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CHAPTER 35.

 JUDGMENTS AND DECREES GENERALLY

ARTICLE 1.

 GENERAL PROVISIONS

**SECTION 15‑35‑160.** Judgment for damages and costs against married women.

In an action brought by or against a married woman judgment may be given against her as well for costs as for damages or both for such costs and for such damages, in the same manner as against other persons, to be levied and collected of her separate estate and not otherwise.

**SECTION 15‑35‑170.** Judgments against unincorporated associations.

On judgment being obtained against an unincorporated association under process served as provided in Section 15‑9‑330 final process may issue to recover satisfaction of such judgment, and any property of the association and the individual property of any copartner or member thereof found in the State shall be liable to judgment and execution for satisfaction of any such judgment.

**SECTION 15‑35‑180.** Enforcement of judgments.

When a judgment requires the payment of money or the delivery of real or personal property it may be enforced in those respects by execution as provided in this Title. When it requires the performance of any other act a certified copy of the judgment may be served upon the party against whom it is given or the person or officer who is required thereby or by law to obey it and his obedience thereto enforced. If he refuse he may be punished by the court as for contempt.

ARTICLE 3.

 JUDGMENT BY DEFAULT OR CONFESSION

**SECTION 15‑35‑350.** Judgment by confession; generally.

A judgment by confession may be entered without action either for money due or to become due or to secure any person against contingent liability on behalf of the defendant, or both, in the manner prescribed in this article.

**SECTION 15‑35‑360.** Judgment by confession; statement in writing and contents thereof.

Before a judgment by confession shall be entered a statement in writing must be made and signed by the defendant and verified by his oath to the following effect:

(1) It must state the amount for which judgment may be entered and authorize the entry of judgment therefor;

(2) If it be for the money due or to become due, it must state concisely the facts out of which it arose and must show that the sum confessed therefor is justly due or to become due; and

(3) If it be for the purpose of securing the plaintiff against a contingent liability, it must state concisely the facts constituting the liability and must show that the sum confessed therefor does not exceed the liability.

**SECTION 15‑35‑370.** Judgment by confession; entry of judgment.

The statement may be filed with the clerk of court. The clerk shall enter a judgment endorsed upon the statement for the amount confessed and the fee provided by Section 8‑21‑310(11)(d), together with any necessary disbursements of the plaintiff. The statement and affidavit, with the judgment endorsed, shall thereupon become the judgment roll.

**SECTION 15‑35‑380.** Judgment by confession; execution thereon.

Executions may be issued and enforced thereon in the same manner as upon judgments in other cases in such courts. When the debt for which the judgment is entered is not all due or is payable in installments and the installments are not all due the execution may issue upon such judgment for the collection of such installments as have become due and shall be in the usual form but shall have endorsed thereon, by the attorney or person issuing it, a direction to the sheriff to collect the amount due on such judgment, with interest and costs. Such amount shall be stated, with interest thereon, and the costs of the judgment. Notwithstanding the issue and collection of such execution the judgment shall remain as security for the installments thereafter to become due, and whenever any further installments become due execution may, in like manner, be issued for the collection and enforcement of such installments.

**SECTION 15‑35‑400.** Offer of judgment; acceptance; consequences of nonacceptance; attorney’s fees.

(A) Offer of Judgment. Except in domestic relations actions, after commencement of any civil action based upon contract or seeking the recovery of money damages, whether or not other relief is sought, any party may, at any time more than twenty days before the actual trial date, file with the clerk of the court a written offer of judgment signed by the offeror or his attorney, directed to the opposing party, offering to take judgment in the offeror’s favor, or as the case may be, to allow judgment to be taken against the offeror, for a sum stated therein, for property, or to the effect specified in the offer. The offeror shall give notice of the offer of judgment to the offeree’s attorney, or if the offeree is not represented by an attorney, to the offeree himself, in accordance with the service rules for motions and other pleadings set forth in the South Carolina Rules of Civil Procedure. Within twenty days after notification, or at least ten days prior to the trial date, whichever date is earlier, the offeree or his attorney may file with the clerk of the court a written acceptance of the offer of judgment. Upon the filing, the clerk shall enter immediately judgment of the stipulation. If the offer of judgment is not accepted within twenty days after notification or prior to or on the tenth day before the actual trial date, whichever date occurs first, the offer shall be considered rejected and evidence thereof is not to be admissible except in a proceeding after the trial to fix costs, interests, attorney’s fees, and other recoverable monies. Any offeror may withdraw an offer of judgment prior to its acceptance or prior to the date on which it would be considered rejected by giving notice to the offeree or his attorney in accordance with the service rules for motions and other pleadings outlined in the South Carolina Rules of Civil Procedure. Any offeror may file a subsequent offer of judgment in any amount provided that the subsequent offer supersedes any earlier offer that was rejected by the offeree or withdrawn by the offeror, and, on filing, terminates any rights of interest or costs that may have been applicable to the superseded offer. Notwithstanding this provision, an offer is not considered rejected upon the making of a counteroffer by the offeree, but shall remain effective until accepted, rejected, or withdrawn as provided in this subsection. Any and all offers of judgment and any acceptance of offers of judgment must be included by the clerk in the record of the case.

(B) Consequences of NonAcceptance. If an offer of judgment is not accepted and the offeror obtains a verdict or determination at least as favorable as the rejected offer, the offeror shall be allowed to recover from the offeree: (1) any administrative, filing, or other court costs from the date of the offer until judgment; (2) if the offeror is a plaintiff, eight percent interest computed on the amount of the verdict or award from the date of the offer; or (3) if the offeror is a defendant, a reduction from the judgment or award of eight percent interest computed on the amount of the verdict or award from the date of the offer.

(C) This section shall not be interpreted to abrogate the contractual rights of any party concerning the recovery of attorney’s fees or other monies in accordance with the provisions of any written contract between the parties to the action.

ARTICLE 5.

 JUDGMENT ROLL; ABSTRACTS; FILING OR DOCKETING

**SECTION 15‑35‑510.** Clerk shall keep abstract of judgments.

The clerk shall keep among the records of the court a book for the entry of judgments, to be called the “abstract of judgments.”

**SECTION 15‑35‑520.** Entries in abstract of judgments; index to judgments.

In this book shall be entered each case wherein judgment may be signed, including each case in dower, partition and escheat, after judgment or final order, with separate columns showing number of enrollment, names of parties, cause of action, attorney, date of judgment, amount of judgment, time of bearing interest, how judgment obtained, costs (separating attorney, clerk, sheriff, witness and total), kind of execution, date of issuing, sheriff’s return, and satisfaction, together with an index by the names of defendants and a cross index by the names of plaintiffs, each alphabetically arranged and kept in separate volumes with the number of enrollment of judgment. And whenever judgment against any party plaintiff or defendant has been entered the names of such party, and each of them, shall appear in the index and the name of the party plaintiff or defendant in whose favor judgment has been entered and each of them shall appear in the cross index.

**SECTION 15‑35‑530.** Judgment roll.

Unless the party or his attorney shall furnish a judgment roll the clerk, immediately after entering the judgment, shall attach together and file the following papers, which shall constitute the judgment roll:

(1) In case the complaint be not answered by any defendant, the summons and complaint or copies thereof, proof of service and that no answer has been received, the report, if any, and a copy of the judgment; and

(2) In all other cases, the summons, pleadings or copies thereof and a copy of the judgment, with any verdict or report, the offer of the defendant, exceptions, case and all orders and papers in any way involving the merits and necessarily affecting the judgment.

**SECTION 15‑35‑540.** Docketing transcript with clerks of other courts; effect thereof.

A transcript of a final judgment of any court of record of this State or of any district or circuit court of the United States within this State directing in whole or in part the payment of money, may be docketed with the clerk of the court of common pleas in any county and when so docketed shall be entered upon the book of abstracts and duly indexed and shall have the same force and effect as a judgment of that court. Any such transcript shall set out the names of the parties, plaintiff and defendant, the attorneys of record, the date and amount of the judgment, the time from which interest is to be computed and the amount of costs.

ARTICLE 7.

 SATISFACTION OR DISCHARGE

**SECTION 15‑35‑610.** Payment by surety shall not discharge judgment against principal.

The payment by a surety of a debt secured by judgment or decree shall not operate as a satisfaction of such judgment or decree against the principal debtor, but by such payment the surety shall be entitled to all the rights and privileges of the plaintiff in such judgment or decree.

**SECTION 15‑35‑620.** Payment by one surety shall not discharge judgment as to cosurety.

In case any surety in such judgment or decree shall pay it such payment shall not operate as a satisfaction of such judgment or decree as against the cosurety or sureties thereto, but such surety shall have the right to enforce the execution on such judgment or decree against his cosurety or sureties or for contribution.

**SECTION 15‑35‑630.** Discharge of bankrupts from judgments.

Any time after one year has elapsed since a bankrupt was discharged from his debts, pursuant to the acts of Congress relating to bankruptcy, the bankrupt, his receiver, trustee or any other interested person may apply, upon proof of the bankrupt’s discharge, to the court in which a judgment was rendered against him or, if rendered in a court not of record, to the court of which it has become a judgment by docketing it therein for an order directing the judgment to be cancelled and discharged of record. If it appears upon the hearing that the bankrupt has been discharged from the payment of that judgment or the debt upon which such judgment was recovered, an order must be made directing the judgment to be cancelled and discharged of record. And thereupon the clerk of the court shall cancel and discharge the judgment by marking on the docket thereof that it is cancelled and discharged by order of the court, giving the date of entry of the order of discharge.

The provisions of this section shall not operate to discharge any debt, judgment or claim that is not dischargeable under the Federal Bankruptcy Act or the law of this State.

**SECTION 15‑35‑630 was not intended to enlarge upon the relief granted a bankrupt through bankruptcy proceedings, but rather, it is clear that the Legislature intended that judgments or debts surviving bankruptcy proceedings would not be discharged under that section.** Ducker v. Standard Supply Co., Inc. (S.C. 1984) 280 S.C. 157, 311 S.E.2d 728.

**SECTION 15‑35‑640.** Discharge of bankrupts from judgments; notice of application.

Notice of the application, accompanied with copies of the papers upon which it is made, must be served upon the judgment creditor or his attorney of record in the judgment, in the same manner as provided in the rules of the circuit courts of this State for the service of process, if the residence or place of business of such creditor or his attorney is known. But if such residence or place of business is unknown and cannot be ascertained after due diligence or if such creditor is a nonresident of this State and if his attorney is dead, removed from or cannot be found within the State, upon proof of such facts by affidavit, a judge of the court may make an order that the notice of such application be published in a newspaper designated therein once a week for not more than three weeks. Such publication, shown by the affidavit of the publisher, shall be sufficient service upon such judgment creditor of the application.

**SECTION 15‑35‑650.** Entry of cancellation on margin or index of judgment.

All clerks of court shall enter the word “cancelled,” together with the signature of such officer, upon the margin or across the indices of judgments when any such judgment is duly cancelled of record by the judgment creditor or his assignee. Such cancellation and signature shall be entered in the margin opposite the names of the judgment debtor and judgment creditor, respectively, or across such names, and the like cancellation shall on the demand of the judgment debtor, or his legal representative, be made on judgments theretofore cancelled of record. Upon failure of such clerk of court to comply with the provisions of this section, he shall, in each instance, forfeit and pay to the judgment debtor the sum of ten dollars, to be recovered in any court of competent jurisdiction, and if such failure be wilful he shall, on conviction, be fined not more than one hundred dollars or be imprisoned not more than thirty days, in the discretion of the court. The solicitor of each circuit shall see that the provisions of this section are complied with or shall forthwith prosecute violators thereof.

ARTICLE 9.

 LIEN

**SECTION 15‑35‑810.** Judgments lien on real estate continue for ten years.

Final judgments and decrees entered in any court of record in this State subsequent to November 25, 1873, or in any circuit or district court of the United States within this State or of any other Federal court the final judgments and decrees of which, by act of Congress, shall be declared to create a lien, shall constitute a lien upon the real estate of the judgment debtor situate in any county in this State in which the judgment or transcript thereof is entered upon the book of abstracts of judgments and duly indexed, the lien to begin from the time of such entry on the book of abstracts and indices and to continue for a period of ten years from the date of such final judgment or decree.

**SECTION 15‑35‑820.** Judgments do not constitute a lien on exempt property.

Section 15‑35‑810 shall not be construed so as to make final judgments in any case a lien on the real property of the judgment debtor exempt from attachment, levy and sale by the Constitution.

**SECTION 15‑35‑830.** Payment of taxes by lienholders.

Any person holding a lien by way of a judgment upon any property, the subject of taxation, upon which the judgment debtor shall have failed to pay the tax or upon which there may exist a lien for taxes on any other property of the judgment debtor may, at any time before the sale thereof for delinquent taxes, as provided in Title 12, pay the tax on all the property of the judgment debtor, with any costs, penalties or assessments which may have accrued thereon. And thereupon he shall be entitled, as against the judgment debtor, his representatives, privies or assigns, to include the amount so paid and all interest thereafter accruing thereon in the debt secured by such judgment. If a judgment creditor pay such taxes he shall have the first lien on the property subject to such tax to the extent of the taxes so paid with interest from the date of payment.

**SECTION 15‑35‑840.** Attorneys as agents of judgment creditors for service of process.

Every judgment creditor who enters a judgment in any court of record in this State and does not at the same time enter as part thereof the appointment of an agent upon whom process may be served in any action or proceeding affecting any real estate upon which the judgment may at any time constitute a lien shall be deemed thereby to have constituted the attorney of record making the entry of such judgment as the agent of such judgment creditor and of his successor in interest for the purpose of accepting service of or being served with process in any such action.

**SECTION 15‑35‑850.** Termination of agency for service of process.

Any such judgment creditor and his successor in interest may terminate such agency of such attorney or of such other agent appointed as provided in Section 15‑35‑840, by enrolling and entering in the record at any time a revocation of the agency and an appointment of some other competent person, whose name and address shall be clearly stated therein and who shall be a resident of this State, as such process agent.

**SECTION 15‑35‑860.** Enrollment of appointments and revocations.

The clerk of court shall forthwith enroll all appointments and revocations of appointments of attorneys filed under Sections 15‑35‑840 and 15‑35‑850 and shall enter on the abstract of judgments a reference thereto and shall receive a fee of twenty‑five cents for every such entry to be paid by the judgment creditor at the time of such filing. But such enrollment and entry shall not affect service of process made prior thereto.

**SECTION 15‑35‑870.** Service of process in other manner suffices.

In any event service of process upon the judgment creditor in any other manner provided by law shall be sufficient.

ARTICLE 11.

 UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS

**SECTION 15‑35‑900.** Short title.

This article may be cited as the Uniform Enforcement of Foreign Judgments Act.

**SECTION 15‑35‑910.** Definitions.

As used in this article, unless the context requires otherwise:

(1) “Foreign judgment” means a judgment, decree, or order of a court of the United States or a court of another state which is entitled to full faith and credit in this State, except any orders as defined in Section 63‑17‑2910 (the Uniform Interstate Family Support Act) or a “custody decree”, as defined in Section 63‑15‑302 (the Uniform Child Custody Jurisdiction Act).

(2) “Judgment debtor” means the party against whom a foreign judgment has been rendered.

(3) “Judgment creditor” means the party in whose favor a foreign judgment has been rendered.

**SECTION 15‑35‑920.** Filing of foreign judgment and affidavit; docketing and indexing; effect; stay of enforcement upon filing of motion for relief or notice of defense.

(A) A copy of a foreign judgment authenticated in accordance with an act of Congress or the statutes of this State may be filed in the office of the clerk of court of any county of this State in which the judgment debtor resides or owns real or personal property. Along with the foreign judgment, the judgment creditor or his attorney shall make and file with the clerk an affidavit which states that the foreign judgment is final, that it is unsatisfied in whole or in part setting forth the amount remaining unpaid on the judgment, and whether the judgment is further contested. A contested judgment includes a judgment for which post‑trial motions are pending before the trial court, notice of appeal has been filed, or an appeal is pending.

(B) Upon the filing of the foreign judgment and the affidavit, the foreign judgment must be docketed and indexed in the same manner as a judgment of this State; however, no foreign judgment may be indexed if contested until resolved and no execution may issue upon the foreign judgment nor may any other proceeding be taken for its enforcement until the expiration of thirty days from the date upon which notice of filing is served in accordance with Section 15‑35‑930.

(C) A judgment so filed has the same effect and is subject to the same defenses as a judgment of this State and must be enforced or satisfied in like manner; however, if the judgment is contested, or the judgment debtor files a motion for relief or notice of defense pursuant to Section 15‑35‑940, enforcement of the foreign judgment is stayed automatically, without security, except as hereinafter provided, until the court finally disposes of the matter. During the time a motion for relief is pending or a stay under this section is in effect, no levy, writ of attachment, or other encumbrance of the judgment debtor’s property in furtherance of execution on the foreign judgment shall issue or otherwise be enforceable in this State unless after due notice to the judgment debtor and opportunity to be heard in a court of competent jurisdiction, the judgment creditor shows that the judgment debtor’s property in this State has been or is about to be disposed of or removed from this State with intent to defraud the judgment creditor, or to otherwise deplete the assets for purposes of avoiding payment of the judgment.

**SECTION 15‑35‑930.** Notice of filing; service and proof of service of notice.

(A) Promptly upon the filing of a foreign judgment and affidavit, the judgment creditor shall serve the notice of filing provided for in subsection (B) on the judgment debtor and shall attach a filed, stamped copy of the foreign judgment and affidavit to the notice. Service and proof of service of the notice may be made in any manner provided for in the South Carolina Rules of Civil Procedure.

(B) The notice must set forth the name and address of the judgment creditor, his attorney if any, and the clerk’s office in which the foreign judgment is filed in this State and must state that the judgment attached to the notice has been filed in that office, that the judgment debtor has thirty days from the date of receipt of the notice to seek relief from the enforcement of the judgment, and that if the judgment is not satisfied and no relief is sought within that thirty days, the judgment will be enforced in this State in the same manner as a judgment of this State.

**SECTION 15‑35‑940.** Motion for relief from, or notice of defense to, foreign judgment; grounds; motion for enforcement; Rules of Civil Procedure applicable; burden of proving judgment entitled to full faith and credit.

(A) The judgment debtor may file a motion for relief from, or notice of defense to, the foreign judgment on the grounds that the foreign judgment has been appealed from, that enforcement has been stayed by the court which rendered it, or on any other ground for which relief from a judgment of this State is allowed.

(B) If the judgment debtor has filed a motion for relief or notice of defenses, then the judgment creditor may move for enforcement or security of the foreign judgment as a judgment of this State, if all appeals of the foreign judgment are finally concluded and the judgment is not further contested. The judgment creditor’s motion must be heard before a judge who has jurisdiction of the matter based upon the amount in controversy as the amount remaining unpaid on the foreign judgment. The South Carolina Rules of Civil Procedure apply. The judgment creditor has the burden of proving that the foreign judgment is entitled to full faith and credit.

**SECTION 15‑35‑950.** Article does not impair judgment creditor’s right to bring civil action in State to enforce judgment.

This article may not be construed to impair a judgment creditor’s right to bring a civil action in this State to enforce the creditor’s judgment.

**SECTION 15‑35‑960.** Inapplicability to judgments based on claims contrary to public policy.

The provisions of this article do not apply to foreign judgments based on claims which are contrary to the public policies of this State.