CHAPTER 1

General Provisions

**SECTION 29‑1‑10.** Lien on real estate of no force after twenty years; exception for acknowledged debt or payment on account; lien on property interest held by gas or electric utility or electric cooperative.

 No mortgage or deed having the effect of a mortgage or other lien shall constitute a lien upon any real estate after the lapse of twenty years from the date for the maturity of the lien. However, if the holder of the lien shall, at any time during the continuance of the lien, cause to be recorded upon the record of that mortgage or deed having the effect of a mortgage or other lien a note of some payment on account or some written acknowledgment of the debt secured thereby, with the date of the payment or acknowledgment, the mortgage or deed having the effect of a mortgage or other lien shall be, and shall continue to be, a lien for twenty years from the date of the record of that payment on account or acknowledgment. When there is no maturity stated or fixed in the mortgage or the record of the mortgage, then the provisions hereof are applicable from the date of that mortgage and that mortgage shall not constitute a lien after the lapse of twenty years from the date thereof. Notwithstanding the above provisions of this section, any mortgage or other instrument which by its terms creates a lien upon any real property interest held by a gas or electrical utility or electric cooperative shall continue to constitute a lien thereon until satisfied or released of record regardless of whether or not the instrument states a maturity date.

 Any mortgage or other instrument executed or modified of record after the effective date of this paragraph which affects a lien upon any real property interest held by a gas or electrical utility or electric cooperative and is intended to take advantage of the provisions of this section shall state on its face that the lien continues until satisfied or released of record regardless of whether or not the instrument states a maturity date, and shall also state on its face that it is subject to the provisions of this section.

HISTORY: 1962 Code Section 45‑1; 1952 Code Section 45‑1; 1942 Code Section 8864; 1932 Code Section 8864; Civ. C. ‘22 Section 5305; Civ. C. ‘12 Section 3535; Civ. C. ‘02 Section 2449; G. S. 1831; R. S. 1961; 1879 (17) 167; 1898 (22) 748; 1903 (24) 88; 1904 (24) 408; 1924 (33) 990; 1993 Act No. 141, Section 1.

Editor’s Note

1993 Act No. 141, Section 5, effective June 14, 1993, provides as follows:

“SECTION 5. The provisions provided for gas or electrical utilities or electric cooperatives in Sections 29‑1‑10, 29‑3‑50(B), 29‑3‑80, and 29‑3‑90 of this act shall be construed as cumulative authority and shall not be construed to impliedly repeal any existing laws affecting mortgages and liens of gas or electrical utilities or electric cooperatives.”

**SECTION 29‑1‑20.** Right of tenant in common or cotenant to purchase real estate at sale for enforcement of lien.

 A tenant in common or cotenant may purchase real property owned in common at a sale of real property for the enforcement of a lien other than a tax lien, and, unless it be otherwise provided in the judgment or order of sale in the action, the title so acquired by him shall be free and clear of any interests or equities arising from such tenancy in favor of his cotenants or his tenants in common who were properly before the court. In all cases when a tenant in common or cotenant has heretofore purchased real property at a sale of real property for the enforcement of a lien other than a tax lien in an action or proceeding in which all or some of the tenants in common or cotenants were properly before the court, unless it affirmatively appears otherwise in some decree or order duly entered in such action or proceeding, the title of such purchaser is hereby declared to be free of all of the interests and equities of all such tenants in common or cotenants who were properly before the court in such action or proceeding.

HISTORY: 1962 Code Section 45‑2; 1952 Code Section 45‑2; 1942 Code Section 8830‑1; 1934 (38) 1608.

**SECTION 29‑1‑30.** Wilful sale of property on which lien exists.

 Any person who shall wilfully and knowingly sell and convey any real or personal property on which any lien exists without first giving notice of such lien to the purchaser of such real or personal property shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be imprisoned for a term of not less than ten days nor more than three years and be fined not less than ten dollars nor more than five thousand dollars, either or both in the discretion of the court. But the penalties enumerated in this section shall not apply to public officers in the discharge of their official duties. When the value of such property is less than fifty dollars the offense may be triable in the magistrate’s court and the punishment shall be not more than is permitted by law without presentment or indictment of the grand jury. When the case is within the jurisdiction of the magistrate’s court, the court of general sessions shall have concurrent jurisdiction with the magistrate’s court.

HISTORY: 1962 Code Section 45‑4; 1952 Code Section 45‑4; 1942 Code Section 1276; 1932 Code Section 1276; Cr. C. ‘22 Section 171; Cr. C. ‘12 Section 446; Cr. C. ‘02 Section 336; G. S. 2514; R. S. 276; 1872 (15) 332; 1892 (21) 93; 1893 (21) 411; 1894 (21) 824; 1964 (53) 1719.

**SECTION 29‑1‑40.** Validation of certain mortgages.

 All mortgages given prior to March 9, 1928 by any public utility company, hydroelectric company or manufacturing company to any person whomsoever, covering the whole or any part of its real or personal property, all chattel mortgages executed prior to April 26, 1935 to a production credit association or to the governor of the Farm Credit Administration and all mortgages executed prior to April 4, 1949 by the State Rural Electrification Authority or by a cooperative organized under or subject to the provisions of Electric Cooperative Act and now of record in the office of the clerk of court or register of deeds of any county in this State are hereby validated although the description of the property mortgaged be in whole or in part in printing, mimeographing or any other process of reproduction.

HISTORY: 1962 Code Section 45‑5; 1952 Code Section 45‑5; 1942 Code Section 8713; 1932 Code Section 8713; Civ. C. ‘22 Section 5626; Civ. C. ‘12 Section 4103; Civ. C. ‘02 Section 3002; 1901 (23) 735; 1903 (24) 99; 1928 (35) 1235; 1935 (39) 269; 1949 (46) 157.

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.

**SECTION 29‑1‑50.** Unlawful use of dual contracts to induce loan commitment on real property.

 It shall be unlawful for any person to knowingly make, issue, deliver or receive dual contracts for the purchase or sale of real property. “Dual contracts”, either written or oral, are two contracts concerning the same parcel of real property, one of which states the true and actual purchase price and one of which states a purchase price in excess of the true and actual purchase price and is used as an inducement for mortgage investors to make a loan commitment on such real property in reliance upon the stated inflated value.

 Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both.

HISTORY: 1962 Code Section 45‑6; 1966 (54) 2284.