CHAPTER 53

Business Trusts

**SECTION 33‑53‑10.** Recording and filing of instrument creating business trust.

Every business trust created at common law in this State or doing business in this State under an express trust instrument by which property is held and managed by one or more trustees for the benefit and profit of such persons as may be or may become holders of transferable certificates evidencing beneficial interest in the trust estate shall record the trust instrument creating such trust and any amendment thereto with the register of deeds, or with the clerk of court in those counties where the office of register of deeds has been abolished, of the county in which it has its principal place of business in this State, and shall also file a verified copy of such instrument and any amendments thereto with the Secretary of State.

HISTORY: 1962 Code Section 52‑201; 1961 (52) 537.

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.

Library References

Joint‑Stock Companies and Business Trusts 3.

Westlaw Topic No. 225.

C.J.S. Business Trusts Section 8.

C.J.S. Joint Stock Companies Section 5.

RESEARCH REFERENCES

Treatises and Practice Aids

Bogert ‑ the Law of Trusts and Trustees Section 247, Trusts Used Primarily for Business Purposes: the Massachusetts or Business Trust.

LAW REVIEW AND JOURNAL COMMENTARIES

The 1981 Revision of the South Carolina Business Corporation Act: A critique and agenda for further reform. 33 S.C. L. Rev. 449 (March 1982).

Real estate investment trust in South Carolina. 24 S.C. L. Rev. 741.

**SECTION 33‑53‑20.** Name in which real estate may be acquired, conveyed and mortgaged.

Real estate may be acquired, conveyed and mortgaged by the trustees in the name given to or used by the business trust.

HISTORY: 1962 Code Section 52‑202; 1961 (52) 537.

Library References

Joint‑Stock Companies and Business Trusts 3, 14.

Westlaw Topic No. 225.

C.J.S. Business Trusts Sections 8, 36 to 37.

C.J.S. Joint Stock Companies Sections 5, 16.

**SECTION 33‑53‑30.** Effect of rule against perpetuities.

A business trust shall not be affected by any rule against perpetuities.

HISTORY: 1962 Code Section 52‑203; 1961 (52) 537.

CROSS REFERENCES

Estates and construction of documents creating estates, see Sections 27‑5‑10 et seq.

Uniform Statutory Rule Against Perpetuities, see Sections 27‑6‑10 et seq., and in particular see Section 27‑6‑50.

Library References

Joint‑Stock Companies and Business Trusts 1.

Perpetuities 4 to 5.

Westlaw Topic Nos. 225, 298.

C.J.S. Business Trusts Sections 2 to 12, 37.

C.J.S. Joint Stock Companies Sections 2 to 4, 6.

C.J.S. Perpetuities Sections 2, 6, 12, 15 to 30, 32 to 40, 52 to 53, 55 to 77.

RESEARCH REFERENCES

Treatises and Practice Aids

Bogert ‑ the Law of Trusts and Trustees Section 247, Trusts Used Primarily for Business Purposes: the Massachusetts or Business Trust.

**SECTION 33‑53‑40.** Suits brought by and against business trust; liability of shareholders and trustees.

A business trust may sue or be sued in the name and style by which it conducts business without naming the individual shareholders therein, and the liability of such business trust shall extend to the whole of the trust estate, or so much thereof as may be necessary to discharge such liability, but the instrument creating such trust may provide that no personal liability will attach to the individual shareholders or trustees of the trust, and such provision shall operate to limit the liability of the individual shareholders and trustees as to the obligations of the trust itself, but provided in all cases the trustees shall be liable for breach of trust.

HISTORY: 1962 Code Section 52‑504; 1961 (52) 537.

Library References

Joint‑Stock Companies and Business Trusts 19.

Westlaw Topic No. 225.

C.J.S. Business Trusts Sections 39 to 47.

C.J.S. Joint Stock Companies Sections 31 to 35.

RESEARCH REFERENCES

Treatises and Practice Aids

Bogert ‑ the Law of Trusts and Trustees Section 247, Trusts Used Primarily for Business Purposes: the Massachusetts or Business Trust.

Notes of Decisions

Federal courts 1

1. Federal courts

Real estate investment trust’s members included its shareholders for purposes of diversity jurisdiction in a breach‑of‑contract action filed against trust in its organizational name, where, by virtue of being organized under Maryland law, trust was an unincorporated entity in which shareholders held ownership interests and voting powers by virtue of their shares. Americold Realty Trust v. Conagra Foods, Inc., 2016, 136 S.Ct. 1012, 194 L.Ed.2d 71. Federal Courts 2447

**SECTION 33‑53‑50.** Service of process on business trust.

Service of process may be made on any business trust organized in this State or doing business in this State in the same manner that domestic and foreign corporations, respectively, are served.

HISTORY: 1962 Code Section 52‑205; 1961 (52) 537.

Library References

Joint‑Stock Companies and Business Trusts 19.

Westlaw Topic No. 225.

C.J.S. Business Trusts Sections 39 to 47.

C.J.S. Joint Stock Companies Sections 31 to 35.

RESEARCH REFERENCES

Treatises and Practice Aids

Bogert ‑ the Law of Trusts and Trustees Section 247, Trusts Used Primarily for Business Purposes: the Massachusetts or Business Trust.