CHAPTER 11

Recordation of Deeds and Documents of Railroads

**SECTION 30‑11‑10.** Recordation of deeds and other instruments.

All deeds of conveyance of railroad beds, tracks and rights of way, cars, locomotive engines, rolling stock and other railway equipment, all leases and conditional sales of, and all other instruments in writing relating to, such property in this State, other than mortgages and deeds of trust, delivered or executed on or after January 1 1894 shall be valid, so as to affect from the time of such delivery or execution the rights of subsequent creditors or purchasers for valuable consideration without notice, only when filed in duplicate within forty days from the execution and delivery thereof in the office of the Secretary of State. But the above‑mentioned deeds, leases, mortgages and other conditional sales and instruments in writing, if filed subsequent to the expiration of such period of forty days, shall be valid to affect the rights of subsequent creditors and purchasers for valuable consideration without notice from the date of such record only, one of the copies of any such instrument so filed shall be given its proper file number, indexed and retained in the office of the Secretary of State and the other shall be properly endorsed, giving the file number under which it is to be found and returned.

HISTORY: 1962 Code Section 60‑251; 1952 Code Section 60‑251; 1942 Code Sections 3106, 3107; 1932 Code Sections 3106, 3107; Civ. C. '22 Sections 789, 790; Civ. C. '12 Sections 705, 706; Civ. C. '02 Sections 634, 635; R. S. 554; 1893 (21) 412; 1920 (31) 989; 1937 (40) 428.

**SECTION 30‑11‑20.** Recordation of mortgages and deeds of trust.

Mortgages or deeds of trust covering the whole or any part of the real property of a railroad company and the appurtenant franchises are valid so as to affect from the time of their execution and delivery the rights of all subsequent creditors and purchasers, when filed within forty days from the execution and delivery of the mortgages or deeds of trust in the office of the Secretary of State. Within six months thereafter the mortgages or deeds of trust must be recorded also in the books provided for the recording of mortgages on real estate in the office of clerk of court or register of deeds of each county in which any part of the real property affected by the mortgages or deeds of trust is situated. The mortgages or deeds of trust, if so filed in the office of the Secretary of State subsequent to the expiration of the period of forty days and also recorded in the books provided for the recording of mortgages on real estate in the office of the clerk of court or register of deeds subsequent to the expiration of the period of forty days are valid to affect the rights of all subsequent creditors and purchasers from the date of the record. Before any mortgage or deed of trust covering property of a railroad company and the appurtenant franchises can be filed by the Secretary of State, copies of the mortgage or deed of trust must be furnished in duplicate, one of which must be given its proper file number, indexed, and retained in his office, and the other must be properly endorsed, giving the file number under which it is to be found and returned.

Nothing contained in this section may be construed to affect the provisions of Section 58‑15‑920.

The provisions of this section do not in any way affect any mortgage or deed of trust covering property of a railway company and the appurtenant franchises executed and filed or recorded prior to March 22, 1937.

HISTORY: 1962 Code Section 60‑252; 1952 Code Section 60‑252; 1942 Code Section 8282; 1932 Code Section 8227; Civ. C. '22 Section 4791; Civ. C. '12 Section 3122; 1903 (24) 80; 1937 (40) 140; 1988 Act No. 494, Section 8(17).

Code Commissioner's Note

1997 Act No. 34, Section 1, directed the Code Commissioner to change all references to "Register of Mesne Conveyances" to "Register of Deeds" wherever appearing in the 1976 Code of Laws.

**SECTION 30‑11‑30.** Proof of execution of written instruments.

Before any such deed, lease, mortgage or other instrument in writing can be filed by the Secretary of State, the execution thereof shall first be proved by the affidavit in writing of a subscribing witness to such instrument, in the same manner prescribed for the probate of deeds in relation to the recording of deeds in the office of the register of deeds of the several counties of this State.

HISTORY: 1962 Code Section 60‑253; 1952 Code Section 60‑253; 1942 Code Section 3107; 1932 Code Section 3107; Civ. C. '22 Section 790; Civ. C. '12 Section 706; Civ. C. '02 Section 635; 1920 (31) 989.

Code Commissioner's Note

1997 Act No. 34, Section 1, directed the Code Commissioner to change all references to "Register of Mesne Conveyances" to "Register of Deeds" wherever appearing in the 1976 Code of Laws.

**SECTION 30‑11‑40.** Filing and fee for filing written instruments.

Such conveyances, leases, mortgages and other instruments in writing shall be filed by the Secretary of State in his office and for such filing he shall receive from the person offering such papers for file the sum of five dollars.

HISTORY: 1962 Code Section 60‑254; 1952 Code Section 60‑254; 1942 Code Section 3108; 1932 Code Section 3108; Civ. C. '22 Section 791; Civ. C. '12 Section 707; Civ. C. '02 Section 636; 1920 (31) 989.

**SECTION 30‑11‑50.** Effect of certified copy of recorded instrument.

A certificate or certified copy of any of the aforesaid papers when once filed, as hereinabove provided, by the Secretary of State, shall be competent evidence of such filing and of the facts contained in each deed, lease, mortgage or other instrument in writing so filed and certified in all the courts of this State.

HISTORY: 1962 Code Section 60‑255; 1952 Code Section 60‑255; 1942 Code Section 3108; 1932 Code Section 3108; Civ. C. '22 Section 791; Civ. C. '12 Section 707; Civ. C. '02 Section 636; 1920 (31) 989.

**SECTION 30‑11‑60.** Satisfaction of mortgage.

When any such mortgage so filed shall be fully satisfied, the mortgagee shall note such satisfaction on the margin of the copy on file or declare the mortgage to be satisfied in a separate instrument in writing to be filed as provided in Section 30‑11‑40 under a penalty of five hundred dollars to be recovered in any court of competent jurisdiction at the suit of the mortgagor, his assignees or any other party aggrieved thereby.

HISTORY: 1962 Code Section 60‑255.1; 1952 Code Section 60‑255.1; 1942 Code Section 3108; 1932 Code Section 3108; Civ. C. '22 Section 791; Civ. C. '12 Section 707; Civ. C. '02 Section 636; 1920 (31) 989.

**SECTION 30‑11‑70.** Validation of recordation of certain instruments.

The act entitled "An Act to Amend Sections 705, 706 and 707 of the Code of 1912, Volume I, by substituting the words 'filed in duplicate' wherever the word 'recorded' occurs," approved March 10 1920 shall not affect or apply to deeds of conveyance of railroad beds, tracks and rights of way, cars, locomotive engines, rolling stock and other railway equipment, leases and mortgages or other conditional sale of, or other instruments in writing relating to, such property which were duly recorded pursuant to the law as it existed prior to March 10, 1920 and the records thereof are hereby declared to be legal and valid according to the terms of the law existing when such recordations were made.

HISTORY: 1962 Code Section 60‑256; 1952 Code Section 60‑256; 1942 Code Section 3109; 1932 Code Section 3109; Civ. C. '22 Section 792; 1921 (32) 62.