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CHAPTER 7

Form and Execution of Conveyances

**SECTION 27‑7‑10.** Form of conveyance of fee simple; witnesses.

The following form or purport of a release shall, to all intents and purposes, be valid and effectual to carry from one person to another or others the fee simple of any land or real estate if it shall be executed in the presence of and be subscribed by two or more credible witnesses:

“The State of South Carolina.

“Know all men by these presents that I, A B, of \_, in the State aforesaid, in consideration of the sum of \_ dollars, to me in hand paid by C D of \_ County, State of \_, the receipt of which is hereby acknowledged, have granted, bargained, sold and released and by these presents do grant, bargain, sell and release unto the said C D all that (here describe the premises), together with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned unto said C D, his heirs and assigns, forever. And I do hereby bind myself, my heirs, executors, and administrators, to warrant and forever defend all and singular said premises unto said C D, his heirs and assigns, against myself and my heirs and against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

“Witness my hand and seal this \_ day of \_ in the year of our Lord \_ and in the \_ year of the independence of the United States of America. “\_ [L.S.]”

HISTORY: 1962 Code Section 57‑251; 1952 Code Section 57‑251; 1942 Code Section 8694; 1932 Code Section 8694; Civ. C. ‘22 Section 5216; Civ. C. ‘12 Section 3453; Civ. C. ‘02 Section 2367; G. S. 1775; R. S. 1886; 1795 (5) 255; 1899 (23) 48; 1936 (39) 1301.

**SECTION 27‑7‑20.** Warranty and additional clauses in conveyances.

Section 27‑7‑10 shall be so construed as not to oblige any person to insert the clause of warranty or to restrain him from inserting any other clause in conveyances, as may be deemed proper and advisable by the purchaser and seller, or to invalidate the forms formerly in use within this State.

HISTORY: 1962 Code Section 57‑252; 1952 Code Section 57‑252; 1942 Code Section 8694; 1932 Code Section 8694; Civ. C. ‘22 Section 5216; Civ. C. ‘12 Section 3453; Civ. C. ‘02 Section 2367; G. S. 1775; R. S. 1886; 1795 (5) 255; 1899 (23) 48; 1936 (39) 1301.

**SECTION 27‑7‑30.** Omission of seal.

Whenever it shall appear from the attestation clause or from the other parts of any instrument in writing that it was the intention of the party or parties thereto that such instrument should be a sealed instrument, such instrument shall be construed to be, and shall have the effect of, a sealed instrument, although no seal be actually attached thereto.

HISTORY: 1962 Code Section 57‑253; 1952 Code Section 57‑253; 1942 Code Section 8694; 1932 Code Section 8694; Civ. C. ‘22 Section 5216; Civ. C. ‘12 Section 3453; Civ. C. ‘02 Section 2367; G. S. 1775; R. S. 1886; 1795 (5) 255; 1899 (23) 48; 1936 (39) 1301.

**SECTION 27‑7‑40.** Creation of joint tenancy; filing; severance.

(a) In addition to any other methods for the creation of a joint tenancy in real estate which may exist by law, whenever any deed of conveyance of real estate contains the names of the grantees followed by the words “as joint tenants with rights of survivorship, and not as tenants in common” the creation of a joint tenancy with rights of survivorship in the real estate is conclusively deemed to have been created. This joint tenancy includes, and is limited to, the following incidents of ownership:

(i) In the event of the death of a joint tenant, and in the event only one other joint tenant in the joint tenancy survives, the entire interest of the deceased joint tenant in the real estate vests in the surviving joint tenant, who is vested with the entire interest in the real estate owned by the joint tenants.

(ii) In the event of the death of a joint tenant survived by more than one joint tenant in the real estate, the entire interest of the deceased joint tenant vests equally in the surviving joint tenants who continues to own the entire interest owned by them as joint tenants with right of survivorship.

(iii) The fee interest in real estate held in joint tenancy may not be encumbered by a joint tenant acting alone without the joinder of the other joint tenant or tenants in the encumbrance.

(iv) If all the joint tenants who own real estate held in joint tenancy join in an encumbrance, the interest in the real estate is effectively encumbered to a third party or parties.

(v) If real estate is owned by only two joint tenants, a conveyance by one joint tenant to the other joint tenant terminates the joint tenancy and conveys the fee in the real estate to the other joint tenant.

(vi) If real estate is owned by more than two joint tenants, a conveyance by one joint tenant to all the other joint tenants therein conveys his interest therein equally to the other joint tenants who continue to own the real estate as joint tenants with right of survivorship.

(vii) Any joint tenancy in real estate held by a husband and wife with no other joint tenants is severed upon the filing of an order or decree dissolving their marriage and vests the interest in both the parties as tenants in common, unless an order or decree of a court of competent jurisdiction otherwise provides.

(viii) The interest of any joint tenant in a joint tenancy in real estate sold or conveyed by a court of competent jurisdiction where otherwise permitted by law severs the joint tenancy, unless the order or decree of such court otherwise provides and vests title in the parties as tenants in common.

(ix) If real estate is owned by two or more joint tenants, a conveyance by all the joint tenants to themselves as tenants in common severs the joint tenancy and conveys the fee in the real estate to these individuals as tenants in common.

(b) The surviving joint tenant or tenants may, following the death of a joint tenant, file with the Register of Deeds of the county in which the real estate is located a certified copy of the certificate of death of the deceased joint tenant. The fee to be paid to the Register of Deeds for this filing is the same as the fee for the deed of conveyance. The Register of Deeds must index the certificate of death under the name of the deceased joint tenant in the grantor deed index of that office. The filing of the certificate of death is conclusive that the joint tenant is deceased and that the interest of the deceased joint tenant has vested by operation of law in the surviving joint tenant or tenants in the joint tenancy in real estate.

(c) Except as expressly provided herein, any joint tenancy severed pursuant to the terms of this section is and becomes a tenancy in common without rights of survivorship. Nothing contained in this section shall be construed to create the estate of tenancy by the entireties. Nothing contained in this section amends any statute relating to joint tenancy with rights of survivorship in personal property but affects only real estate. The provisions of this section must be liberally construed to carry out the intentions of the parties. This section supersedes any conflicting provisions of Section 62‑2‑804.

HISTORY: 2000 Act No. 398, Section 2; 2002 Act No. 362, Section 7.