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CHAPTER 9

Appeals to Supreme Court and Court of Appeals

**SECTION 18‑9‑10.** When appeal may be taken.

An appeal may be taken to the Supreme Court or the Court of Appeals in the cases mentioned in Sections 14‑3‑320 and 14‑3‑330. The procedure for taking an appeal is as provided by the South Carolina Appellate Court Rules.

HISTORY: 1962 Code Section 7‑401; 1952 Code Section 7‑401; 1942 Code Section 780; 1932 Code Section 780; Civ. P. ‘22 Section 645; Civ. P. ‘12 Section 383; Civ. P. ‘02 Section 344; 1870 (14) 358; 1991 Act No. 115, Section 3, eff June 5, 1991; 1999 Act No. 55, Section 26, eff June 1, 1999.

**SECTION 18‑9‑20.** Review of convictions of capital offenses.

The Supreme Court shall review each conviction of a capital offense by any court in this State.

HISTORY: 1962 Code Section 7‑401.1; 1974 (58) 2361.

**SECTION 18‑9‑30.** Appeals in probate matters.

The Supreme Court and the Court of Appeals shall have jurisdiction of all questions of law arising in the course of the proceedings of the circuit court in probate matters in the same manner as provided by law in other cases.

HISTORY: 1962 Code Section 7‑402; 1952 Code Section 7‑402; 1942 Code Section 229; 1932 Code Section 229; Civ. P. ‘22 Section 186; Civ. P. ‘12 Section 62; Civ. P. ‘02 Section 56; 1870 (14) 56; 1999 Act No. 55, Section 27, eff June 1, 1999.

**SECTION 18‑9‑40.** Statement of questions of law and facts when questions certified.

When the circuit court shall render judgment upon a verdict taken, subject to the opinion of the court, the questions or conclusions of law together with a concise statement of the facts upon which they arose shall be prepared by and under the direction of the court, shall be filed with the judgment roll, and shall be considered a part of the judgment roll for the purposes of a review in the Supreme Court or the Court of Appeals.

HISTORY: 1962 Code Section 7‑403; 1952 Code Section 7‑403; 1942 Code Section 780; 1932 Code Section 780; Civ. P. ‘22 Section 645; Civ. P. ‘12 Section 383; Civ. P. ‘02 Section 344; 1870 (14) 358; 1999 Act No. 55, Section 28, eff June 1, 1999.

**SECTION 18‑9‑50.** Practice and proceedings on appeal from courts of general sessions.

The practice and proceedings in cases of appeal from the courts of general sessions shall conform to the practice and proceedings in cases of appeal from the courts of common pleas.

HISTORY: 1962 Code Section 7‑404; 1952 Code Section 7‑404; 1942 Code Section 1033; 1932 Code Section 1033; Cr. P. ‘22 Section 123; Cr. C. ‘12 Section 102; Cr. C. ‘02 Section 75; R. S. 74; 1884 (18) 737.

**SECTIONS 18‑9‑60 to 18‑9‑120.** Repealed by 1985 Act No. 100, Section 2, eff July 1, 1985.

Editor’s Note

1985 Act No. 100, Sections 1 and 3, provide as follows:

“SECTION 1. Pursuant to Article V, Section 4A of the Constitution of this State, the Supreme Court of South Carolina has promulgated Rules of Civil Procedure governing practice and procedure in civil actions in the courts of this State, which rules were not disapproved by the General Assembly; and it is the intent of the General Assembly to repeal provisions of the 1976 Code of Laws of South Carolina, to be replaced by the Rules of Civil Procedure.”

“SECTION 3. In event of conflict between any provision of the South Carolina Rules of Civil Procedure and any other statutory provisions as to practice and procedure not repealed in this act, the provision of the rules shall control. However, neither the promulgation of the rules nor this act may be construed to affect the substantive legal rights of any party to any civil litigation in the courts of this State but shall affect only matters of practice and procedure.”

Former Sections 18‑9‑60 to 18‑9‑120 were derived from 1962 Code Sections 7‑405 to 7‑411; 1952 Code Sections 7‑405 to 7‑411; 1942 Code Sections 781, 784, 785; 1932 Code Sections 781, 784, 785; Civ. P. ‘22 Sections 646, 649, 650; Civ. P. ‘12 Sections 384, 387, 388; Civ. P. ‘02 Sections 345, 348, 349; 1902 (23) 1905; 1889 (20) 356; 1880 (17) 368; 1878 (16) 698; 1875 (15) 862.

Former Section 18‑9‑60 was entitled “Notice of intent to appeal”.

Former Section 18‑9‑70 was entitled “Case and exceptions; objections; settlement”.

Former Section 18‑9‑80 was entitled “Agreements upon statement of case”.

Former Section 18‑9‑90 was entitled “Docketing of case”.

Former Section 18‑9‑100 was entitled “Waiver by failure to perfect appeal”.

Former Section 18‑9‑110 was entitled “Extending time for certain steps in appeals”.

Former Section 18‑9‑120 was entitled “Correction of inadvertent failure to perfect appeal”.

**SECTION 18‑9‑130.** Effect of notice of appeal on execution of judgment; sale of defendant’s property; appeal in civil action involving signatory of Master Settlement Agreement.

(A)(1) A notice of appeal from a judgment directing the payment of money does not stay the execution of the judgment unless the presiding judge before whom the judgment was obtained grants a stay of execution. If the presiding judge grants a stay of execution and requires a bond or other surety to guarantee the payment of the judgment pending the appeal, the amount of the bond or other surety may not exceed the amount of the judgment or:

(a) twenty‑five million dollars, whichever is less, for a business entity that employs more than fifty persons and has gross revenues exceeding five million dollars for the previous tax year; or

(b) one million dollars, whichever is less, for all other entities or individuals.

(2) A plaintiff may not enforce a sale of property after a notice of appeal is filed without giving an undertaking or bond to the defendant, with two good sureties, in double the appraised value of the property or double the amount of the judgment, conditioned to pay all damages the defendant may sustain by reason of the sale in case the judgment is reversed. The plaintiff in such a case may not proceed with a sale of defendant’s property if the defendant enters into an undertaking, with good sureties, in double the appraised value of the property or the amount of the judgment, to pay the judgment with legal interest and all costs and damages the plaintiff may sustain by reason of the appeal or to produce the property levied on and submit to the sale if the judgment is confirmed.

(B)(1) The appeal of a judgment awarding relief in a civil action, under any legal theory, involving a signatory of the Master Settlement Agreement, as defined in Section 11‑47‑20(e), or a successor to or affiliate of a signatory to the agreement, automatically stays the execution of that judgment.

(2) The stay described in this subsection is effective upon the filing of the notice of appeal and during the entire course of appellate review of the judgment.

HISTORY: 1962 Code Section 7‑412; 1952 Code Section 7‑412; 1942 Code Section 782; 1932 Code Section 782; Civ. P. ‘22 Section 647; Civ. P. ‘12 Section 385; Civ. P. ‘02 Section 346; 1870 (14) 360; 1873 (15) 501; 2004 Act No. 216, Section 2, eff April 26, 2004; 2011 Act No. 52, Section 6, eff January 1, 2012.

Editor’s Note

2004 Act No. 216, Section 3, provides as follows:

“This act takes effect upon approval by the Governor and applies to all cases pending on or filed on or after that date.”

2011 Act No. 52, Section 7, provides as follows:

“SECTION 7. This act takes effect January 1, 2012, and applies to all actions that accrue on or after the effective date except the provisions of SECTION 3 do not apply to any matter pending on the effective date of this act.”

**SECTION 18‑9‑140.** New undertaking in case sureties have become insolvent.

Whenever it shall be made satisfactorily to appear to the court that since the execution of an undertaking such as is mentioned in Section 18‑9‑130 the sureties have become insolvent, the court may by rule or order require the appellant to execute, file and serve a new undertaking meeting the requirements of that section and in case of failure to execute such undertaking within twenty days after the service of a copy of the rule or order requiring such new undertaking, the appeal may, on motion to the court, be dismissed with costs.

HISTORY: 1962 Code Section 7‑413; 1952 Code Section 7‑413; 1942 Code Section 783; 1932 Code Section 783; Civ. P. ‘22 Section 648; Civ. P. ‘12 Section 386; Civ. P. ‘02 Section 347; 1870 (14) 360.

**SECTION 18‑9‑150.** Deposit or surety when judgment requires delivery of documents or personalty.

If the judgment appealed from directs the assignment or delivery of documents or personal property, the execution of the judgment shall not be stayed by appeal unless the things required to be assigned or delivered be brought into court or placed in the custody of such officer or receiver as the court shall appoint or unless an undertaking be entered into on the part of the appellant, with at least two sureties and in such amount as the court or a judge thereof shall direct, to the effect that the appellant will obey the order of the appellate court upon the appeal.

HISTORY: 1962 Code Section 7‑415; 1952 Code Section 7‑415; 1942 Code Section 786; 1932 Code Section 786; Civ. P. ‘22 Section 651; Civ. P. ‘12 Section 389; Civ. P. ‘02 Section 350; 1870 (14) 361; 1999 Act No. 55, Section 29, eff June 1, 1999.

**SECTION 18‑9‑160.** Staying judgment to execute conveyance.

If the judgment appealed from directs the execution of a conveyance or other instrument, the execution of the judgment shall not be stayed by the appeal until the instrument shall have been executed and deposited with the clerk with whom the judgment is entered, to abide the judgment of the appellate court.

HISTORY: 1962 Code Section 7‑416; 1952 Code Section 7‑416; 1942 Code Section 787; 1932 Code Section 787; Civ. P. ‘22 Section 652; Civ. P. ‘12 Section 390; Civ. P. ‘02 Section 351; 1870 (14) 362; 1999 Act No. 55, Section 30, eff June 1, 1999.

**SECTION 18‑9‑170.** Staying judgment for sale or delivery of land.

If the judgment appealed from direct the sale or delivery of possession of real property, the execution of the judgment shall not be stayed unless a written undertaking be executed on the part of the appellant, with two sureties, to the effect that during the possession of such property by the appellant he will not commit or suffer to be committed any waste thereon and that if the judgment be affirmed he will pay the value of the use and occupation of the property from the time of the execution of the undertaking until the delivery of possession thereof pursuant to the judgment, not exceeding a sum to be fixed by a judge of the court by which judgment was rendered and which shall be specified in the undertaking. When the judgment directs the sale of land to satisfy a mortgage thereon or other lien, the undertaking shall provide that in case the judgment appealed from be affirmed and the land be finally sold for less than the judgment debt and costs then the appellant shall pay for any waste committed or suffered to be committed on the land and shall pay a reasonable rental value for the use and occupation of the land from the time of the execution of the undertaking to the time of the sale, but not exceeding the amount of such deficiency, which sum shall be duly entered as a payment on the judgment; and in case the land shall be unimproved land, then in any action or proceedings now pending or hereafter begun in any of the courts of this State the undertaking shall further provide for the payment by appellant, if the judgment be affirmed, of any taxes due at the time of the appeal or already paid by the mortgagee, or becoming due during the pendency of the appeal, and also for the payment by appellant of the interest on the debt falling due during the pendency of such appeal.

HISTORY: 1962 Code Section 7‑417; 1952 Code Section 7‑417; 1942 Code Section 788; 1932 Code Section 788; Civ. P. ‘22 Section 653; Civ. P. ‘12 Section 391; Civ. P. ‘02 Section 352; 1870 (14) 363; 1898 (22) 689; 1900 (23) 351.

**SECTION 18‑9‑180.** Stay of proceedings upon execution of bond or perfection of appeal.

Whenever the defendant executes the bond mentioned in Sections 18‑9‑130, 18‑9‑150 and 18‑9‑170 or the appeal is perfected as provided by Sections 18‑9‑150 or 18‑9‑160, it shall stay all further proceedings in the court below upon the judgment appealed from or upon the matter embraced therein; but the court below may proceed upon any other matter included in the action and not affected by the judgment appealed from.

HISTORY: 1962 Code Section 7‑418; 1952 Code Section 7‑418; 1942 Code Section 789; 1932 Code Section 789; Civ. P. ‘22 Section 654; Civ. P. ‘12 Section 392; Civ. P. ‘02 Section 353; 1870 (14) 364; 1873 (15) 501.

**SECTION 18‑9‑190.** Dispensing with or limiting security required.

The court below may, in its discretion, dispense with or limit the security required by Sections 18‑9‑130, 18‑9‑150 and 18‑9‑170, when the appellant is an executor, administrator, trustee or other person acting in another’s right; and may also limit such security to the amount of less than fifty thousand dollars in the cases mentioned in Sections 18‑9‑150 and 18‑9‑170, when it would otherwise, according to those sections, exceed that sum.

HISTORY: 1962 Code Section 7‑419; 1952 Code Section 7‑419; 1942 Code Section 789; 1932 Code Section 789; Civ. P. ‘22 Section 654; Civ. P. ‘12 Section 392; Civ. P. ‘02 Section 353; 1870 (14) 364; 1873 (15) 501.

**SECTION 18‑9‑200.** Undertakings may be in one instrument or several; service on adverse party.

The undertakings prescribed by Sections 18‑9‑130, 18‑9‑140 and 18‑9‑170 may be in one instrument or several, at the option of the applicant, and a copy, including the names and residences of the sureties, must be served on the adverse party with notice of the appeal unless a deposit is made as provided in Section 15‑1‑250, and notice thereof given.

HISTORY: 1962 Code Section 7‑420; 1952 Code Section 7‑420; 1942 Code Section 790; 1932 Code Section 790; Civ. P. ‘22 Section 655; Civ. P. ‘12 Section 393; Civ. P. ‘02 Section 354; 1870 (14) 365; 1873 (15) 501.

**SECTION 18‑9‑210.** Justification by sureties; subsequent justification on new sureties.

An undertaking upon an appeal shall be of no effect, unless it be accompanied by the affidavit of the sureties that they are each worth double the amount specified therein. The respondent may, however, except to the sufficiency of the sureties within ten days after receipt of the notice of appeal; and unless they or other sureties justify before a judge or clerk of the court below, as prescribed by Sections 15‑17‑270 and 15‑17‑280, within ten days thereafter, the appeal shall be regarded as if no undertaking had been given. The justification shall be upon notice of not less than five days. No clerk shall take the justification of any surety or sureties in a case in which he may be interested or when either of the parties or such surety or sureties shall be connected with him by affinity or consanguinity within the sixth degree, and in all cases in which the clerk may have approved or disapproved of the sufficiency of a surety or sureties his action may be reviewed, on motion, after notice before a circuit judge. And in case at any time in any action a respondent shall be of opinion that the surety or sureties on any bond already approved are insufficient and shall make affidavit of the fact, setting out the grounds of such belief and serving a copy thereof upon appellant’s attorney, then the sureties or other sureties shall justify anew thereon in the same manner and with the same effect as though such new justification were an original justification on such bond.

HISTORY: 1962 Code Section 7‑421; 1952 Code Section 7‑421; 1942 Code Section 791; 1932 Code Section 791; Civ. P. ‘22 Section 656; Civ. P. ‘12 Section 394; Civ. P. ‘02 Section 355; 1901 (23) 697.

**SECTION 18‑9‑220.** When notice of appeal stays proceedings below.

In cases not provided for in Sections 18‑9‑130 and 18‑9‑150 to 18‑9‑180, the notice of appeal shall stay proceedings in the court below upon the judgment appealed from, except that when it directs the sale of perishable property, the court below may order the property to be sold and the proceeds of the property to be deposited or invested in bonds of this State or of the United States, to abide the judgment of the appellate court.

HISTORY: 1962 Code Section 7‑422; 1952 Code Section 7‑422; 1942 Code Section 792; 1932 Code Section 792; Civ. P. ‘22 Section 657; Civ. P. ‘12 Section 395; Civ. P. ‘02 Section 356; 1887 (18) 837; 1889 (20) 355; 1999 Act No. 55, Section 31, eff June 1, 1999.

**SECTION 18‑9‑230.** Undertaking must be filed.

The undertaking must be filed with the clerk with whom the judgment or order appealed from was entered.

HISTORY: 1962 Code Section 7‑423; 1952 Code Section 7‑423; 1942 Code Section 793; 1932 Code Section 793; Civ. P. ‘22 Section 658; Civ. P. ‘12 Section 396; Civ. P. ‘02 Section 357; 1870 (14) 368.

**SECTION 18‑9‑240.** Security provisions apply to appeals in special proceedings.

The provisions of this chapter as to the security to be given upon appeals and as to the stay of proceedings shall apply to appeals taken under item (3) of Section 14‑3‑330.

HISTORY: 1962 Code Section 7‑424; 1952 Code Section 7‑424; 1942 Code Section 793; 1932 Code Section 793; Civ. P. ‘22 Section 658; Civ. P. ‘12 Section 396; Civ. P. ‘02 Section 357; 1870 (14) 368.

**SECTION 18‑9‑250.** Repealed by 1991 Act No. 115, Section 4, eff June 5, 1991.

Editor’s Note

Former Section 18‑9‑250 was derived from 1962 Code Section 7‑425; 1952 Code Section 7‑425; 1942 Code Section 29; 1932 Code Section 29; 1923 (33) 107.

Former Section 18‑9‑250 provided for the printing of testimony in appeals to the Supreme Court from county courts, courts of common pleas, and courts of general sessions.

**SECTION 18‑9‑260.** Repealed by 1985 Act No. 100, Section 2, eff July 1, 1985.

Editor’s Note

Former Section 18‑9‑260 was derived from 1962 Code Section 7‑426; 1952 Code Section 7‑426; 1942 Code Section 779; 1932 Code Section 779; Civ. P. ‘22 Section 644; Civ. P. ‘12 Section 382; Civ. P. ‘02 Section 343; 1873 (15) 501; 1941 (42) 223.

1985 Act No. 100, Sections 1 and 3, provide as follows:

“SECTION 1. Pursuant to Article V, Section 4A of the Constitution of this State, the Supreme Court of South Carolina has promulgated Rules of Civil Procedure governing practice and procedure in civil actions in the courts of this State, which rules were not disapproved by the General Assembly; and it is the intent of the General Assembly to repeal provisions of the 1976 Code of Laws of South Carolina, to be replaced by the Rules of Civil Procedure.”

“SECTION 3. In event of conflict between any provision of the South Carolina Rules of Civil Procedure and any other statutory provisions as to practice and procedure not repealed in this act, the provision of the rules shall control. However, neither the promulgation of the rules nor this act may be construed to affect the substantive legal rights of any party to any civil litigation in the courts of this State but shall affect only matters of practice and procedure.”

**SECTION 18‑9‑270.** Judgment of Supreme Court or Court of Appeals.

The Supreme Court or the Court of Appeals may reverse, affirm, or modify the judgment, decree, or order appealed from in whole or in part and as to any or all of the parties, and the judgment shall be remitted to the court below to be enforced according to law.

HISTORY: 1962 Code Section 7‑427; 1952 Code Section 7‑427; 1942 Code Section 27; 1932 Code Section 27; Civ. P. ‘22 Section 27; Civ. P. ‘12 Section 12; Civ. P. ‘02 Section 12; 1896 (22) 7; 1904 (24) 389; 1999 Act No. 55, Section 32, eff June 1, 1999.

**SECTION 18‑9‑280.** Written opinions required; memorandum opinions.

When a judgment or decree is reversed or affirmed by the Supreme Court every point made and distinctly stated in the cause and fairly arising upon the record of the case shall be considered and decided and the reason thereof shall be concisely and briefly stated in writing and preserved in the record of the case, except the Court may file memorandum opinions in unanimous decisions when the Court determines that a full written opinion would have no precedential value and any one or more of the following circumstances exists and is dispositive of a matter submitted to the Court for decision: (1) that a judgment of the trial court is based on findings of fact which are not clearly erroneous; (2) that the evidence of a jury verdict is not insufficient; (3) that the order of an administrative agency is supported by such quantum of evidence as prescribed by the statute or law under which judicial review is permitted; (4) that no error of law appears.

HISTORY: 1962 Code Section 7‑428; 1952 Code Section 7‑428; 1942 Code Section 27; 1932 Code Section 27; Civ. P. ‘22 Section 27; Civ. P. ‘12 Section 12; Civ. P. ‘02 Section 12; 1896 (22) 7; 1904 (24) 389; 1976 Act No. 530.

**SECTION 18‑9‑290.** Time for filing decisions.

The justices of the Supreme Court shall file their decisions within sixty days from the last day of the court at which the cases were heard.

HISTORY: 1962 Code Section 7‑429; 1952 Code Section 7‑429; 1942 Code Section 27; 1932 Code Section 27; Civ. P. ‘22 Section 27; Civ. P. ‘12 Section 12; Civ. P. ‘02 Section 12; 1896 (22) 7; 1904 (24) 389.

**SECTION 18‑9‑300.** Repealed by 1991 Act No. 115, Section 4, eff June 5, 1991.

Editor’s Note

Former Section 18‑9‑300 was derived from 1962 Code Section 7‑430; 1952 Code Section 7‑430; 1942 Code Section 27; 1932 Code Section 27; Civ. P. ‘22 Section 27; Civ. P. ‘12 Section 12; Civ. P. ‘02 Section 12; 1896 (22) 7; 1904 (24) 389.

Former Section 18‑9‑300 provided for the clerk of the Supreme Court to attach to the judgment remitted to the court below a copy of the opinion of the Supreme Court, if any, rendered in the case; and provided for a fee for such services.