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CHAPTER 1

General Provisions

**SECTION 15‑1‑10.** Rules of construction.

The rule of common law that statutes in derogation of that law are to be strictly construed has no application to this Title.

HISTORY: 1962 Code Section 10‑1; 1952 Code Section 10‑1; 1942 Code Section 902; 1932 Code Section 902; Civ. P. ‘22 Section 850; Civ. P. ‘12 Section 487; Civ. P. ‘02 Section 448; 1870 (14) Section 470.

**SECTION 15‑1‑30.** “Real property” and “real estate” defined.

The words “real property” and “real estate” as used in this Title are coextensive with lands, tenements and hereditaments.

HISTORY: 1962 Code Section 10‑3; 1952 Code Section 10‑3; 1942 Code Section 897; 1932 Code Section 897; Civ. P. ‘22 Section 845; Civ. P. ‘12 Section 482; Civ. P. ‘02 Section 444; 1870 (14) Section 466.

**SECTION 15‑1‑40.** “Personal property” defined.

The words “personal property,” as used in this Title, include money, goods, chattels, things in action and evidences of debt.

HISTORY: 1962 Code Section 10‑4; 1952 Code Section 10‑4; 1942 Code Section 898; 1932 Code Section 898; Civ. P. ‘22 Section 846; Civ. P. ‘12 Section 483; Civ. P. ‘02 Section 445; 1870 (14) Section 467.

**SECTION 15‑1‑50.** “Property” defined.

The word “property,” as used in this Title, includes both real and personal property.

HISTORY: 1962 Code Section 10‑5; 1952 Code Section 10‑5; 1942 Code Section 899; 1932 Code Section 899; Civ. P. ‘22 Section 847; Civ. P. ‘12 Section 484; Civ. P. ‘02 Section 446; 1870 (14) Section 468.

**SECTION 15‑1‑60.** “Clerk” defined.

The word “clerk”, as used in this title, signifies the clerk of the court where the action is pending and, in the Supreme Court or the court of appeals, the clerk of the county mentioned in the title of the complaint or in another county to which the court may have changed the place of trial, unless otherwise specified.

HISTORY: 1962 Code Section 10‑6; 1952 Code Section 10‑6; 1942 Code Section 900; 1932 Code Section 900; Civ. P. ‘22 Section 848; Civ. P. ‘12 Section 485; Civ. P. ‘02 Section 447; 1870 (14) 469; 1999 Act No. 55, Section 18.

**SECTION 15‑1‑220.** Filing of undertakings.

The various undertakings required to be given by this Title must be filed with the clerk of the appropriate court unless the court expressly provides for a different disposition thereof, except that the undertakings provided for by Chapter 69 of this Title shall, after the justification of the sureties, be delivered by the sheriffs to the parties, respectively, for whose benefit they are taken.

HISTORY: 1962 Code Section 10‑22; 1952 Code Section 10‑22; 1942 Code Section 824; 1932 Code Section 824; Civ. P. ‘22 Section 772; Civ. P. ‘12 Section 458; Civ. P. ‘02 Section 420; 1870 (14) 521 Section 438.

**SECTION 15‑1‑230.** Bonds in judicial proceedings.

In all judicial proceedings, whenever it may become necessary for any party thereto to give a bond for any purpose, the bond of such party having as surety thereon any surety company authorized to do business in this State may be accepted by any officer or court whose duty is to approve such bond, without other surety. The provisions of this section shall apply to bonds given in connection with any appellate proceeding for the purpose of obtaining supersedeas or for any other purpose. And in all actions or proceedings the party entitled to recover costs may include therein such reasonable sum as may have been paid such company executing or guaranteeing any bond or undertaking therein. No person having the approval of any such bond shall exact that it be furnished by a guaranty company or any particular guaranty company.

HISTORY: 1962 Code Section 10‑23; 1952 Code Section 10‑23; 1942 Code Section 3058; 1932 Code Section 3058; Civ. C. ‘22 Section 749; Civ. C. ‘12 Section 667; Civ. C. ‘02 Section 599; R. S. 517; 1892 (21) 76; 1894 (21) 757; 1896 (22) 28; 1912 (27) 703; 1947 (45) 322.

**SECTION 15‑1‑240.** Sheriff shall not take attorney at law or officer of court as bail.

No sheriff shall take any attorney at law or officer of court as bail for any person whomsoever in any civil case.

HISTORY: 1962 Code Section 10‑24; 1952 Code Section 10‑23.1; 1942 Code Section 3526; 1932 Code Section 3526; Civ. C. ‘22 Section 2069; Civ. C. ‘12 Section 1176; Civ. C. ‘02 Section 851; G. S. 667; R. S. 731; 1839 (11) 45.

**SECTION 15‑1‑250.** Cash deposit in lieu of bond.

Whenever it shall be necessary for a party to any action or proceeding to give a bond or an undertaking with surety or sureties he may, in lieu thereof, deposit with the officer or into the court, as the case may require, money to the amount for which the bond or undertaking is to be given. The court in which such action or proceeding is pending may direct what disposition shall be made of such money, pending the action or proceeding. In any case in which, by this section, the money is to be deposited with an officer, a judge of the court, in term or at chambers, upon the application of either party, may, before such deposit is made, order it to be deposited in court instead of with such officer and a deposit made pursuant to such order shall be of the same effect as if made with such officer.

HISTORY: 1962 Code Section 10‑25; 1952 Code Section 10‑25; 1942 Code Sections 347, 783; 1932 Code Sections 347, 783; Civ. P. ‘22 Sections 303, 648; Civ. C. ‘12 Section 3936; Civ. P. ‘12 Section 386; Civ. C. ‘02 Section 2833; Civ. P. ‘02 Section 347; 1870 (14) 502 Section 360; 1897 (22) 424.

**SECTION 15‑1‑260.** Payment of deposit in lieu of bond.

Whenever such bond, recognizance or undertaking is required or authorized to be given in any civil proceeding:

(1) In the courts of common pleas of this State the sum of money deposited in lieu thereof shall be paid to the clerk of the court of common pleas in which such proceeding is pending;

(2) In the Supreme Court or court of appeals of this State the sum of money shall be paid to the clerk of that appellate court;

(3) In the probate courts of this State such sum of money shall be paid to the judge of the court of probate in which the proceeding is pending; and

(4) In a magistrate’s court or other court of inferior jurisdiction, such sum of money shall be paid to the clerk of the court of common pleas for the county in which such magistrate’s court or other court of inferior jurisdiction shall be.

HISTORY: 1962 Code Section 10‑26; 1952 Code Section 10‑26; 1942 Code Section 348; 1932 Code Section 348; Civ. P. ‘22 Section 304; Civ. C. ‘12 Section 3937; Civ. C. ‘02 Section 2834; 1897 (22) 424; 1999 Act No. 55, Section 19.

**SECTION 15‑1‑270.** Receipt for deposit.

Whenever any sum of money is so deposited in lieu of a bond, recognizance or undertaking the person depositing it shall be entitled to a receipt therefor, stating that such sum of money has been deposited and is held for the same purpose as would have been specified and conditioned in the bond, recognizance or undertaking in lieu whereof such sum of money is so deposited.

HISTORY: 1962 Code Section 10‑27; 1952 Code Section 10‑27; 1942 Code Section 349; 1932 Code Section 349; Civ. P. ‘22 Section 305; Civ. C. ‘12 Section 3938; Civ. C. ‘02 Section 2835; 1897 (22) 424.

**SECTION 15‑1‑280.** Return of deposit.

The person so depositing a sum of money in lieu of a bond, recognizance or undertaking shall be entitled upon application to the court wherein such deposit has been made and subject to the order on which such funds are held to receive back such sum whenever the purposes for which it has been received and deposited have been accomplished and the person is entitled to repayment thereof.

HISTORY: 1962 Code Section 10‑28; 1952 Code Section 10‑28; 1942 Code Section 349; 1932 Code Section 349; Civ. P. ‘22 Section 305; Civ. C. ‘12 Section 3938; Civ. C. ‘02 Section 2835; 1897 (22) 424.

**SECTION 15‑1‑290.** Liability for injury to guests in car.

No person transported by an owner or operator of a motor vehicle as his guest without payment for such transportation shall have a cause of action for damages against such motor vehicle or its owner or operator for injury, death or loss in case of an accident unless such accident shall have been intentional on the part of such owner or operator or caused by his heedlessness or his reckless disregard of the rights of others.

This section shall not relieve a public carrier or any owner or operator of a motor vehicle which is being demonstrated to a prospective purchaser of responsibility for any injuries sustained by a passenger while being transported by such public carrier or while such motor vehicle is being so demonstrated.

HISTORY: 1962 Code Section 46‑801; 1952 Code Section 46‑801; 1942 Code Section 5908; 1932 Code Section 5908; 1930 (36) 1164; 1935 (39) 356.

**SECTION 15‑1‑300.** Contributory negligence shall not bar recovery in motor vehicle accident action.

In any motor vehicle accident, contributory negligence shall not bar recovery in any action by any person or legal representative to recover damages for negligence resulting in death or in injury to person or property, if such contributory negligence was equal to or less than the negligence which must be established in order to recover from the party against whom recovery is sought.

HISTORY: 1962 Code Section 46‑802.1; 1974 (58) 2718.

**SECTION 15‑1‑310.** Liability for emergency care rendered at scene of accident.

Any person, who in good faith gratuitously renders emergency care at the scene of an accident or emergency to the victim thereof, shall not be liable for any civil damages for any personal injury as a result of any act or omission by such person in rendering the emergency care or as a result of any act or failure to act to provide or arrange for further medical treatment or care for the injured person, except acts or omissions amounting to gross negligence or wilful or wanton misconduct.

HISTORY: 1962 Code Section 46‑803; 1964 (53) 2164.

**SECTION 15‑1‑320.** References to minors in State laws mean persons under age of 18 years; exceptions; presumption that minors were persons under age of 21 in certain wills, trusts and deeds.

(a) All references to minors in the law of this State shall after February 6, 1975, be deemed to mean persons under the age of eighteen years except in laws relating to the sale of alcoholic beverages; provided, however, that any person performing any act or receiving any property, rights or responsibilities pursuant to an instrument executed prior to February 6, 1975, shall have his majority or minority determined by the law relating to majority or minority in existence at the time of the execution of such instrument.

(b) Persons executing wills, trusts and deeds prior to February 6, 1975, shall be presumed to have intended that minors were persons under the age of twenty‑one years in the absence of facts which would indicate a contrary intention.

HISTORY: 1976 Act No. 695, Sections 2, 3.

**SECTION 15‑1‑330.** “Year 2000” computer failure immunity.

A governmental entity is not liable for a loss arising from the failure of a computer, software program, database, network, information system, firmware, or any other device, whether operated by or on behalf of the governmental entity, to interpret, produce, calculate, generate, or account for a date which is compatible with the “Year 2000” date change. However, this immunity does not apply to a governmental entity which programmed and operated the device itself in a wilful, wanton, reckless, or grossly negligent manner thereby causing a Year 2000 computer failure.

HISTORY: 1999 Act No. 100, Part II, Section 69.

**SECTION 15‑1‑340.** Right of service member to proceed in civil action; providing evidence by video‑camera or other electronic means.

(A) A service member who is entitled to a stay in civil proceedings pursuant to the Service Members Civil Relief Act, 50 U.S.C. App. Section 501, et seq. may elect to proceed while the service member is reasonably unavailable to appear in the geographical location in which the litigation is pursued and may seek relief and provide evidence through video‑conferencing, Internet camera, email, or another reasonable electronic means. Testimony presented must be made under oath, in a manner viewable by all parties, and in the presence of a court reporter. In matters when a party who is physically present in the State is permitted to use affidavits or seek temporary relief, the service member may submit testimony by affidavit.

(B) The court must allow a party to proceed pursuant to this section unless an opposing party establishes a compelling reason not to proceed by clear and convincing evidence. The court must allow a party to present evidence pursuant to a method provided by this section unless an opposing party established that the method will cause a substantial injustice, deny effective cross examination, deny the right to confront the witness, or abridge another constitutional right.

HISTORY: 2009 Act No. 25, Section 2, eff June 2, 2009.