CHAPTER 1

Consent to Acquisition of Lands by United States Generally

ARTICLE 1

Lands Needed for General Public Purposes

**SECTION 3‑1‑10.** Jurisdiction ceded.

The jurisdiction of the State is hereby ceded to the United States over so much land as is necessary for the public purposes of the United States; provided, that the jurisdiction hereby ceded shall not vest until the United States shall have acquired the title to the lands by grant or deed from the owner thereof and the evidences thereof shall have been recorded in the office where, by law, the title to such land is recorded. The United States is to retain such jurisdiction so long as such lands shall be used for the purposes aforementioned and no longer.

HISTORY: 1962 Code Section 39‑81; 1952 Code Section 39‑81; 1942 Code Section 2048; 1932 Code Section 2048; Civ. C. ‘22 Section 10; Civ. C. ‘12 Section 10; Civ. C. ‘02 Section 9; G. S. 9; R. S. 9; 1871 (14) 535.

CROSS REFERENCES

Relinquishment by United States of jurisdiction over certain property, see Section 3‑1‑150.

LIBRARY REFERENCES

91 C.J.S., United States Section 7.

LAW REVIEW AND JOURNAL COMMENTARIES

Limitations on the Power of the Federal Government to Acquire Lands Within a State or: The Metamorphosis of a Constitutional Provision. 9 SC LQ 474.

NOTES OF DECISIONS

In general 1

1. In general

This article superseded by article 1 of this chapter. By enacting article 1 of this chapter legislature completely covered subject of cession and vesting of Federal jurisdiction over land within this State previously covered by statutes comprising this article, and in so doing substituted article 1 for this article thereby repealing this article by implication. U. S. v. Lovely (C.A.4 (S.C.) 1963) 319 F.2d 673, certiorari denied 84 S.Ct. 210, 375 U.S. 913, 11 L.Ed.2d 151.

This section [Code 1962 Section 39‑81] is to be liberally construed as it is an act of comity by the State to the United States. Hence the conditions that the jurisdiction ceded shall not vest until the United States acquire title and records the evidence of same, are not precedent, but are contemporaneous with the payment of the consideration and delivery of the deeds. In re Rugheimer, 1888, 36 F. 369.

Deed by court’s order is sufficient. Under this section [Code 1962 Section 39‑81] a deed by the order of court is just as effective as one signed by the owners, and would in law be the deed of the owner of the land. In re Rugheimer, 1888, 36 F. 369.

Payment and delivery of deed are contemporaneous. Under the provisions of this section [Code 1962 Section 39‑81], an act of Congress appropriating a sum for the purchase of land in Charleston and providing that no part of the sum shall be expended until a valid title shall be vested in the United States nor until South Carolina ceded the United States the jurisdiction granted in this section [Code 1962 Section 39‑81], was held to contemplate that payment of the consideration and delivery of the deeds be contemporaneous acts. In re Rugheimer, 1888, 36 F. 369.

A State had jurisdiction over a prosecution for murder and armed robbery, even though the crimes occurred on federal property, where there was no evidence that the United States had accepted, in the proper manner, exclusive jurisdiction over the property in question. While the burden of proving jurisdiction rests on the State, it does not require the State to prove the nonoccurrence of events which might deprive it of jurisdiction. State v. Parker (S.C. 1988) 294 S.C. 465, 366 S.E.2d 10. Criminal Law 97(4)

For purposes of criminal prosecution of defendant for committing lewd act upon 12‑year‑old child and contributing to delinquency of 14‑year‑old child at Naval Hospital, federal military installation, state retains jurisdiction over area and defendant may properly be tried in state court since, although Federal Government acquired hospital in 1946, it has never accepted exclusive jurisdiction over facility. State v. Rodriguez (S.C. 1983) 279 S.C. 106, 302 S.E.2d 666.

**SECTION 3‑1‑20.** Retention of concurrent jurisdiction for service of civil and criminal process.

Such jurisdiction is granted upon the express condition that the State shall retain a concurrent jurisdiction with the United States in and over such lands, so far as that civil process in all cases not affecting the real or personal property of the United States and such criminal or other process as shall issue under the authority of the State against any person charged with crimes or misdemeanors committed within or without the limit of such lands may be executed therein in the same way and manner as if no jurisdiction had been hereby ceded.

HISTORY: 1962 Code Section 39‑82; 1952 Code Section 39‑82; 1942 Code Section 2048; 1932 Code Section 2048; Civ. C. ‘22 Section 10; Civ. C. ‘12 Section 10; Civ. C. ‘02 Section 9; G. S. 9; R. S. 9; 1871 (14) 535.

LIBRARY REFERENCES

91 C.J.S., United States Section 7.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Assimilative Crimes Act Section 3, Federal Jurisdiction.

Attorney General’s Opinions

A state, county or municipal officer has no authority to make an arrest for a misdemeanor without a warrant on territory ceded to the United States, even though the offense occurred within the territorial jurisdiction of the State. 1970‑71 Op Atty Gen, No 3215, p 197.

NOTES OF DECISIONS

In general 1

1. In general

Cited in U. S. v. Lovely (C.A.4 (S.C.) 1963) 319 F.2d 673, certiorari denied 84 S.Ct. 210, 375 U.S. 913, 11 L.Ed.2d 151.

A State had jurisdiction over a prosecution for murder and armed robbery, even though the crimes occurred on federal property, where there was no evidence that the United States had accepted, in the proper manner, exclusive jurisdiction over the property in question. While the burden of proving jurisdiction rests on the State, it does not require the State to prove the nonoccurrence of events which might deprive it of jurisdiction. State v. Parker (S.C. 1988) 294 S.C. 465, 366 S.E.2d 10. Criminal Law 97(4)

For purposes of criminal prosecution of defendant for committing lewd act upon 12‑year‑old child and contributing to delinquency of 14‑year‑old child at Naval Hospital, federal military installation, state retains jurisdiction over area and defendant may properly be tried in state court since, although Federal Government acquired hospital in 1946, it has never accepted exclusive jurisdiction over facility. State v. Rodriguez (S.C. 1983) 279 S.C. 106, 302 S.E.2d 666.

**SECTION 3‑1‑30.** Exemption from taxation.

All lands and tenements which may be granted to the United States pursuant to the provisions of Section 3‑1‑10 shall be and continue, so long as the same shall be used for the purposes in said section mentioned, exonerated and discharged from all taxes, assessments and other charges which may be imposed under the authority of the State.

HISTORY: 1962 Code Section 39‑83; 1952 Code Section 39‑83; 1942 Code Section 2049; 1932 Code Section 2049; Civ. C. ‘22 Section 11; Civ. C. ‘12 Section 11; Civ. C. ‘02 Section 10; G. S. 10; R. S. 10; 1871 (15) 536.

CROSS REFERENCES

Exemptions from property taxes, generally, see Section 12‑37‑220 et seq.

Attorney General’s Opinions

State jurisdiction to tax in ceded lands. Unless exclusive jurisdiction has been accepted by the United States to land ceded to it after February 1, 1940, a state has jurisdiction to tax property located on and owned by residents of the ceded lands. 1970‑71 Op Atty Gen, No 3197, p 174.

NOTES OF DECISIONS

In general 1

1. In general

Cited in U. S. v. Lovely (C.A.4 (S.C.) 1963) 319 F.2d 673, certiorari denied 84 S.Ct. 210, 375 U.S. 913, 11 L.Ed.2d 151.

**SECTION 3‑1‑40.** Property on military base used for military housing exempt from property tax.

There is exempt from ad valorem taxation any real property, and improvements thereon, located within a military base or installation that is used or owned by the United States Armed Forces and is used as military housing for military‑affiliated personnel and their families. Military housing includes ancillary facilities that support the military housing. This exemption continues to apply if the real property is improved, maintained, or leased to a party that would otherwise subject the real property to tax, so long as there is a contractual agreement by and between a branch of the United States Armed Forces and the lessee which requires the lessee to use the property for military housing.

HISTORY: 2014 Act No. 289 (S.825), Pt II, Section 2.A, eff June 23, 2014.

Editor’s Note

2014 Act No. 289, Section 2.B, provides as follows:

“B. This section takes effect upon approval by the Governor and applies for property tax years beginning after 2013.”

ARTICLE 3

Lands Needed for Customhouses, Courthouses, Post Offices, Arsenals and the Like

**SECTION 3‑1‑110.** General consent of State given to acquisition of lands by United States.

The consent of this State is hereby given, in accordance with the seventeenth clause, eighth section, of the first article of the Constitution of the United States, to the acquisition by the United States by purchase, condemnation, or otherwise of any land in this State required for sites for customhouses, courthouses, post offices, arsenals or other public buildings whatever or any other purposes of the government.

HISTORY: 1962 Code Section 39‑51; 1952 Code Section 39‑51; 1942 Code Section 2042; 1932 Code Section 2042; 1908 (25) 1127.

CROSS REFERENCES

Relinquishment by United States of jurisdiction over certain property, see Section 3‑1‑150.

LIBRARY REFERENCES

91 C.J.S., United States Section 7.

LAW REVIEW AND JOURNAL COMMENTARIES

Limitations on the Power of the Federal Government to Acquire Lands Within a State or: The Metamorphosis of a Constitutional Provision. 9 SC LQ 474.

Attorney General’s Opinions

State jurisdiction to tax in ceded lands. Unless exclusive jurisdiction has been accepted by the United States to land ceded to it after February 1, 1940, a state has jurisdiction to tax property located on and owned by residents of the ceded lands. 1970‑71 Op Atty Gen, No 3197, p 174.

NOTES OF DECISIONS

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1. In general

This section [Code 1962 Section 39‑51] sufficiently comprehensive to include forts and military installations. Phrases “or other public buildings whatever or for any other purposes of the government” sufficiently comprehensive to include forts and military installations such as New Fort Jackson. U. S. v. Lovely (C.A.4 (S.C.) 1963) 319 F.2d 673, certiorari denied 84 S.Ct. 210, 375 U.S. 913, 11 L.Ed.2d 151.

This article [Code 1962, Ch. 2, Art. 1] supersedes article 3 [Code 1962, Ch. 2, Art. 3] of this chapter. By enacting this article [Code 1962, Ch. 2, Art. 1] legislature completely covered subject of cession and vesting of Federal jurisdiction over land within this State previously covered by statutes comprising article 3 [Code 1962, Ch. 2, Art. 3], and in so doing substituted this article for article 3 thereby repealing by implication article 3. U. S. v. Lovely (C.A.4 (S.C.) 1963) 319 F.2d 673, certiorari denied 84 S.Ct. 210, 375 U.S. 913, 11 L.Ed.2d 151.

Applied in Reynolds v. South Carolina Tax Commission (S.C. 1968) 251 S.C. 298, 162 S.E.2d 259.

**SECTION 3‑1‑120.** Jurisdiction over lands acquired by United States; service of process.

(A) Exclusive jurisdiction in and over any land so acquired by the United States pursuant to the consent given by Section 3‑1‑110 shall be, and the same is hereby, ceded to the United States for all purposes except the service upon such sites of all civil and criminal process of the courts of this State. The jurisdiction so ceded shall continue no longer than the United States shall own such lands.

(B) The United States may accept exclusive jurisdiction or concurrent jurisdiction in and over any federal correction facility so acquired by the United States pursuant to the consent given by Section 3‑1‑110 which shall be, and the same is hereby, ceded to the United States for all purposes except the service upon such sites of all civil and criminal process of the courts of this State. The jurisdiction so ceded shall continue no longer than the United States shall own such federal correction facilities.

HISTORY: 1962 Code Section 39‑52; 1952 Code Section 39‑52; 1942 Code Section 2042; 1932 Code Section 2042; 1908 (25) 1127; 1994 Act No. 460, Section 1, eff June 16, 1994.

Effect of Amendment

The 1994 amendment designated the first paragraph, which formerly constituted the entirety of the section, as subsection (A), and added subsection (B).

CROSS REFERENCES

Relinquishment by United States of jurisdiction over certain property, see Section 3‑1‑150.

LIBRARY REFERENCES

91 C.J.S., United States Section 7.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Assimilative Crimes Act Section 3, Federal Jurisdiction.

Attorney General’s Opinions

Exclusive jurisdiction must be accepted by Federal government before State is relieved of jurisdiction. Op Atty Gen, Jan. 7, 1963.

Jurisdiction over sale or possession of alcoholic liquors. Where the United States acquires title to land within South Carolina and exercises exclusive jurisdiction thereon, the State of South Carolina is precluded from exercising any control or jurisdiction over the sale or possession of alcoholic liquors on such lands. 1966‑67. Op Atty Gen, No 2233, p 33.

A State, county or municipal officer has no authority to make an arrest for a misdemeanor without a warrant on territory ceded to the United States, even though the offense occurred within the territorial jurisdiction of the State. 1970‑71 Op Atty Gen, No 3215, p 197.

Magistrate courts with proper subject matter and amount in controversy would have jurisdiction over transitory actions in tort or contract on federal lands within this state. 1978 Op Atty Gen, No 78‑116, p 149.

NOTES OF DECISIONS

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1. In general

Exclusive criminal jurisdiction in Federal government. Retention by State of right to serve process on Federal lands not effective to prevent cession of exclusive criminal jurisdiction to Federal government. U. S. v. Lovely (C.A.4 (S.C.) 1963) 319 F.2d 673, certiorari denied 84 S.Ct. 210, 375 U.S. 913, 11 L.Ed.2d 151. Criminal Law 97(4)

For purposes of criminal prosecution of defendant for committing lewd act upon 12‑year‑old child and contributing to delinquency of 14‑year‑old child at Naval Hospital, federal military installation, state retains jurisdiction over area and defendant may properly be tried in state court since, although Federal Government acquired hospital in 1946, it has never accepted exclusive jurisdiction over facility. State v. Rodriguez (S.C. 1983) 279 S.C. 106, 302 S.E.2d 666.

Federal jurisdiction is exclusive over land purchased with consent of state legislature by federal government for governmental purposes, and state court had no jurisdiction to try offenses within boundaries of federal fort. State v. Ziegler (S.C. 1979) 274 S.C. 6, 260 S.E.2d 182.

Quoted in Reynolds v. South Carolina Tax Commission (S.C. 1968) 251 S.C. 298, 162 S.E.2d 259.

Cited in Brame v. Garner (S.C. 1957) 232 S.C. 157, 101 S.E.2d 292.

**SECTION 3‑1‑130.** Acquisition by United States of title to lands as prerequisite to vesting of jurisdiction ceded by State.

The jurisdiction ceded in any case pursuant to Section 3‑1‑120 shall not vest until the United States shall have acquired the title to any such lands by purchase, condemnation or otherwise.

HISTORY: 1962 Code Section 39‑53; 1952 Code Section 39‑53; 1942 Code Section 2042; 1932 Code Section 2042; 1908 (25) 1127.

LIBRARY REFERENCES

91 C.J.S., United States Section 7.

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Applied in U. S. v. Lovely (C.A.4 (S.C.) 1963) 319 F.2d 673, certiorari denied 84 S.Ct. 210, 375 U.S. 913, 11 L.Ed.2d 151.

**SECTION 3‑1‑140.** Exemption from taxation.

So long as any land acquired by the United States pursuant to the consent given by Section 3‑1‑110 shall remain the property of the United States, and no longer, such lands shall be and continue exempt and exonerated from all State, county and municipal taxation, assessments or other charges which may be levied or imposed under the authority of this State.

HISTORY: 1962 Code Section 39‑54; 1952 Code Section 39‑54; 1942 Code Section 2042; 1932 Code Section 2042; 1908 (25) 1127.

CROSS REFERENCES

Exemptions from property taxes, generally, see Section 12‑37‑220 et seq.

Attorney General’s Opinions

State jurisdiction to tax in ceded lands. Unless exclusive jurisdiction has been accepted by the United States to land ceded to it after February 1, 1940, a state has jurisdiction to tax property located on and owned by residents of the ceded lands. 1970‑71 Op Atty Gen, No 3197, p 174.

NOTES OF DECISIONS

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1. In general

Quoted in U. S. v. Lovely (C.A.4 (S.C.) 1963) 319 F.2d 673, certiorari denied 84 S.Ct. 210, 375 U.S. 913, 11 L.Ed.2d 151.

**SECTION 3‑1‑150.** Acceptance of relinquishment of United States jurisdiction by Fiscal Accountability Authority.

Whenever a duly authorized official or agent of the United States, acting pursuant to authority conferred by the Congress, notifies the State Fiscal Accountability Authority or any other State official, department or agency, that the United States desires or is willing to relinquish to the State the jurisdiction, or a portion thereof, held by the United States over the lands designated in such notice, the State Fiscal Accountability Authority may, in its discretion, accept such relinquishment. Such acceptance may be made by sending a notice of acceptance to the official or agent designated by the United States to receive such notice of acceptance. The State Fiscal Accountability Authority shall send a signed copy of the notice of acceptance, together with the notice of relinquishment received from the United States, to the Secretary of State, who shall maintain a permanent file of the notices.

Upon the sending of the notice of acceptance to the designated official or agent of the United States, the State shall immediately have such jurisdiction over the lands designated in the notice of relinquishment as the notice shall specify.

The provisions of this section shall apply to the relinquishment of jurisdiction acquired by the United States under the provisions of Sections 3‑1‑110 and 3‑1‑120.

HISTORY: 1962 Code Section 39‑141; 1974 (58) 2673.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

ARTICLE 5

Lands Needed for Lighthouses, Beacons and Other Navigational Aids

**SECTION 3‑1‑310.** Power of Governor to convey or cede tracts.

Whenever the United States desires to acquire title to land belonging to the State and covered by the navigable waters of the United States, within the limits thereof, for the site of a lighthouse, beacon or other aid to navigation and application is made by a duly authorized agent of the United States, describing the site required for one of the purposes aforesaid, the Governor may convey the title to the United States and cede to the United States jurisdiction over such land; provided, that no single tract so conveyed shall contain more than ten acres.

HISTORY: 1962 Code Section 39‑71; 1952 Code Section 39‑71; 1942 Code Section 2047; 1932 Code Section 2047; Civ. C. ‘22 Section 9; Civ. C. ‘12 Section 9; Civ. C. ‘02 Section 8; G. S. 8; R. S. 8; 1874 (15) 790.

LAW REVIEW AND JOURNAL COMMENTARIES

Limitation on the Power of the Federal Government to Acquire Lands Within a State or: The Metamorphosis of a Constitutional Provision. 9 SC LQ 474.

**SECTION 3‑1‑320.** Retention of concurrent jurisdiction for service of civil and criminal process.

The State shall retain concurrent jurisdiction so far that all process, civil or criminal, issuing under the authority of the State, may be executed by the proper officers thereof upon any person amenable to such process within the limits of land so ceded in like manner and to like effect as if this article had never been enacted.

HISTORY: 1962 Code Section 39‑72; 1952 Code Section 39‑72; 1942 Code Section 2047; 1932 Code Section 2047; Civ. C. ‘22 Section 9; Civ. C. ‘12 Section 9; Civ. C. ‘02 Section 8; G. S. 8; R. S. 8; 1874 (15) 790.

ARTICLE 7

Lands Needed for National Forests

**SECTION 3‑1‑410.** Consent of State given to acquisition.

The consent of the State is hereby given to the acquisition by the United States, by purchase, gift or condemnation according to law, of such forest lands or such other property as it may acquire by purchase, deed or otherwise in this State as, in the opinion of the Federal Government, may be needed for the establishment of a national forest service in that region; provided, that unless the consent of the owner of such land is had and obtained, nothing herein contained shall be construed as giving the right to condemn any building, dwelling house or cultivated or pasture land.

But all such national forest land acquisitions shall be confined to (a) the acquisition area boundaries of the existing national forests in this State as such area existed on February 20 1948 and (b) land unsuited or little suited to agriculture, in so far as practical.

HISTORY: 1962 Code Section 39‑91; 1952 Code Section 39‑91; 1942 Code Section 2050; 1932 Code Section 2050; Civ. C. ‘22 Section 12; Civ. C. ‘12 Section 12; Civ. C. ‘02 Section 11; 1901 (23) 609; 1914 (29) 1; 1915 (29) 63; 1948 (45) 1641.

LIBRARY REFERENCES

91 C.J.S., United States Section 7.

LAW REVIEW AND JOURNAL COMMENTARIES

Limitations on the Power of the Federal Government to Acquire Lands Within a State or: The Metamorphasis of a Constitutional Provision. 9 SC LQ 474.

NOTES OF DECISIONS

In general 1

1. In general

Cited in U. S. v. Winn, 1949, 83 F.Supp. 172.

**SECTION 3‑1‑420.** Power of United States over acquired lands.

The United States may adopt such laws and make or provide for the making of such rules and regulations of both civil and criminal nature, and provide punishment for violation thereof, as, in its judgment, may be necessary for the management, control and protection of such lands as may be from time to time acquired by the United States under the provisions of Section 3‑1‑410.

HISTORY: 1962 Code Section 39‑92; 1952 Code Section 39‑92; 1942 Code Section 2050; 1932 Code Section 2050; Civ. C. ‘22 Section 12; Civ. C. ‘12 Section 12; Civ. C. ‘02 Section 11; 1901 (23) 609; Ex. Sess. 1914 (29) 1; 1915 (29) 63.

LIBRARY REFERENCES

91 C.J.S., United States Section 7.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Assimilative Crimes Act Section 3, Federal Jurisdiction.

**SECTION 3‑1‑430.** Retention of concurrent jurisdiction for service of civil and criminal process.

The State shall retain a concurrent jurisdiction with the United States in and over such land so far that civil process in all cases and such criminal process as may issue under the authority of the State against any person charged with the commission of any crime without or within such jurisdiction may be executed thereon in like manner as if this article had not been passed.

HISTORY: 1962 Code Section 39‑93; 1952 Code Section 39‑93; 1942 Code Section 2050; 1932 Code Section 2050; Civ. C. ‘22 Section 12; Civ. C. ‘12 Section 12; Civ. C. ‘02 Section 11; 1901 (23) 609; Ex. Sess. 1914 (29) 1; 1915 (29) 63.

LIBRARY REFERENCES

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RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Assimilative Crimes Act Section 3, Federal Jurisdiction.

**SECTION 3‑1‑440.** National Forest Land Board.

The South Carolina National Forest Land Board is hereby created to consist of the Governor, the chairman of the Senate committee on agriculture, the chairman of the House committee on agriculture, the director of the South Carolina State extension service at Clemson University and the State Forester.

HISTORY: 1962 Code Section 39‑94; 1952 Code Section 39‑94; 1948 (45) 1641.

**SECTION 3‑1‑450.** Consent of Board to extension of national forests.

There shall be no further expansion of the national forest acquisition boundaries in this State except with the consent of the South Carolina National Forest Land Board.

HISTORY: 1962 Code Section 39‑95; 1952 Code Section 39‑95; 1948 (45) 1641.