CHAPTER 5

Buying and Selling of Offices Prohibited

**SECTION 8‑5‑10.** Repealed by 1991 Act No. 248, Section 5, eff January 1, 1992.

Editor’s Note

Former Section 8‑5‑10 was derived from 1962 Code Section 50‑101; 1952 Code Section 50‑101; 1942 Code Section 3068; 1932 Code Section 3068; Civ. C. ‘22 Section 755; Civ. C. ‘12 Section 673; Civ. C. ‘02 Section 604; 1896 (22) 123.

Former Section 8‑5‑10 prohibited nepotism. For the Ethics, Government Accountability, and Campaign Reform Act of 1991, see Sections 8‑13‑100 et seq.

Attorney General’s Opinions

The State Superintendent of Education may promote a present employee of the State Department of Education who is related to him by consanquinity or affinity within the sixth degree without violating Section 8‑5‑10 of the Code of Laws of South Carolina, 1976, the South Carolina anti‑nepotism statute; Section 8‑5‑10 prohibits the employment of certain individuals by heads of departments of government in South Carolina. This anti‑nepotism statute does not prohibit promotion of persons within such degree of kinship who were employed by that department prior to the date such person became head of the department. 1979 Op Atty Gen, No 79‑18, p 27.

Persons who may be appointed as members of the County Boards of Social Services may occupy those positions irrespective of their kinship to any individual who may then be employed by the County Department; the force of the nepotism regulations must be concerned with initial employment of individuals who are related to board members at the time of such employment. 1979 Op Atty Gen, No 79‑112, p 158.

The Medical College of South Carolina is not a department of State government and does not come within the purview of this section [Code 1962 Section 50‑101], relating to nepotism. 1968‑69 Op Atty Gen, No 2625, p 24.

This section [Code 1962 Section 50‑101] applies to State departments only and not to political subdivisions, such as counties and municipalities. 1963‑64 Op Atty Gen, No 1681, p 131.

The phrase “department of this government” used as it is in a statute of South Carolina, necessarily means “department of the government of South Carolina” or “department of State government.” 1963‑64 Op Atty Gen, No 1681, p 131.

NOTES OF DECISIONS

In general 1

1. In general

Magisterial courts are part of State’s uniform judicial system and, therefore, magistrates are judicial officers of State and are subject to provision of S. C. Code Section 8‑5‑10 prohibiting them from appointing any person to whom they are related or married to position of trust under their control. State v. Cumbee (S.C. 1981) 276 S.C. 207, 277 S.E.2d 146. Justices Of The Peace 20

**SECTION 8‑5‑20.** Buying and selling of offices forbidden.

 If any person (a) bargain for the purchase or sale of, or sell, any office or deputation thereof, or any part thereof, (b) receive any money, fee, reward or any other profit, directly or indirectly or (c) take any promise, agreement, covenant, bond or assurance for the payment of any money, fee, reward or other profit, directly or indirectly, for any office or deputation thereof, or any part thereof or to the intent that any person should have, exercise or enjoy any office or deputation thereof, or any part thereof, which office, or any part thereof, shall in any wise touch or concern the administration or execution of justice or the receipt, control or payment of any public treasure, money, rent, revenue, account, auditorship or surveying of any public lands or which shall touch or concern any clerkship to be occupied in any court of record wherein justice is administered, such person shall not only lose and forfeit all right and interest in or to such office or deputation thereof, or any part thereof, but shall immediately, upon the payment of such fee, money or reward or upon any such promise, covenant, bond or agreement had or made for the payment of such fee, sum of money or reward, be adjudged a disabled person in law, to all intents and purposes, to have, occupy or enjoy such office or deputation, or any part thereof, for which any such person shall so give or enjoy or make any promise, covenant, bond or other assurance to give or pay any sum of money, fee or reward.

HISTORY: 1962 Code Section 50‑102; 1952 Code Section 50‑102; 1942 Code Section 3065; 1932 Code Section 3065; Civ. C. ‘22 Section 752; Civ. C. ‘12 Section 670; Civ. C. ‘02 Section 601; G. S. 454; R. S. 520; 1737 (3) 468.

LIBRARY REFERENCES

67 C.J.S., Officers Section 11.

**SECTION 8‑5‑30.** Sales and the like of offices shall be void.

 Every bargain, sale, promise, bond, agreement, covenant and assurance, as before specified, shall be void to and against him by whom any such bargain, sale, bond, promise, covenant or assurance shall be had or made.

HISTORY: 1962 Code Section 50‑103; 1952 Code Section 50‑103; 1942 Code Section 3066; 1932 Code Section 3066; Civ. C. ‘22 Section 753; Civ. C. ‘12 Section 671; Civ. C. ‘02 Section 602; G. S. 555; R. S. 521; 1737 (3) 469.

**SECTION 8‑5‑40.** Official acts performed after offense but before removal shall be valid.

 If any person shall offend in anything contrary to the tenor and effect of Sections 8‑5‑20 and 8‑5‑30, yet, notwithstanding, all judgments given and all other acts executed or done by such person so offending, by authority or color of the office or deputation which ought to be forfeited or not occupied or not enjoyed by the person so offending, after the offense so by such person committed or done and before such person so offending for such offense be removed from the exercise, administration and occupation of such office or deputation, shall be and remain good and sufficient in law to all intents, constructions and purposes.

HISTORY: 1962 Code Section 50‑104; 1952 Code Section 50‑104; 1942 Code Section 3067; 1932 Code Section 3067; Civ. C. ‘22 Section 754; Civ. C. ‘12 Section 672; Civ. C. ‘02 Section 603; G. S. 556; R. S. 522; 1737 (3) 469.