mortgagor’s title was acquired by deed, the derivation clause must include the name of the grantor and the recording date of that deed. However, when the deed of derivation has been simultaneously executed and delivered and has not then been recorded it is sufficient to set forth in the deed or mortgage the name of the grantor of the deed of derivation and its date and that it is to be recorded. When the grantor’s or mortgagor’s title was obtained by inheritance or devise, the derivation clause must include the name of the person from whom the title was acquired, the approximate date of acquisition, and, in the case of property acquired under a probated will or administered estate, the probate court in which such estate was filed. However, a derivation clause is not required on a deed or mortgage of property devoted to a utility or railroad purpose of any private or public utility or railroad. Further, a derivation clause is not required on a quitclaim or non‑warranty deed of real property.

(b) A clerk of court or register of deeds shall not record any deed or mortgage after July 1, 1976, unless it contains a derivation clause as prescribed in subsection (a); provided, however, that he may record a deed or mortgage without such clause upon a showing satisfactory to him that the necessary information for such clause was not available.

(c) The provisions of this section are intended to be regulatory in nature and will not affect the legality, force, effect or record notice of any instrument recorded in violation hereof.

**SECTION 30‑5‑36.** Conveyance of property used for hazardous waste storage or disposal to contain notice of previous use.

When any real property used as a hazardous waste storage or disposal facility permitted under Sections 44‑56‑10 through 44‑56‑140 is sold, leased, conveyed or transferred in any manner, the deed or other instrument of transfer shall contain in the legal description in no smaller type than that used in the body of such deed or instrument, the following statement:

“The real property conveyed or transferred by this instrument has previously been used as a storage or disposal facility for hazardous wastes.”

**SECTION 30‑5‑40.** Validation of certain instruments executed between May 11, 1972 and June 22, 1973.

(1) Any deed or other instrument purporting to convey an interest in or lien upon real estate executed after May 11, 1972 and prior to June 22, 1973, which in all other respects meets the requirements of law, whether executed within or without this State, and whether or not such instrument was executed in the presence of and subscribed by two or more witnesses, as provided in Section 27‑7‑10, is hereby validated as to execution from the time of such execution and entitled to recordation if:

(a) The execution thereof was acknowledged in a form substantially identical to the forms set forth in Section 26‑3‑70, Uniform Recognition of Acknowledgments Act; or

(b) The execution thereof was acknowledged in a form conforming substantially to the provisions of Section 30‑5‑30, subsection (3), as amended in 1972.

(2) The recordation of any such instrument is hereby validated and declared to have constituted legal notice from the time of such recordation, if such instrument complies with the recording of statutes of this State.

**SECTION 30‑5‑50.** Effect of failure of officer to state service serial number.

No instrument otherwise entitled to admission to record shall be denied record on account of the failure of the officer taking the probate to state his service serial number.

**SECTION 30‑5‑60.** Validity of instruments recorded without impressed seals of officers administering oaths.

Any instrument heretofore or hereafter recorded in this State, which does not have affixed the impressed seal of the authorized officer who administered the oath or affirmation contained therein, shall be valid and constitute notice as though such impressed seal were affixed.

**SECTION 30‑5‑70.** Recording of instrument when affidavit of subscribing witness cannot be procured.

When the affidavit of a subscribing witness cannot be had by reason of the death, insanity or absence from the State of such witness, any such instrument may be recorded upon proof of such fact and of the handwriting of the parties who signed the instrument and of the subscribing witnesses by proper affidavit, the proof in every case to be recorded with the instrument.

**SECTION 30‑5‑80.** Auditor’s endorsement required before recordation of deeds.

Before any deed of conveyance of real property, including timber deeds, timber leases and contracts of conveyance of timber, can be placed on record in the office of the register of deeds or clerk of court, it must have thereon the endorsement of the county auditor that it has been entered of record in his office.

**SECTION 30‑5‑90.** Recordation of marriage settlements, conveyances, mortgages, and other writings.

The register of deeds is required to record in the order of the times at which they may be brought to his office, all marriage settlements and all conveyances and mortgages, renunciations of dower and other writings concerning the titles to lands situate in his county which may be lodged with him to be recorded if the execution of any such writing shall be proved by affidavit of a subscribing witness, or otherwise, as herein provided. Every such writing shall be recorded within one month after its lodgment and the recording shall bear even date with the lodgment. On every such writing shall be endorsed a certificate, to be signed by the register or his deputy, specifying the time when and book and page where it was recorded.

**SECTION 30‑5‑100.** Procedure for transfer of recording when instrument was recorded in wrong county.

(1) When any instrument conveying an interest in real property is recorded in one county and it is subsequently determined that property described therein is in fact located in another county, a copy of the instrument certified by the clerk of court of the county of original recordation may be recorded in the county of correct property location and such recording shall thereafter constitute full legal notice according to the tenor of the instrument being recorded.

(2) When the recordation of any instrument is transferred from one county to another in the manner authorized in subsection (1), there shall be inscribed on the certified copy of the instrument a certificate of the county auditor or his counterpart that the property described in the rerecorded instrument is in fact located in the county of rerecordation.

(3) The procedures provided for in this section for the transfer of recordation of instruments shall in no way affect the existing law which permits the recording of an original instrument in more than one county.

**SECTION 30‑5‑110.** Memorandum of livery of seizin shall be recorded.

When any deeds or conveyances shall be acknowledged or proved as provided in this chapter in order to their being recorded, the memorandum of delivery and seizin thereupon made in deeds of feoffment shall in like manner be acknowledged or proved and shall be recorded with the deeds. Any such memorandum proved and acknowledged as aforesaid shall be taken and deemed a sufficient livery and seizin of the land or other real estate conveyed.

**SECTION 30‑5‑120.** Validation of certain conveyances not endorsed by auditor.

All conveyances of real estate which were recorded by a clerk of court or register of deeds of any of the several counties between December 14, 1876 and May 1, 1882, without the endorsement of the auditor of the county, have heretofore been declared to be as valid and binding, to all intents and purposes, as if such conveyances had been endorsed by the auditor of the county, as required by law.

**SECTION 30‑5‑130.** Mortgages of leaseholds and other interests in real estate.

Mortgages of leaseholds or other interests in real estate within the State and mortgages of dwellings or structures thereon, whether in one instrument or in separate instruments, shall be deemed to be mortgages of real estate and shall be recorded in the same manner as mortgages of real estate. The notice of such record shall be the same as the notice of the record of real estate mortgages and to the same extent. And the notice of the record of all mortgages of leaseholds or other interests in real estate in the State and of dwellings and structures thereon which have heretofore been recorded in the same manner as real estate mortgages shall be the same notice as given by the record of real estate mortgages and to the same extent.

**SECTION 30‑5‑140.** Validation of certain recordations bearing date prior to March 1, 1909.

The probate of any and all deeds or other instruments in writing bearing date prior to March 1, 1909, whether recorded or not on that day, which are in compliance with the requirements of Sections 30‑5‑30 and 30‑5‑70 are validated and their probate confirmed.

**SECTION 30‑5‑150.** Validation of certain instruments.

All such instruments which have been executed and the execution thereof proved by acknowledgment, as provided in 1944 Act No. 473 (1944 (43) 1323) since January 1, 1940 are hereby confirmed and ratified and the recordation of such instruments declared to be legal notice of the existence thereof as fully as if they had been duly executed and probated in conformity with the law of this State as it then existed with reference to the probate and recording of written instruments.

**SECTION 30‑5‑180.** Recording United States tax commissioners’ titles in Beaufort County.

The holders of all certificates or titles issued by or under the authority of the United States direct tax commissioners for this State shall be allowed to record them in the office of the clerk of court for the county of Beaufort. When such certificates shall have been so recorded, such recording shall be deemed to be a legal notice of title to the land described in them.

**SECTION 30‑5‑190.** Recordation of proceedings in bankruptcy.

A certified copy of a petition, with schedules omitted, commencing a proceeding under the Bankruptcy Act of the United States, of the decree of adjudication in such proceeding or of the order approving the bond of the trustees appointed in such proceeding may be filed, indexed and recorded in the office of the register of deeds or clerk of court in those counties in which the office of register of deeds has been abolished in the same manner as deeds. The register of deeds or the clerk of court in those counties in which the office of register of deeds has been abolished shall file, index under the name of the bankrupt and record such certified copies filed for record in the same manner as deeds, for which services he shall be entitled to the same fees as are provided by law for filing, indexing and recording deeds.

**SECTION 30‑5‑200.** Certificate on recorded instruments.

Whenever any instrument in writing required by law to be filed and recorded has been so recorded, the clerk or register shall endorse on such instrument a certificate showing the date and the book and page where recorded and for this certificate no fee shall be charged or collected.

**SECTION 30‑5‑210.** Use of photostatic or other photographic method of recording in county with city over 70,000.

In all counties in this State containing a city having a population of more than seventy thousand according to the official United States census in which the governing body of the county by resolution shall so provide and in which such governing body shall procure and furnish the necessary equipment therefor, the register of deeds shall record all instruments lodged for record, except deeds and mortgages of real estate, and may record all deeds and mortgages of real estate, by making two copies of them by photostatic or other photographic method of copying, one copy to be bound in an appropriate loose‑leaf record book complying with the requirements of Section 30‑1‑170 and kept in a safe place in the office of the recording officer as a master copy and the other copy to be bound in a similar record book and made available for public use and inspection at all times. Such recording shall have all of the legal incidents and effect otherwise provided by the recording laws of this State.

**SECTION 30‑5‑220.** Use of photostatic or photo recording in any county.

Photostatic copies or photo‑recording copies, duly authenticated by the signature of the clerk of court, or other proper official charged with the duty of recording legal papers, of any county in this State shall be sufficient compliance with the law with reference to the recording of all legal papers. Such recording shall have all of the legal incidents and effect otherwise provided by the recording laws of this State and copies of legal papers so recorded shall be admissible in evidence as such record.

**SECTION 30‑5‑230.** Recordation of plats or copies of plats of real property.

It shall be lawful for the owner of any real property or any interest therein or for any holder of a lien thereon to have a plat thereof, or a blueprint, tracing, photostatic or other copy of a plat thereof recorded in the office of the register of deeds or in the office of the clerk of court in those counties in which the office of register of deeds does not exist, of the county in which such property, or any part thereof, is situated. When any such plat or blueprint, tracing, photostatic or other copy of such plat is affixed or filed in the book provided by any such officer for that purpose and duly indexed, it shall be deemed a recording thereof.

**SECTION 30‑5‑240.** Recordation of plats or blueprints of subdivisions.

When real property is subdivided for the purpose of sale and is sold or offered for sale according to a plat of a survey thereof, the person first offering such property for sale shall file a plat or blueprint of such survey in the office of the clerk of court of the county in which such real estate is situate. In the event that the owner fails to comply with the above provision he shall become liable to the purchaser or to any subsequent grantee of the land, or of any portion thereof, in such sum as shall be found necessary to procure and record such plat. Such sum shall be recovered by any such grantee provided he be interested as owner of all or a portion of the subdivided property at the time of the institution of the action for the enforcement of the liability hereby created.

**SECTION 30‑5‑250.** Effect of reference in deed or other instrument to recorded plats.

When any recorded deed, mortgage or other instrument conveying an interest in, or creating a lien on, real property, refers to the boundaries, metes, courses or distances of such real estate delineated or shown on any such plat or blueprint, tracing, photostatic or other copy of such plat, recorded and indexed as herein authorized, and such deed, mortgage or other instrument states the office, book and page of recordation of any such plat or blueprint, tracing, photostatic or other copy thereof, such reference shall be equivalent to setting forth in extenso in such deed, mortgage or other instrument the boundaries, metes, courses or distances of such real estate as may be delineated or shown on any such plat or blueprint, tracing photostatic or other copy thereof.

**SECTION 30‑5‑260.** Validation of previous recordings of plats.

Any and all such plats or blueprint, tracing, photostatic or other such copies of such plats heretofore affixed or filed in the manner provided in Section 30‑5‑230 and duly indexed are declared to have been duly filed and recorded. The reference in any deed, mortgage or other instrument heretofore recorded to the boundaries, metes, courses or distances of such real estate as may be delineated or shown on any such plat or blueprint, tracing, photostatic or other copy thereof, heretofore affixed and filed in the manner provided in Section 30‑5‑230 and duly indexed, shall have the same effect as if the boundaries, metes, courses or distances of such real estate were set forth in extenso in such deed, mortgage or other instrument.