CHAPTER 19

Escheat of Land and Personal Property

ARTICLE 1

Escheat of Lands

**SECTION 27‑19‑10.** Notification of supposedly escheated lands by Secretary of State to judge of circuit court.

 The Secretary of State, in every case when, on his knowledge or belief or on the information of another, certain lands have been escheated to the State by the death of the person last seized in fee simple, either in law or in fact, without leaving any person who can lawfully claim such lands either by purchase or descent from such former proprietor, shall, on such knowledge or information or the order of any court of record, issue his notification of such supposedly escheated lands to one of the judges of the circuit court at least two months previous to the next session of such court to be held in the county where such lands lie.

HISTORY: 1962 Code Section 57‑200.1; 1972 (57) 2501.

CROSS REFERENCES

Provisions of South Carolina Probate Code relative to circumstances in which intestate estate passes to State, see Section 62‑2‑105.

Library References

Escheat 3, 6.

Westlaw Topic No. 152.

C.J.S. Escheat Sections 4, 8 to 9.

RESEARCH REFERENCES

Forms

Am. Jur. Pl. & Pr. Forms Escheat Section 1 , Introductory Comments.

NOTES OF DECISIONS

In general 1

1. In general

For construction of act of 1787, see McCaw v. Galbraith (S.C. 1853) 7 Rich. 74.

Service of notice, see In re Malone’s Estate (S.C. 1884) 21 S.C. 435.

Lands shall not escheat where there is one capable of inheriting. Scott v. Cohen (S.C. 1820).

**SECTION 27‑19‑20.** Inquest by jury; certification and recording of verdict.

 The judge presiding at such court shall cause a jury, being first duly sworn, to proceed and make a true inquest of all such supposedly escheated lands which by the Secretary of State shall be subjected to their investigation and a true verdict made thereon. Thereupon the judge of the court shall certify such verdict, under his hand and the seal of the court, to the Secretary of State who shall record it in a book to be kept by him for that purpose and shall return the original within two months after the date thereof into the office of the clerk of the court, to be there filed and kept as a record thereof.

HISTORY: 1962 Code Section 57‑200.2; 1972 (57) 2501.

Library References

Escheat 6, 8(1).

Westlaw Topic No. 152.

C.J.S. Escheat Sections 7 to 9, 22 to 23.

**SECTION 27‑19‑30.** Notice published in county where land lies.

 On the return of any inquest of supposedly escheated lands by the Secretary of State into the office of the clerk of the county in which the lands lie, the clerk shall thereupon cause to be advertised, in a newspaper of the county or other nearest gazette, the first week in every month, for six months, a notice containing a particular description of the lands, the name of the person last seized and the supposed time of his death, together with the part of the world in which he was supposed to have been born, and requiring his heirs or others claiming under him to appear and make claim.

HISTORY: 1962 Code Section 57‑200.3; 1972 (57) 2501.

Library References

Escheat 6, 8(1).

Westlaw Topic No. 152.

C.J.S. Escheat Sections 7 to 9, 22 to 23.

NOTES OF DECISIONS

In general 1

1. In general

The notice of escheat which this section requires to be published is not in the proper sense “process,” nor when published in a Sunday newspaper is it “served” on Sunday. Eason v. Witcofskey (S.C. 1888) 29 S.C. 239, 7 S.E. 291.

This section does not require the notice to be published in a daily paper every day in the week, but one publication in a weekly newspaper is sufficient. Eason v. Witcofskey (S.C. 1888) 29 S.C. 239, 7 S.E. 291.

**SECTION 27‑19‑40.** Petition by person claiming land; proceedings thereon.

 Any person shall be heard on a traverse without delay in the court of common pleas, on a petition setting forth his rights, and the lands shall be committed to him if he shall show good evidence of his title, to hold until the right shall be found and discussed for the State and the claimant, such claimant finding sufficient security to prosecute his suit to effect, and without delay, and to render to the State the yearly value of such lands, if the right be found for the State.

HISTORY: 1962 Code Section 57‑200.4; 1972 (57) 2501.

Library References

Escheat 8(1).

Westlaw Topic No. 152.

C.J.S. Escheat Sections 7, 22 to 23.

NOTES OF DECISIONS

In general 1

1. In general

Each traverse is a separate case and should be tried separately. McCaw v Galbraith (1853) 41 SCL 74. Re Malone’s Estate (1884) 21 SC 435.

This section does not give traverse of escheat precedence on the docket. Lance v. Dobson (S.C. 1837). Escheat 6

**SECTION 27‑19‑50.** Damages for prosecution of escheat proceedings without probable cause.

 If any suit for property supposed to be escheated shall be prosecuted by the Secretary of State and the jury before whom the trial shall be had shall think there is no probable cause, the jury shall assess and award to the party aggrieved such damages as they shall think proper.

HISTORY: 1962 Code Section 57‑200.5; 1972 (57) 2501.

Library References

Escheat 8(1).

Westlaw Topic No. 152.

C.J.S. Escheat Sections 7, 22 to 23.

**SECTION 27‑19‑60.** Renting out land pending conclusion of process of escheat.

 When no claimant shall appear to make title as aforesaid, the Secretary of State shall rent out the escheated lands, if it can be done with advantage to the State, until the process of escheat shall be concluded and the lands sold.

HISTORY: 1962 Code Section 57‑200.6; 1972 (57) 2501.

Library References

Escheat 8(1).

Westlaw Topic No. 152.

C.J.S. Escheat Sections 7, 22 to 23.

**SECTION 27‑19‑70.** Manner of pronouncing land escheated.

 If no person shall appear and claim lands within twelve months after the expiration of the time prescribed for advertising, the clerk shall issue process, to be signed by the judge of the circuit court of the county, to the Secretary of State, pronouncing the lands escheated and vested according to law and directing him forthwith to sell and convey them upon the usual notice.

HISTORY: 1962 Code Section 57‑200.7; 1972 (57) 2501.

Library References

Escheat 6, 8(1).

Westlaw Topic No. 152.

C.J.S. Escheat Sections 7 to 9, 22 to 23.

NOTES OF DECISIONS

In general 1

1. In general

Title vests in the State at the death of the owner by judgment of the court. City Council of Charleston v Lange (1817) 8 SCL 454. Harlock v Jackson (1812) 5 SCL 254.

**SECTION 27‑19‑80.** Advertising land for sale; terms of sale.

 As soon as the Secretary of State shall receive the process in Section 27‑19‑70 mentioned, he shall advertise the sale of such lands in a newspaper of the county or other nearest gazette and also in the most public places of the county in which the lands lie, giving six weeks’ public notice, on a credit of twelve months, payable in lawful money. He shall, moreover, take good and sufficient surety and a mortgage of the premises before the title shall be altered or changed.

HISTORY: 1962 Code Section 57‑200.8; 1972 (57) 2501.

CROSS REFERENCES

State not being precluded from selling escheated lands, see Section 27‑11‑10.

Library References

Escheat 8(1).

Westlaw Topic No. 152.

C.J.S. Escheat Sections 7, 22 to 23.

NOTES OF DECISIONS

In general 1

1. In general

Disposal of escheated property, see In re Malone’s Estate (S.C. 1884) 21 S.C. 435.

Lands that escheat cannot be regranted as vacant lands, but must be sold pursuant to the escheat act. Bodden v. Speigner (S.C. 1809). Escheat 8(1)

**SECTION 27‑19‑90.** Division of land into tracts for sale.

 When any such lands shall exceed six hundred acres and can be divided into smaller tracts with advantage to the State in the sale thereof, the Secretary of State shall cause them to be divided in such manner as shall be most beneficial to the State.

HISTORY: 1962 Code Section 57‑200.9; 1972 (57) 2501.

Library References

Escheat 8(1).

Westlaw Topic No. 152.

C.J.S. Escheat Sections 7, 22 to 23.

**SECTION 27‑19‑100.** Land may be bid in or purchased by Department of Administration; disposition of such lands.

 At any sale of escheated property, if, in his judgment, the property is being sold at a sacrifice, the Secretary of State may buy the land for the Department of Administration or cause it to be so bid in and, upon payment of the costs accrued thereon, may cause the title deed to be made therefor as escheated property to the Department of Administration which shall rent or sell the property in such manner, at such time and upon such terms as, in its judgment, shall be for the best interests of the State and apply the proceeds thereof as directed in Section 27‑19‑340.

HISTORY: 1962 Code Section 57‑200.10; 1972 (57) 2501.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

CROSS REFERENCES

Department of Administration, see Section 1‑11‑10 et seq.

Library References

Escheat 8(1).

Westlaw Topic No. 152.

C.J.S. Escheat Sections 7, 22 to 23.

**SECTION 27‑19‑110.** Compensation of person making good title to land within five years.

 If any person shall appear within five years and make good title to such lands in the court of common pleas on an issue tried, he shall forthwith receive adequate compensation.

HISTORY: 1962 Code Section 57‑200.11; 1972 (57) 2501.

Library References

Escheat 8(1).

Westlaw Topic No. 152.

C.J.S. Escheat Sections 7, 22 to 23.

NOTES OF DECISIONS

In general 1

1. In general

Effect of legislature’s granting away right to land in question, see Ex parte Williams (S.C. 1860) 13 Rich. 77.

**SECTION 27‑19‑120.** Estates of felons shall not escheat.

 No property shall be vested in the State or any inquisition had by the escheator when any person shall have committed or may commit any felony against the State but such property shall descend to, and be vested in, the representatives of such person.

HISTORY: Former 1976 Code Section 21‑1‑20 [1962 Code Section 19‑2; 1952 Code Section 19‑2; 1942 Code Section 8859; 1932 Code Section 8859; Civ. C. ‘22 Section 5621; Civ. C. ‘12 Section 4094; Civ. C. ‘02 Section 2993; G. S. 2314; R. S. 2452; 1787 (5) 48] redesignated as Section 27‑19‑120 by 1986 Act No. 539, Section 2.

Library References

Escheat 3.

Westlaw Topic No. 152.

C.J.S. Escheat Section 4.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Mortgages Section 12, Capacity of Parties.

ARTICLE 3

Escheat of Personal Property

**SECTION 27‑19‑210.** Secretary of State or Attorney General may sue for and recover moneys or personal property in hands of executor or administrator.

 When any moneys or other personal estate shall be found in the hands of an executor or administrator, being the property of any person deceased leaving no person entitled to claim and without making disposition of them, the Secretary of State or the Attorney General, on behalf of the State, shall sue for and recover and pay any moneys so recovered into the State Treasury.

HISTORY: 1962 Code Section 57‑210.1; 1972 (57) 2501.

Library References

Escheat 3.

Westlaw Topic No. 152.

C.J.S. Escheat Section 4.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Attorney General Section 16, Civil, Administrative and Special Proceedings.

Attorney General’s Opinions

Discussion of the appropriate procedure for disposition of funds held by a personal representative of an estate upon the determination that no heir exists to take pursuant to the laws of intestate succession. S.C. Op.Atty.Gen. (August 25, 2014) 2014 WL 4382451.

Federal credit union shares are subject to escheat once they are in the hands of an executor or administrator. 1969‑70 Op. Atty Gen, No. 2984, p 257.

NOTES OF DECISIONS

In general 1

1. In general

Under this section and former Section 57‑222 (repealed) there can be no declaration of escheat of personal property, to which there is no heir, to the State until the expiration of two years. Gibson v. Rikard (S.C. 1928) 143 S.C. 402, 141 S.E. 726. Escheat 6

The escheat of personal property cannot be declared in a proceeding for settlement of decedent’s estate, but must be left for adjudication in proceedings authorized by this section and former Section 57‑222 (repealed). Gibson v. Rikard (S.C. 1928) 143 S.C. 402, 141 S.E. 726. Escheat 6

The term escheat applies to personality as well as realty. Howard v. Schmidt (S.C. 1829). Escheat 3

Under this section the administrator is liable for interest on fund during litigation. Howard v. Schmidt (S.C. 1829).

The escheator stands in place of the distributees. He can only bring action against the legal representative of the person whose property is escheated ‑ not against the administrator of his administrator. Gill v. Douglass (S.C. 1831).

**SECTION 27‑19‑220.** Advertising of moneys or property; vesting of property in State.

 The State Treasurer shall advertise such moneys or other personal property in some newspaper once in every month for six months in like manner as lands are herein directed to be advertised, and if no person shall appear and make good title to such personal estate within two years thereafter other than as executor or administrator or their legal representatives, then such moneys or other personal estate shall become vested in and applied to the use of the State.

HISTORY: 1962 Code Section 57‑210.2; 1972 (57) 2501.

CROSS REFERENCES

Applicability of this section to the disposition of unclaimed funds deposited by the liquidator of an insurer with the State Treasurer, see Section 38‑27‑640.

Library References

Escheat 8(1).

Westlaw Topic No. 152.

C.J.S. Escheat Sections 7, 22 to 23.

**SECTION 27‑19‑230.** Personal property of inmates dying in the Charleston Home.

 If any inmate of the Charleston Home die intestate leaving money or personal property, no one making claim for it within two years after the death of such inmate, such money or personal property shall become the property of the Home, to be expended by the board of commissioners for improvements and repairs of the premises of the Home.

HISTORY: 1962 Code Section 57‑210.3; 1972 (57) 2501.

Library References

Escheat 3.

Westlaw Topic No. 152.

C.J.S. Escheat Section 4.

ARTICLE 5

Provisions Applicable to Both Lands and Personalty

**SECTION 27‑19‑310.** Duties of escheator devolved upon Secretary of State as agent of Department of Administration.

 The duties of escheator are devolved upon the Secretary of State as agent of the Department of Administration and as escheator the Secretary of State shall act under the direction and control of the Department of Administration and, under the direction of the department, may use such of the funds and the services of such subagents of the department as in its discretion may be necessary to efficiency in discovering, renting, litigating and realizing money from escheated lands under existing law.

HISTORY: 1962 Code Section 57‑220.1; 1972 (57) 2501.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Library References

Escheat 6.

Westlaw Topic No. 152.

C.J.S. Escheat Sections 8 to 9.

**SECTION 27‑19‑320.** Purchase of land by Secretary of State prohibited; penalties.

 The Secretary of State shall not, directly or indirectly, either by himself or any person whomsoever, purchase or be concerned with any person in purchasing any escheated lands, without being subject and liable to the payment of five thousand dollars, to be sued for and recovered in any court of record, one half for the benefit of the informer, who shall sue for and recover such penalty, and the other half to be applied to the use of the State. And such Secretary of State shall also be rendered incapable of holding or exercising any office of trust or emolument therein.

HISTORY: 1962 Code Section 57‑220.2; 1972 (57) 2501.

Library References

Escheat 8(1).

Westlaw Topic No. 152.

C.J.S. Escheat Sections 7, 22 to 23.

**SECTION 27‑19‑330.** Assessment of costs and charges.

 When any person shall appear and make title to lands or personal estate, after office found by the jury, the court may assess such reasonable costs and charges as the Secretary of State has sustained in promoting the claim of the State.

HISTORY: 1962 Code Section 57‑220.3; 1972 (57) 2501.

Library References

Escheat 8(1).

Westlaw Topic No. 152.

C.J.S. Escheat Sections 7, 22 to 23.

**SECTION 27‑19‑340.** Disposition of proceeds of escheats.

 The Secretary of State shall turn over to the State Treasurer the net proceeds of escheats after deducting and retaining therefrom for the benefit of the Sinking Fund so much money as in the opinion of the State Department of Administration will reimburse the Sinking Fund for moneys and agents’ services used and advanced as aforesaid and also any other expense necessarily incurred in executing the law and protecting the interest of the State in the matter of escheats. Costs and expenses incurred as aforesaid on account of agents’ services and money advanced or otherwise in one case may be deducted and retained from the proceeds of any other case of escheatment in the discretion of the State Department of Administration.

HISTORY: 1962 Code Section 57‑220.4; 1972 (57) 2501.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Library References

Escheat 8(1).

Westlaw Topic No. 152.

C.J.S. Escheat Sections 7, 22 to 23.

**SECTION 27‑19‑350.** Rights of persons under disability or absent from United States.

 Nothing herein contained shall prejudice the rights of individuals having legal title and who may be under the disabilities of infancy or lunacy or beyond the limits of the United States until three years after such disabilities shall be removed.

HISTORY: 1962 Code Section 57‑220.6; 1972 (57) 2501.

Library References

Escheat 8(1).

Limitation of Actions 74(2).

Westlaw Topic Nos. 152, 241.

C.J.S. Escheat Sections 7, 22 to 23.

C.J.S. Limitations of Actions Sections 116 to 118.

NOTES OF DECISIONS

In general 1

1. In general

Applied in Ex parte Williams (S.C. 1860) 13 Rich. 77.

This section saves only the right to traverse an inquisition of escheat. It cannot divest a title acquired by possession under what is now Section 27‑11‑10 or under the act of 1712. Warnock v. Wightman (S.C. 1804).

**SECTION 27‑19‑360.** Reports of Secretary of State and Department of Administration.

 A report shall be made annually by the Secretary of State, to be included in his annual report, showing the receipts and payments under the provisions of this chapter in each case of escheat, with the items thereof. In case any escheated property be purchased by the State Department of Administration, its annual report shall show all resales of such property and all income, rents and profits derived from such property while held by the department.

HISTORY: 1962 Code Section 57‑220.7; 1972 (57) 2501.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 27‑19‑370.** Liability of Secretary of State for misconduct or fraudulent practices.

 If the Secretary of State shall fail to do his duty, as herein directed, on behalf of the State and any loss or damage shall accrue to the State by his misconduct or fraudulent practices, he shall be responsible for all such loss or damage and the court of common pleas may order a prosecution in the name of the State. A jury shall try the fact and assess the damage and, upon conviction, such Secretary of State shall be incapable forever thereafter from holding or exercising any office of trust or profit within this State.

HISTORY: 1962 Code Section 57‑220.8; 1972 (57) 2501.

CROSS REFERENCES

Secretary of State, generally, see Sections 1‑5‑10 et seq.

Library References

States 79.

Westlaw Topic No. 360.

C.J.S. States Sections 231 to 234.

**SECTION 27‑19‑380.** Application of chapter.

 Every part of this chapter and the mode herein prescribed for recovering and appropriating real and personal property escheated to the State shall be pursued and observed when any person shall hereafter die without an heir or become divested thereof by operation of law without leaving any legal representative.

HISTORY: 1962 Code Section 57‑220.5; 1972 (57) 2501.

Library References

Escheat 1, 6.

Westlaw Topic No. 152.

C.J.S. Escheat Sections 2, 8 to 9.

**SECTION 27‑19‑390.** Chapter complementary to Uniform Disposition of Unclaimed Property Act.

 The provisions of this chapter are complementary to and not in derogation of the “Uniform Disposition of Unclaimed Property Act” as contained in the permanent provisions of Chapter 18 of this title. All personal property for which provision is made in that chapter shall be disposed of as therein provided and the Secretary of State is relieved of all responsibility assigned to him in this chapter for such property.

HISTORY: 1962 Code Section 57‑220.9; 1972 (57) 2501.

Library References

Escheat 2.

Westlaw Topic No. 152.

C.J.S. Escheat Sections 2, 4.