DISCLAIMER

The South Carolina Legislative Council is offering access to the unannotated South Carolina Code of Laws on the Internet as a service to the public. The unannotated South Carolina Code on the General Assembly's website is now current through the 2014 session. The unannotated South Carolina Code, consisting only of Code text, numbering, and history may be copied from this website at the reader's expense and effort without need for permission.

The Legislative Council is unable to assist users of this service with legal questions. Also, legislative staff cannot respond to requests for legal advice or the application of the law to specific facts. Therefore, to understand and protect your legal rights, you should consult your own private lawyer regarding all legal questions.

While every effort was made to ensure the accuracy and completeness of the unannotated South Carolina Code available on the South Carolina General Assembly's website, the unannotated South Carolina Code is not official, and the state agencies preparing this website and the General Assembly are not responsible for any errors or omissions which may occur in these files. Only the current published volumes of the South Carolina Code of Laws Annotated and any pertinent acts and joint resolutions contain the official version.

Please note that the Legislative Council is not able to respond to individual inquiries regarding research or the features, format, or use of this website. However, you may notify the Legislative Services Agency at LSA@scstatehouse.gov regarding any apparent errors or omissions in content of Code sections on this website, in which case LSA will relay the information to appropriate staff members of the South Carolina Legislative Council for investigation.

CHAPTER 21

Perpetuation of Evidence

**SECTION 19‑21‑10.** Substituting new records for lost, destroyed, or abstracted records of decrees and judgments.

 The plaintiff in any judgment or decree, the record whereof has been destroyed, abstracted or lost, or his personal representatives, or other person claiming under or through them, or any of them, or any person whatever having an interest in the preservation of the evidence of such judgment or decree, may upon notice of not less than twenty‑one days, served as a summons in actions is now served pursuant to law, upon the defendant therein or upon those upon whom his liability has devolved, or others interested to oppose the application, apply to the court in which such judgment or decree was rendered for leave to substitute a new record. If, upon hearing the evidence on each side, the court is satisfied of the existence and loss of such record, an order for leave to substitute shall be made, conforming as nearly as possible in all respects to the lost, abstracted or destroyed record; and if it be for the payment of money, the balance due thereon and date of lien, if any, shall be made to appear thereon. Such substituted record shall be good and valid in law to all intents and purposes.

HISTORY: 1962 Code Section 26‑801; 1952 Code Section 26‑801; 1942 Code Section 729; 1932 Code Section 729; Civ. P. ‘22 Section 745; Civ. C. ‘12 Section 4008; Civ. C. ‘02 Section 2903; G. S. 2230; R. S. 2367; 1882 (17) 1081.

**SECTION 19‑21‑20.** Perpetuation of testimony as to lost, destroyed, or defective instruments.

 Any person interested in the preservation of the contents of any deed, release, private writing usually put on record or document alleged to have been lost, destroyed or defective in the record thereof and desiring to preserve the evidence thereof for any purpose may, by summons and complaint as provided by Title 15, institute an action in the court of common pleas to perpetuate testimony as to the existence and true contents of the same. In such complaint the defects, if any, complained of in the record shall be substantially set forth and to such action all persons interested or known or supposed to claim an interest in the property to which such testimony may relate shall be made parties defendant and served with summons as provided by law in civil actions.

HISTORY: 1962 Code Section 26‑802; 1952 Code Section 26‑802; 1942 Code Section 730; 1932 Code Section 730; Civ. P. ‘22 Section 746; Civ. C. ‘12 Section 4009; Civ. C. ‘02 Section 2904; G. S. 2230, 2232; R. S. 2368; 1882 (17) 1081.

**SECTION 19‑21‑30.** Issuance of orders in action to perpetuate testimony.

 The court or judge at chambers having jurisdiction of the subject matter may hear, determine and grant all orders as will best subserve the purposes of the complaint and the preservation of the testimony sought without delay.

HISTORY: 1962 Code Section 26‑803; 1952 Code Section 26‑803; 1942 Code Section 731; 1932 Code Section 731; Civ. P. ‘22 Section 747; Civ. C. ‘12 Section 4010; Civ. C. ‘02 Section 2905; G. S. 2230, 2233; R. S. 2369; 1882 (17) 1082.

**SECTION 19‑21‑40.** Recordation and force and effect of perpetuated testimony.

 The evidence so taken shall be preserved, and the parties may have the same recorded in the office to which the same may relate. And such evidence so taken, preserved and recorded shall be received in all courts, subject to the same rules as to competency and credibility as any other evidence.

HISTORY: 1962 Code Section 26‑804; 1952 Code Section 26‑804; 1942 Code Section 732; 1932 Code Section 732; Civ. P. ‘22 Section 748; Civ. C. ‘12 Section 4011; Civ. C. ‘02 Section 2906; G. S. 2230, 2234, 2235; R. S. 2370; 1882 (17) 1082.

**SECTION 19‑21‑50.** Proof of lost papers other than by perpetuation of testimony.

 Nothing herein contained shall prevent anyone from establishing on the trial of any cause any lost papers, according to the rules of evidence.

HISTORY: 1962 Code Section 26‑805; 1952 Code Section 26‑805; 1942 Code Section 733; 1932 Code Sections 733, 734; Civ. P. ‘22 Sections 749, 750; Civ. C. ‘12 Sections 4012, 4013; Civ. C. ‘02 Sections 2907, 2908; G. S. 2230, 2235; R. S. 2236, 2371; 1882 (17) 1082; 1995 Act No. 104, Section 5, eff September 3, 1995.

**SECTION 19‑21‑60.** Costs.

 The costs of such proceedings as shall be had under the provisions of this chapter shall be in the discretion of the presiding judge.

HISTORY: 1962 Code Section 26‑806; 1952 Code Section 26‑806; 1942 Code Section 733; 1932 Code Sections 733, 734; Civ. P. ‘22 Sections 749, 750; Civ. C. ‘12 Sections 4012, 4013; Civ. C. ‘02 Sections 2907, 2908; G. S. 2230, 2235; R. S. 2236, 2371; 1882 (17) 1082.

**SECTION 19‑21‑70.** Repealed by 1985 Act No. 100, Section 2, eff July 1, 1985.