CHAPTER 17

Clerks of Courts

ARTICLE 1

Office; Election; Qualification; Vacancies

**SECTION 14‑17‑10.** Election for clerk of court of common pleas.

 There shall be an election for clerk of the court of common pleas in each county by the qualified voters thereof at each alternate general election, reckoning from the election in the year 1960.

HISTORY: 1962 Code Section 15‑1701; 1952 Code Section 15‑1701; 1942 Code Section 3577; 1932 Code Section 3577; Civ. C. ‘22 Section 2121; Civ. C. ‘12 Section 1300; Civ. C. ‘02 Section 902; 1882 (17) 1125; Const. V, 27; 1897 (22) 591.

CROSS REFERENCES

Filling vacancy by election, see Section 4‑11‑20.

Library References

Clerks of Courts 3.

Westlaw Topic No. 79.

C.J.S. Courts Section 329.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 2, Creation of the Office.

S.C. Jur. Clerks of Court Section 4, Election.

Attorney General’s Opinions

Discussion of when the term of Office commences for the Chesterfield County Clerk of Court. S.C. Op.Atty.Gen. (August 2, 2002) 2002 WL 1925760.

NOTES OF DECISIONS

In general 1

Constitutional issues 2

1. In general

An election for clerk of court for Charleston county in year which was not the year for the regular election of the clerk of court for that county was void since, if election was for unexpired portion of term only, the term of four years fixed by the Constitution would be varied, and if for four years,the election year as fixed by statute would be changed. Limehouse v. Blackwell (S.C. 1939) 190 S.C. 122, 2 S.E.2d 483.

No clerk of court could be lawfully elected on November 7th, 1882, as there was no authority for such an election on that day. The statute, Gen.Stat.1882, Section 160 (See Code 1942, Section 2350), authorized an election for clerk of court only at every alternate general election, reckoning from the year 1880; and if the clerk be a State officer, as has been held, then the constitution required the election to be had at every alternate general election, beginning with the year 1868. State v. Sims (S.C. 1883) 18 S.C. 460, 1883 WL 4826, Unreported.

A clerk of court, elected his own successor at the general election, November 7th, 1876, gave bond, December 18th, which was approved January 1st, 1877, but he did not receive his commission until may 3d, upon which he endorsed the usual oaths June 20th, 1877. Another person was elected clerk at the general election, November 2d, 1880, and qualified and was commissioned in December following. Held, that the term of the first clerk was four years from the general election in November 1876, and until his successor, then elected, was qualified. Macoy v. Curtis (S.C. 1880) 14 S.C. 367, 1880 WL 5719, Unreported.

A Clerk of the Court of Common Pleas holds his office, under the Constitution, “for the term of four years;” and this whether he was elected because his predecessor’s term had expired, or because the person elected had failed to qualify, or because of a vacancy caused by the death or resignation of the incumbent, or by any other cause. Wright v. Charles (S.C. 1873) 4 S.C. 178, 1873 WL 4825, Unreported.

By the Constitution of the State, no one can hold the office of Clerk of the Court of Common Pleas, unless he be elected thereto by the voters of the County. Reister v. Hemphill (S.C. 1871) 2 S.C. 325, 1871 WL 4547, Unreported.

2. Constitutional issues

This section [Code 1962 Section 15‑1701] is not in conflict with SC Const, Art 5, Section 27, but on the contrary it is supplementary thereto and valid. Cannon v. Sligh (S.C. 1933) 170 S.C. 45, 169 S.E. 712.

**SECTION 14‑17‑20.** Clerk of court of common pleas to be clerk of all courts of record.

 The clerk of the court of common pleas elected in each county pursuant to Section 14‑17‑10 is ex officio clerk of the court of general sessions, the family court, and all other courts of record in the county except as may be provided by the law establishing the other courts.

HISTORY: 1962 Code Section 15‑1703; 1952 Code Section 15‑1703; 1942 Code Section 3578; 1932 Code Section 3578; Civ. C. ‘22 Section 2122; Civ. C. ‘12 Section 1301; Civ. C. ‘02 Section 903; G. S. 759; R. S. 775; 1884 (18) 744; 1961 (52) 605; 1988 Act No. 630, eff June 2, 1988.

Library References

Clerks of Courts 64.

Westlaw Topic No. 79.

C.J.S. Courts Sections 337 to 340, 343.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 4, Election.

**SECTION 14‑17‑30.** Vacancies; when probate judge shall act.

 In the event of any vacancy in the office of clerk the Governor shall have full power to fill it by appointment as provided in Section 4‑11‑20. Until such vacancy be filled by appointment or election the judge of probate of the county shall take charge of the office and all of the papers therein, discharge the duties and receive the fees thereof, and be subject to all its liabilities as provided by law.

HISTORY: 1962 Code Section 15‑1704; 1952 Code Section 15‑1704; 1942 Code Section 3573; 1932 Code Section 3578; Civ. C. ‘22 Section 2122; Civ. C. ‘12 Section 1301; Civ. C. ‘02 Section 903; G. S. 759; R. S. 775; 1882 (17) 1126 Section 75; 1884 (18) 744.

CROSS REFERENCES

How vacancies filled in county offices, see Section 4‑11‑20.

Library References

Clerks of Courts 3.

Westlaw Topic No. 79.

C.J.S. Courts Section 329.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 7, Term of Office and Vacancies.

NOTES OF DECISIONS

In general 1

1. In general

One elected, qualified, and commissioned clerk of court, and who is in possession of the office, discharging its duties, without any one claiming it, is a de facto clerk, though he has accepted the office of intendant of a town, and Const. 1895, art. 2, Section 2, provides that no one shall hold two offices of honor or profit at the same time, and 1 Rev.St.1893, Section 775 (See Code 1942, Section 3578), provides that the judge of probate shall exercise the duties of the office of clerk in case of vacancy therein, till appointment to fill the vacancy. State v. Coleman (S.C. 1899) 54 S.C. 282, 32 S.E. 406.

A Clerk of Court appointed to fill a vacancy by death, resignation, &c., holds only till the expiration of the term of the original incumbent. State v. Harmon, 1840, 1840 WL 2030, Unreported.

**SECTION 14‑17‑40.** Bond.

 Before receiving their commissions the several clerks shall enter into bond, to be approved, recorded and filed as prescribed in Sections 8‑3‑130 to 8‑3‑150 in the penal sum of ten thousand dollars.

HISTORY: 1962 Code Section 15‑1705; 1952 Code Section 15‑1705; 1942 Code Section 3579; 1932 Code Section 3579; Civ. C. ‘22 Section 2123; Civ. C. ‘12 Section 1302; 1905 (24) 902; 1907 (25) 652; 1919 (31) 75; 1930 (36) 1173; 1931 (37) 66; 1936 (39) 1314.

Library References

Clerks of Courts 73.

Westlaw Topic No. 79.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 5, Qualification‑ Performance Bond.

**SECTION 14‑17‑50.** Official oaths; commission shall be read and entered in journal.

 The clerk before entering on the duties of his office shall, in addition to the oath of office prescribed by the Constitution, take the oaths required of such officer by Section 8‑3‑20. Said oaths must be endorsed upon the commission, subscribed by the officer and attested by a magistrate or notary public of the county for which the clerk shall have been elected or appointed. At the opening of the first term of the court which may be held thereafter the clerk shall produce his commission, with the endorsement aforesaid, and after the same has been read in open court shall make a fair entry thereof in the journals of the court.

HISTORY: 1962 Code Section 15‑1707; 1952 Code Section 15‑1707; 1942 Code Section 3580; 1932 Code Section 3580; Civ. C. ‘22 Section 2124; Civ. C. ‘12 Section 1303; Civ. C. ‘02 Section 905; G. S. 724; R. S. 777; 1816 (6) 27; 1839 (11) 92; 1880 (17) 502.

Library References

Clerks of Courts 4.

Westlaw Topic No. 79.

C.J.S. Courts Section 330.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 6, Qualification‑ Oath of Office.

**SECTION 14‑17‑60.** Deputy.

 The clerk may appoint a deputy or deputies to be approved by the court of common pleas, a record of whose appointment shall be made in the clerk’s office. Before entering on the duties of his appointment such deputy must take the oath prescribed by the Constitution. When so qualified the deputy may do and perform any and all of the duties appertaining to the office of his principal. Such appointment shall be evidenced by a certificate thereof, signed by the clerk, and shall continue during his pleasure. He may take such bond and security from his deputy as he shall deem necessary to secure the faithful discharge of the duties of the appointment but shall in all cases be answerable for the neglect of duty or misconduct in office of his deputy.

HISTORY: 1962 Code Section 15‑1708; 1952 Code Section 15‑1708; 1942 Code Section 3581; 1932 Code Section 3581; Civ. C.’22 Section 2125; Civ. C. ‘12 Section 1304; Civ. C. ‘02 Section 906; G. S. 723, 726, 727; R. S. 778; Code Pro. Section 33; 1870 (14) 332 Sections 2, 3; 1919 (30) 872.

Library References

Clerks of Courts 6.

Westlaw Topic No. 79.

C.J.S. Courts Sections 347 to 351.

RESEARCH REFERENCES

ALR Library

163 ALR 1358 , Governmental Control of Actions or Speech of Public Officers or Employees in Respect of Matters Outside the Actual Performance of Their Duties.

Encyclopedias

22 Am. Jur. Proof of Facts 3d 203, Termination or Demotion of a Public Employee in Retaliation for Speaking Out as a Violation of Right of Free Speech.

77 Am. Jur. Trials 1, Representing Law Enforcement Officers in Personnel Disputes and Employment Litigation.

S.C. Jur. Clerks of Court Section 2, Creation of the Office.

S.C. Jur. Clerks of Court Section 5, Qualification‑ Performance Bond.

S.C. Jur. Clerks of Court Section 6, Qualification‑ Oath of Office.

S.C. Jur. Clerks of Court Section 7, Term of Office and Vacancies.

Attorney General’s Opinions

The individual designated as Chief Deputy Clerk of Court should be considered as holding an office for dual office holding purposes. S.C. Op.Atty.Gen. (August 28, 2007) 2007 WL 3244882.

Deputy has same power and authority as clerk. Op.Atty.Gen. (March 11, 1963) 1963 WL 8254.

NOTES OF DECISIONS

In general 1

Constitutional issues 2

1. In general

For additional related cases, see Miller v George, 30 SC 526, 9 SE 659 (1888). Ex parte Ware Furniture Co., 49 SC 20, 27 SE 9 (1896). Waring v Miller Batting & Manuf. Co., 36 SC 310, 15 SE 132 (1891). King v Belcher, 30 SC 381, 9 SE 359 (1888). State v Hopkins, 15 SC 153 (1880).

Fact that summons in divorce action is countersigned by Deputy Clerk of Court rather than Clerk of Court or Family Court judge does not render summons invalid because Code Section 14‑17‑60 provides that qualified deputy may do and perform any and all duties appertaining to office of his principal. Harris v. Harris (S.C. 1983) 279 S.C. 148, 303 S.E.2d 97.

De facto clerk. A deputy clerk who was verbally reappointed as deputy clerk, who gave bond and continued to discharge the duties of that office, but who received no certificate in writing of such appointment signed by the clerk, nor was her appointment approved by the court of common pleas, nor did she take the oath required by the statute, nor was a record of her appointment made in the clerk’s office, was not an officer de jure, but was only de facto deputy clerk. State v. Brandon (S.C. 1938) 186 S.C. 448, 197 S.E. 113. Clerks Of Courts 6

He does not have legal authority to administer an oath upon which the statutory offense of false swearing may be based. State v. Brandon (S.C. 1938) 186 S.C. 448, 197 S.E. 113.

Under Civ.Code 1912, Sections 1304, 2199 (See Code 1942, Sections 3581, 6099), and Code Civ.Proc.1912, Section 38 (See Code 1942, Section 74), deputy clerk of court held authorized to pass upon and confirm report in proceeding to organize drainage district and to certify to his action in his own name. Linley v. Citizens’ Nat. Bank of Anderson (S.C. 1918) 108 S.C. 372, 94 S.E. 874.

2. Constitutional issues

Deputy clerk of court who lost election to incumbent county clerk of court, her boss, was a public employee in a confidential, policymaking, or public contact role who spoke out as a private citizen on a matter of public concern but in a manner that communicated a lack of political loyalty to county clerk, which could have interfered with or undermined the operation of the clerk’s office, and therefore party affiliation or political allegiance was to be considered in analyzing deputy clerk’s Section 1983 claim that she was terminated for exercising her freedom of speech; county clerk appointed deputy clerk, and deputy clerk was a direct representative of county clerk in her role as supervisor within the family court division of clerk’s office. Lawson v. Gault, 2014, 63 F.Supp.3d 584, vacated and remanded 828 F.3d 239, as amended. Clerks of Courts 6; Constitutional Law 1947

**SECTION 14‑17‑70.** Procurement of seal and blank books.

 Each clerk’s office shall be furnished with a seal of office and such blank books for the various records as may be needed from time to time, to be procured by the clerk and the expenses thereof defrayed by the governing body of the county.

HISTORY: 1962 Code Section 15‑1710; 1952 Code Section 15‑1710; 1942 Code Section 3583; 1932 Code Section 3583; Civ. C. ‘22 Section 2127; Civ. C. ‘12 Section 1306; Civ. C. ‘02 Section 908; G. S. 729; R. S. 780; 1839 (11) 100 Section 5; 1961 (52) 46.

Library References

Clerks of Courts 64.

Westlaw Topic No. 79.

C.J.S. Courts Sections 337 to 340, 343.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 14, Budget.

ARTICLE 3

General Duties and Powers

**SECTION 14‑17‑210.** Clerk shall have charge of courthouse; penalty for keeping courthouse open at night.

 Every clerk shall have charge of the courthouse within his county, open the same when required for public use and at all other times keep it closed. For every night any courthouse shall be kept open the clerk shall be liable to a penalty of five dollars for the use of the county, to be recovered by indictment.

HISTORY: 1962 Code Section 15‑1721; 1952 Code Section 15‑1721; 1942 Code Section 3584; 1932 Code Sections 1582, 3584; Civ. C. ‘22 Section 2128; Civ. C. ‘12 Section 1307; Civ. C. ‘02 Section 909; Cr. C. ‘22 Section 535; G. S. 730; R. S. 781; 1839 (11) 101 Section 6.

Library References

Clerks of Courts 64.

Westlaw Topic No. 79.

C.J.S. Courts Sections 337 to 340, 343.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 9, Discipline and Removal.

S.C. Jur. Clerks of Court Section 10, Duties.

S.C. Jur. Master and Servant Section 30.1, Discharge of a Public Employee for Speech Activity.

S.C. Jur. Public Officers and Public Employees Section 67, Ministerial and Discretionary Duties.

Attorney General’s Opinions

The Clerk of Court’s authority to control the Newberry County Courthouse pursuant to Section 14‑17‑210 extends to any building which houses the Family Court. S.C. Op.Atty.Gen. (May 16, 2012) 2012 WL 1964394.

This section extends to the entire courthouse building. S.C. Op.Atty.Gen. (April 8, 2002) 2002 WL 735347.

The Clerk of Court has custody and control over the courthouse building, however, this custody and control does not extend outside the walls of the courthouse building to the surrounding property. S.C. Op.Atty.Gen. (February 23, 2000) 2000 WL 356787.

County Council can designate space in Clerk of Court’s office for storage of Probate Court records, but cannot make Clerk accountable for such records. 1984 Op.Atty.Gen. No. 84‑90, p. 213 (July 26, 1984) 1984 WL 159897.

NOTES OF DECISIONS

In general 1

1. In general

Clerk of court, not county administrator, had authority to assign offices within courthouse and to possession of keys, pursuant to statute that placed clerk “in charge of courthouse” within his county. McCormick County Council v. Butler (S.C. 2004) 361 S.C. 92, 603 S.E.2d 586, rehearing denied. Courts 72

**SECTION 14‑17‑220.** Clerk shall keep constant attendance at office and discharge all duties.

 Every clerk shall, except on public holidays, give constant attendance, either personally or by deputy, in his office, which shall be kept in a room provided for that purpose in the courthouse. He shall discharge all the duties required by law or the rules of court, from time to time, or that may be incident to the office.

HISTORY: 1962 Code Section 15‑1722; 1952 Code Section 15‑1722; 1942 Code Section 3582; 1932 Code Section 3582; Civ. C. ‘22 Section 2126; Civ. C. ‘12 Section 1305; Civ. C. ‘02 Section 907; G. S. 728; R. S. 779; 1839 (11) 100 Section 4.

CROSS REFERENCES

Rule that clerk is to keep books under South Carolina Rules of Civil Procedure, see Rule 79, SCRCP.

Library References

Clerks of Courts 64.

Westlaw Topic No. 79.

C.J.S. Courts Sections 337 to 340, 343.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 2, Creation of the Office.

S.C. Jur. Clerks of Court Section 10, Duties.

Attorney General’s Opinions

The Clerk of Court may hold a federal office, such as mail carrier, assuming the position of mail carrier to be an office, without violating the dual officeholding provision. 1982 Op.Atty.Gen. No 82‑70, p 69 (November 19, 1982) 1982 WL 155039.

**SECTION 14‑17‑230.** Clerks may act as attorneys and solicitors in other counties.

 Clerks may act as attorneys and solicitors in all the courts in the State, except in the courts of their respective counties, provided they shall have complied with the requirements of law regulating the admission of persons to practice as attorneys, solicitors and counselors in the courts of this State.

HISTORY: 1962 Code Section 15‑1723; 1952 Code Section 15‑1723; 1942 Code Section 3591; 1932 Code Section 3591; Civ. C. ‘22 Section 2135; Civ. C. ‘12 Section 1314; Civ. C. ‘02 Section 916; G. S. 737; R. S. 788; 1871 (14) 538.

Library References

Clerks of Courts 64.

Westlaw Topic No. 79.

C.J.S. Courts Sections 337 to 340, 343.

**SECTION 14‑17‑240.** Clerk shall not act as sheriff or deputy sheriff.

 Clerks shall not act as sheriffs or deputy sheriffs, except as provided by Section 23‑11‑100.

HISTORY: 1962 Code Section 15‑1724; 1952 Code Section 15‑1724; 1942 Code Section 3592; 1932 Code Section 3592; Civ. C. ‘22 Section 2136; Civ. C. ‘12 Section 1315; Civ. C. ‘02 Section 917; G. S. 738; R. S. 789; 1839 (11) 112 Section 32.

Library References

Clerks of Courts 64.

Westlaw Topic No. 79.

C.J.S. Courts Sections 337 to 340, 343.

Attorney General’s Opinions

The Clerk of Court may hold a federal office, such as mail carrier, assuming the position of mail carrier to be an office, without violating the dual officeholding provision. 1982 Op.Atty.Gen. No 82‑70, p 69 (November 19, 1982) 1982 WL 155039.

**SECTION 14‑17‑250.** General powers of clerks; proceedings under orders to be filed.

 Clerks may administer oaths and take depositions, affidavits and renunciations of dower. The clerk of any county in which the office of master does not exist may, by consent of parties, sign orders of reference in vacation and may also, upon proper proceedings filed, grant orders for the partition of real or personal estate and for the admeasurement of dower in cases where the right of partition or dower is not contested or the same has been ascertained by a decree of the court. All proceedings under such orders shall be filed at the next succeeding term of the court for the adjudication of the presiding judge, until which adjudication all equities of the parties shall be reserved.

HISTORY: 1962 Code Section 15‑1726; 1952 Code Section 15‑1726; 1942 Code Section 3590; 1932 Code Section 3590; Civ. C. ‘22 Section 2134; Civ. C. ‘12 Section 1313; Civ. C. ‘02 Section 915; G. S. 736; R. S. 787; 1839 (11) 112 Section 32; 1884 (19) 835.

CROSS REFERENCES

Clerk of court’s powers with respect to bail bondsmen and runners, see Section 38‑53‑20.

Duties of clerks of court in proceedings for release from civil arrest on surrender of property, see Section 15‑17‑410 et seq.

Monthly reports to clerks of court concerning activities of bail bondsmen, see Section 38‑53‑310.

Library References

Clerks of Courts 64.

Westlaw Topic No. 79.

C.J.S. Courts Sections 337 to 340, 343.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 10, Duties.

Attorney General’s Opinions

Ministerial recorder who is not Notary Public, minister of gospel, or accepted Jewish Rabbi, is not authorized to perform marriage ceremony in this State. 1984 Op.Atty.Gen. No. 84‑60, p. 149 (May 24, 1984) 1984 WL 159867.

**SECTION 14‑17‑260.** Clerk shall issue all processes and sign all judgments.

 The clerk shall

 (a) issue every execution, bench warrant or other process issuable or directed to be issued by the courts of sessions, in the name of the Attorney General or solicitor of the circuit, (b) issue all rules and notices ordered in the common pleas, (c) attest in his own name under the seal of the court, all writs and processes issued either in the common pleas or sessions and (d) sign officially all judgments and state the time when each is signed and entered.

HISTORY: 1962 Code Section 15‑1727; 1952 Code Section 15‑1727; 1942 Code Section 3596; 1932 Code Section 3596; Civ. C. ‘22 Section 2140; Civ. C. ‘12 Section 1319; Civ. C. ‘02 Section 921; G. S. 743; R. S. 793; 1839 (11) 107 Section 16.

CROSS REFERENCES

Entry of judgment and preparation of judgment rolls under South Carolina Rules of Civil Procedure, see Rule 58, SCRCP.

Library References

Clerks of Courts 64.

Westlaw Topic No. 79.

C.J.S. Courts Sections 337 to 340, 343.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 10, Duties.

Attorney General’s Opinions

(1) A municipal policeman who has arrested a person for a traffic violation must comply with the general duty to take an arrested person before a proper judicial officer as soon as practicable; (2) In situations where a defendant has previously posted no bond and fails to appear at the scheduled time of trial, the Recorder’s Court may issue a Bench Warrant, whereby the defendant is physically brought before the Court to answer the noticed charge. 1976‑77 Op.Atty.Gen. No 77‑406, p 335 (December 27, 1977) 1977 WL 24742.

Clerk has no duty to execute bench warrants. The clerk of court has a duty only to issue a bench warrant as instructed by the judge of the court, and to deliver it into the hands of the sheriff for execution. After that, he is not charged with the duty of taking action to see that it is properly executed. 1965‑66 Op.Atty.Gen. No 2190B, p 325 (November 10, 1966) 1966 WL 8630.

NOTES OF DECISIONS

In general 1

1. In general

Attesting writs. Miller v Hall, 1 Spears (28 SCL) 1. Smith v Affanasieffe, 2 Rich (31 SCL) 334. State v Thayer, 4 Strob (34 SCL) 286.

For additional related case, see State v. Miller (S.C. 1923) 122 S.C. 468, 115 S.E. 742.

This section [Code 1962 Section 15‑1727] does not declare that judgments not dated and signed shall be void. It simply directs the clerk to date and sign. It would be a most stringent construction to hold that because of such omission the whole proceeding was void. Hardin v. Melton (S.C. 1888) 28 S.C. 38, 4 S.E. 805.

And such omission may be corrected at any time. Omission of the date and the clerk’s official signature on the formula is a mere irregularity in a matter not vital to the judgment, but simply directory to the clerk, and may be corrected at any time. Hardin v. Melton (S.C. 1888) 28 S.C. 38, 4 S.E. 805.

**SECTION 14‑17‑270.** Clerk shall witness and approve security for costs; form of undertaking.

 Whenever security for costs may be ordered to be given or may be tendered by any plaintiff in vacation or in term time the clerk shall witness the signature of the surety and shall, in the first instance, judge of the sufficiency of the security. The form of the undertaking shall be according to law or the rule of the court on that subject if there be no law.

HISTORY: 1962 Code Section 15‑1729; 1952 Code Section 15‑1729; 1942 Code Section 3597; 1932 Code Section 3597; Civ. C. ‘22 Section 2141; Civ. C. ‘12 Section 1320; Civ. C. ‘02 Section 922; G. S. 743; R. S. 794; 1839 (11) 110 Section 22.

Library References

Clerks of Courts 64.

Westlaw Topic No. 79.

C.J.S. Courts Sections 337 to 340, 343.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 10, Duties.

NOTES OF DECISIONS

In general 1

1. In general

The clerk must witness and approve the security. Furman v Harman, 2 McC (13 SCL) 442. Boyd v Graham, 2 Hill (20 SCL) 558. Cummings v Wingo, 31 SC 427, 10 SE 107 (1887). McCarley v Turner, 33 SC 161, 11 SE 645 (1889).

Undertaking as security for costs, required to be given by nonresident plaintiff, must be both witnessed and approved by clerk of court. Wilson v. Muehlberger (S.C. 1930) 158 S.C. 58, 155 S.E. 230.

Where court granted nonsuit unless nonresident plaintiffs filed security for costs, and instrument filed was not in form prescribed by court rule nor witnessed and approved by clerk, nonsuit became absolute on expiration of time fixed for compliance with court order. Lamborn v. Merchants Grocery Co. (S.C. 1930) 157 S.C. 150, 154 S.E. 94.

Form and place of signature of the clerk as witness. Garrett v. Niel (S.C. 1897) 49 S.C. 560, 27 S.E. 512.

The individual note of plaintiff’s attorney, payable to the clerk, is not valid security. Bomar v. Asheville & S.R. Co. (S.C. 1889) 30 S.C. 450, 9 S.E. 512.

**SECTION 14‑17‑280.** Clerk shall permit entry of satisfaction of judgments and mortgages.

 The clerk or the register of deeds, as the case may be, in whose office any judgment or mortgage may be of record, on the receipt of the fees, shall permit any judgment creditor or his or her attorney or any mortgagee, as the case may be, to enter satisfaction thereof. Or if any judge shall order satisfaction of any such judgment or mortgage the clerk shall enter of record such satisfaction accordingly.

HISTORY: 1962 Code Section 15‑1730; 1952 Code Section 15‑1730; 1942 Code Section 3599; 1932 Code Section 3599; Civ. C. ‘22 Section 2143; Civ. C. ‘12 Section 1322; Civ. C. ‘02 Section 924; G. S. 745; R. S. 1839 (11) 109 Section 19; 1997 Act No. 34, Section 1, eff January 1, 1998.

CROSS REFERENCES

Entry of judgment under South Carolina Rules of Civil Procedure, see Rule 58, SCRCP.

Library References

Clerks of Courts 64.

Westlaw Topic No. 79.

C.J.S. Courts Sections 337 to 340, 343.

Attorney General’s Opinions

Register of deeds may comply with master in equity order directing the clerk of court to take certain action. S.C. Op.Atty.Gen. (November 23, 2005) 2005 WL 3352849.

The recording officer should determine whether the mortgage satisfaction has been executed by the current holder of the mortgage prior to recording a mortgage satisfaction. Where two mortgages appear of record, the satisfaction must be entered by the two mortgagees. 1992 Op.Atty.Gen. No 92‑61 (October 20, 1992) 1992 WL 575667.

NOTES OF DECISIONS

In general 1

1. In general

Civ.Code 1912, Sections 1322, 3461 (See Code 1942, Sections 3599, 8703), authorize and require a mortgagee to enter satisfaction of a mortgage of real estate only when he is the owner and holder of the instrument at the time and has received payment or satisfaction of the same. Union Nat. Bank of Columbia v. Cook (S.C. 1918) 110 S.C. 99, 96 S.E. 484.

Since Act 1884, 18 St. at Large, p. 822, amended Gen.St. Section 2354 (See Code 1942, Section 8735), by requiring the “statement” of a mechanic’s lien to be filed in the office of the “clerk of the court” instead of in the office of the “register of mesne conveyances,” a petition in an action to enforce such lien was demurrable where it alleged that the statement was filed in the latter manner; and that notwithstanding that Gen.St. Section 765, provides that, with three immaterial exceptions, the clerk and register shall be the same person; that section 745 (See Code 1942, Section 3599), provides that it shall be the duty of the clerk or register, as the case may be, in whose office any judgment or mortgage may be of record, to enter them satisfied under certain circumstances; and that section 754 (See Code 1942, Section 3607), requires the “clerk” to furnish county commissioners a certificate of all liens recorded in “his” office, “whether by judgment, mortgage, or otherwise.”. Waring v. Miller Batting & Mfg. Co. (S.C. 1892) 36 S.C. 310, 15 S.E. 132.

**SECTION 14‑17‑290.** Clerk shall enter renewals and satisfactions of executions.

 Whenever any execution shall be returned for renewal or as satisfied by any sheriff the clerk shall enter such renewal or satisfaction in the appropriate column of the abstract book and in case of satisfaction shall enter the same on the original record. It shall not be lawful for the clerk to affix the seal of the court to any renewed execution unless the one previously issued shall have been delivered to him or unless authorized by a judge’s order.

HISTORY: 1962 Code Section 15‑1731; 1952 Code Section 15‑1731; 1942 Code Section 3602; 1932 Code Section 3602; Civ. C. ‘22 Section 2146; Civ. C. ‘12 Section 1325; Civ. C. ‘02 Section 927; G. S. 748; R. S. 799; 1839 (11) 109 Section 19.

Library References

Clerks of Courts 64.

Westlaw Topic No. 79.

C.J.S. Courts Sections 337 to 340, 343.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 10, Duties.

NOTES OF DECISIONS

In general 1

1. In general

A clerk is not presumed to have violated the law in renewing an execution from his omission to enter the renewal and in the absence of proof of the return of a previous one to him; he is rather presumed to have done his duty. Douglass v. Owens (S.C. 1852) 5 Rich. 534.

**SECTION 14‑17‑300.** Clerk shall execute laws respecting jurors.

 The clerk shall diligently and uprightly put in execution the laws in force directing the drawing, balloting, empaneling and summoning of jurors, so far as his cooperation may be required.

HISTORY: 1962 Code Section 15‑1732; 1952 Code Section 15‑1732; 1942 Code Section 3593; 1932 Code Section 3593; Civ. C. ‘22 Section 2137; Civ. C. ‘12 Section 1316; Civ. C. ‘02 Section 918; G. S. 739; R. S. 790; 1839 (11) 105 Section 10; 1869 (14) 236 Section 7; 1871 (14) 690; 1939 (41) 27; 1941 (42) 70; 1943 (43) 263.

Library References

Clerks of Courts 64.

Westlaw Topic No. 79.

C.J.S. Courts Sections 337 to 340, 343.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 10, Duties.

**SECTION 14‑17‑310.** Clerk shall make out roll of jurors and constables in attendance; certificates.

 Immediately after the adjournment of any court of common pleas and general sessions the clerk thereof shall (a) make out a roll of the grand jurors, petit jurors and constables who shall have attended the same, exhibiting the name, time of service and amount due each juror and constable and the term at which the service was performed, (b) enter the same on the journals of the court of the term when such service shall be performed, (c) forthwith transmit to the governing body of the county a certified copy of such roll and (d) furnish each juror and constable with a certificate, in the following form:

 STATE OF SOUTH CAROLINA: I, A. B. Clerk of the Court of Common Pleas and General Sessions for \_\_\_\_\_\_\_\_\_\_ County, in the said State, do certify that \_\_\_\_\_\_\_\_\_\_ attended as a \_\_\_\_\_\_\_\_\_\_ juror (or actually served as a constable, as the case may be) for said county \_\_\_\_\_\_\_\_\_\_ days at \_\_\_\_\_\_\_\_\_\_ Term, A. D. \_\_\_\_\_\_\_\_\_\_, and is entitled to receive for the same \_\_\_\_\_\_\_\_\_\_ dollars, and \_\_\_ cents.

 Such certificate shall be signed by the clerk of court, who shall issue the same, and be countersigned by the sheriff of the county. All certificates so issued and executed shall be valid.

HISTORY: 1962 Code Section 15‑1733; 1952 Code Section 15‑1733; 1942 Code Section 3594; 1932 Code Section 3594; Civ. C. ‘22 Section 2138; Civ. C. ‘12 Section 1317; Civ. C. ‘02 Section 919; 1839 (11) 106 Section 14; 1878 (16) 412; 1937 (40) 392; 1938 (40) 1639.

Library References

Clerks of Courts 64.

Westlaw Topic No. 79.

C.J.S. Courts Sections 337 to 340, 343.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 10, Duties.

**SECTION 14‑17‑325.** Clerk shall report disposition of each case in court of general sessions.

 Every clerk of court shall report the disposition of each case in the Court of General Sessions to the State Law Enforcement Division within thirty days of disposition. The disposition report must be in a format approved by representatives of the State Law Enforcement Division and the office of court administration. With the approval of the State Law Enforcement Division and the office of court administration, this reporting requirement may be satisfied by use of General Sessions docket information transmitted to the office of the court administration.

HISTORY: 1988 Act No. 351, Section 1, eff July 1, 1989.

Library References

Clerks of Courts 64.

Westlaw Topic No. 79.

C.J.S. Courts Sections 337 to 340, 343.

**SECTION 14‑17‑330.** Clerk shall keep record of all persons elected to office.

 Each of the clerks of courts of the various counties in this State shall keep a book in his office in which he shall record the name of each person elected to any office, together with the date of their election whenever such facts are obtainable. Such book shall be furnished by the governing body of the county, without cost to the clerk of court.

HISTORY: 1962 Code Section 15‑1736; 1952 Code Section 15‑1736; 1942 Code Section 3622; 1932 Code Section 3622; Civ. C. ‘22 Section 2166; Civ. C. ‘12 Section 1342; 1905 (24) 964.

Library References

Clerks of Courts 64.

Westlaw Topic No. 79.

C.J.S. Courts Sections 337 to 340, 343.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 10, Duties.

**SECTION 14‑17‑340.** Clerk shall administer oaths to magistrates and transmit list of magistrates’ names to Secretary of State.

 The clerk shall administer the oaths of office required to be taken by magistrates appointed within his county, on their application, within ninety days after such appointment. On the first day of November, annually, he shall transmit a list of the names of magistrates who have qualified during the preceding year to the office of the Secretary of State at Columbia.

HISTORY: 1962 Code Section 15‑1737; 1952 Code Section 15‑1737; 1942 Code Section 3603; 1932 Code Section 3603; Civ. C. ‘22 Section 2147; Civ. C. ‘12 Section 1326; Civ. C. ‘02 Section 928; G. S. 749; R. S. 800; 1839 (11) 112 Section 30.

CROSS REFERENCES

Oaths of magistrates, see Section 22‑1‑20.

Library References

Clerks of Courts 64.

Westlaw Topic No. 79.

C.J.S. Courts Sections 337 to 340, 343.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 10, Duties.

**SECTION 14‑17‑350.** Clerk shall administer oath of office to constables; failure of constable to appear.

 The clerk shall administer the oaths of office required by law to be taken by a constable, on his entering into bond, as prescribed, to be filed in the office of the clerk, of the sufficiency of the surety to which the clerk shall judge. The constable shall furnish a genuine signature of his name in the book prescribed, whereupon the clerk shall furnish an official certificate of such qualification. When any constable summoned in writing by the sheriff to attend court shall fail to appear, according to the summons, such default shall be noted by the clerk and such other proceedings had as in cases of jurors in default or as the court may order.

HISTORY: 1962 Code Section 15‑1738; 1952 Code Section 15‑1738; 1942 Code Section 3604; 1932 Code Section 3604; Civ. C. ‘22 Section 2148; Civ. C. ‘12 Section 1327; Civ. C. ‘02 Section 929; G. S. 750; R. S. 801; 1839 (11) 112 Section 31.

CROSS REFERENCES

Oaths of constables, see Sections 22‑9‑20, 22‑9‑30.

Library References

Clerks of Courts 64.

Westlaw Topic No. 79.

C.J.S. Courts Sections 337 to 340, 343.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 10, Duties.

**SECTION 14‑17‑360.** Clerk shall furnish official certificates to certain officers.

 When any sheriff, coroner, magistrate or constable shall be required to obtain the official certificate of any clerk to his contingent account, specifying any matters required by law to be certified, the clerk shall furnish such certificates, according to the facts, upon application and payment of fees.

HISTORY: 1962 Code Section 15‑1739; 1952 Code Section 15‑1739; 1942 Code Section 3606; 1932 Code Section 3606; Civ. C. ‘22 Section 2150; Civ. C. ‘12 Section 1329; Civ. C. ‘02 Section 931; G. S. 753; R. S. 803; 1838 (11) 113 Section 36.

Library References

Clerks of Courts 64.

Westlaw Topic No. 79.

C.J.S. Courts Sections 337 to 340, 343.

**SECTION 14‑17‑370.** Clerk shall furnish certificates of liens on property of certain sureties.

 The clerk shall furnish, free of charge, to the governing body of the county, when required, an official certificate of all liens that may be of record in his office on the property of any individual who may be offered as surety to the bond of any public officer, whether by judgment, mortgage or otherwise.

HISTORY: 1962 Code Section 15‑1740; 1952 Code Section 15‑1740; 1942 Code Section 3607; 1932 Code Section 3607; Civ. C. ‘22 Section 2151; Civ. C. ‘12 Section 1330; Civ. C. ‘02 Section 932; G. S. 754; R. S. 804; 1839 (11) 113 Section 37.

Library References

Clerks of Courts 64.

Westlaw Topic No. 79.

C.J.S. Courts Sections 337 to 340, 343.

NOTES OF DECISIONS

In general 1

1. In general

Since Act 1884, 18 St. at Large, p. 822, amended Gen.St. Section 2354 (See Code 1942, Section 8735), by requiring the “statement” of a mechanic’s lien to be filed in the office of the “clerk of the court” instead of in the office of the “register of mesne conveyances,” a petition in an action to enforce such lien was demurrable where it alleged that the statement was filed in the latter manner; and that notwithstanding that Gen.St. Section 765, provides that, with three immaterial exceptions, the clerk and register shall be the same person; that section 745 (See Code 1942, Section 3599), provides that it shall be the duty of the clerk or register, as the case may be, in whose office any judgment or mortgage may be of record, to enter them satisfied under certain circumstances; and that section 754 (See Code 1942, Section 3607), requires the “clerk” to furnish county commissioners a certificate of all liens recorded in “his” office, “whether by judgment, mortgage, or otherwise.”. Waring v. Miller Batting & Mfg. Co. (S.C. 1892) 36 S.C. 310, 15 S.E. 132.

ARTICLE 5

Books, Papers, and Records

**SECTION 14‑17‑510.** Record of court proceedings; filing papers; preservation of papers and property.

 The clerk shall make a full, fair and correct entry and record of the proceedings of the courts and other matters pertaining to his office in the various books required to be kept, conforming to the mode prescribed by law, order of the court or usage of the office. He shall file in their proper order original papers in causes instituted or other authorized proceedings and preserve with care all papers, books and furniture pertaining to or connected with his office.

HISTORY: 1962 Code Section 15‑1761; 1952 Code Section 15‑1761; 1942 Code Section 3582; 1932 Code Section 3582; Civ. C. ‘22 Section 2126; Civ. C. ‘12 Section 1305; Civ. C. ‘02 Section 907; G. S. 728; R. S. 779; 1839 (11) 100 Section 4.

CROSS REFERENCES

Duty of clerk to keep books under South Carolina Rules of Civil Procedure, see Rule 79, SCRCP.

Library References

Clerks of Courts 69.

Westlaw Topic No. 79.

C.J.S. Courts Section 341.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 10, Duties.

NOTES OF DECISIONS

In general 1

1. In general

Record of proceedings. Williams v Jones, 2 Hill (20 SCL) 555. Brown v Coward, 3 Hill (21 SCL) 4. Jones v Stiefer, 1 Spears (28 SCL) 15. Schoonmaker v Lloyd, 9 Rich (43 SCL) 173.

The statutes as to filings are general. King v. McMillan (D.C.S.C. 1966) 252 F.Supp. 390.

Propriety in correcting error in form of verdict before recording. Devore v. Geiger (S.C. 1894) 41 S.C. 138, 19 S.E. 288.

**SECTION 14‑17‑520.** Procurement of filing cases.

 The office of every clerk shall be furnished with suitable cases with proper partitions for filing papers, under appropriate labels.

HISTORY: 1962 Code Section 15‑1763; 1952 Code Section 15‑1763; 1942 Code Section 3583; 1932 Code Section 3583; Civ. C. ‘22 Section 2127; Civ. C. ‘12 Section 1306; Civ. C. ‘02 Section 908; G. S. 729; R. S. 780; 1839 (11) 100 Section 5; 1961 (52) 42.

Library References

Clerks of Courts 69.

Westlaw Topic No. 79.

C.J.S. Courts Section 341.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 14, Budget.

**SECTION 14‑17‑530.** Filing and endorsement of papers.

 The original papers of record in each cause wherein judgment may be signed or confessed or decree may be entered shall be filed according to the number of enrollment in the book of abstracts of judgments or decrees, placing all the papers in each cause together. Original papers in the sessions shall be filed according to the term at which they were disposed of, alphabetically arranged for each term according to defendants’ names, all relating to the same cause together. Other papers required to be returned to or kept in the office shall be endorsed with the character, date of filing and number on file, numbering each kind from one onward and keeping all relating to the same matters together under the same number, and shall be filed according to date and number in appropriate boxes with suitable labels, put up in packages and dated according to the year in which they may be filed. Upon the envelope or card there shall be an endorsement of the description or kind of papers therein and reference to number under the following heads: Bonds in attachment, bonds of constables, certificates from the Supreme Court, appeals, commissions, inquests by the coroner, reports, etc., de lunatico inquirendo, naturalization, venire facias, dower, partition, escheats, affidavits, attachments for contempt and rules and sessions papers disposed of to be transferred after judgment when authorized. The following endorsements shall be made upon the record when the proceedings warrant it:

 (1) On the judgment roll, the date when filed, number on docket, date and amount of judgment in figures, amount of taxed cost, judgment when signed, execution, date of issuing and, at the top at some conspicuous place, the number roll;

 (2) On bills of indictment, the date and character of filing by grand jury, number on docket, arraignment, verdict or other disposition, date, amount of tax costs, execution, date of issuing and kind; and

 (3) On all papers returned by magistrates in the sessions their character and date of filing.

 On every execution before it leaves the clerk’s office, shall be endorsed, near the top, the number roll or, if in the sessions, the term under which the case is filed and, in all instances when an execution is returned for renewal, the fact and date of such renewal shall be endorsed on the execution so returned and on the renewed execution shall be endorsed the date when first execution was lodged in the sheriff’s office.

 All original papers in dower, partition of real estate and inquisitions shall be filed according to number roll, the papers pertaining to each case being placed together and the number roll plainly endorsed on the envelope or outside paper and also the book and page of record.

HISTORY: 1962 Code Section 15‑1764; 1952 Code Section 15‑1764; 1942 Code Section 3585; 1932 Code Section 3585; Civ. C. ‘22 Section 2129; Civ. C. ‘12 Section 1308; Civ. C. ‘02 Section 910; G. S. 731; R. S. 782; 1839 (11) 101 Section 7.

Library References

Clerks of Courts 69.

Westlaw Topic No. 79.

C.J.S. Courts Section 341.

**SECTION 14‑17‑540.** Books, calendars and records to be kept by clerks.

 The books to be used by the several clerks, which shall be well bound and of good materials, shall be as follows:

 (1) A “Court of Common Pleas Journal” shall contain

 (a) a full account of the proceedings of court from the opening to the adjournment, excluding motions refused,

 (b) a short statement of each case called and the manner of its disposition and every order of reference, each under a general order as far as may be,

 (c) a record of the names of jurors composing each jury and all changes therein, designating the jury who may try each cause under the title thereof, together with an exact copy of their verdict,

 (d) whether the cause was upon trial before jury or judge or by default and if in default whether in proof or reference and all assessments, each in words at length and not in figures,

 (e) awards confirmed,

 (f) confessions of judgment during court,

 (g) final judgments and

 (h) copies of all orders passed, motions granted and other matters specially ordered by the court to be entered;

 (2) A “Court of General Sessions Journal” which shall be kept in a separate volume, after like manner as far as may be and including the finding of the grand juries on bills given out, with their other presentments, and sentences of the court on parties convicted; orders of escheat; fines imposed; and other matters specially ordered for entry by the court;

 (3) “Indexes to the Respective Journals of the Common Pleas and General Sessions” which shall be alphabetically arranged at the end of each volume and shall always be brought up by the first day of each succeeding term;

 (4) “Rules” in which shall be entered every case on filing the complaint, showing, in separate columns, the names of parties, plaintiff’s attorney, defendant’s attorney, date of filing complaint, date of answer, demurrer, replication and other pleadings and date of order for judgment;

 (5) “Calendars” for civil causes, sessions and contingent, to be kept in separate volumes for the use of the court and a bar calendar in a single volume, to be made on and before the meeting of the court, the calendars to be kept up as the pleadings are made up or cases occur during the term for both the court and the bar; the sessions calendar shall contain, separately arranged, cases of the previous term under the title “Traverses” and cases under the present term under the title “Calendar”; the contingent calendar shall contain, in the sessions, all the rules, bills found in which defendants have not been arrested, and cases struck off, but in which nol. pros. has not been entered, to be called on motion of the solicitor; the calendars shall show, in separate columns, the number of the cause, number of term, names of parties, cause of action, plaintiff’s attorney, defendant’s attorney and, in the sessions, the prosecutor’s name and the race to which each person indicted in such court belongs, the order of the last court and the place for the event of suit, to be entered by the judge;

 (6) “Abstracts of Judgments” in which shall be entered each case wherein judgment may be signed, including each case in dower, partition and escheat, after judgment or final order, with separate columns showing the number of enrollment, names of parties, cause of action, attorney, date of judgment, amount of judgment, time of bearing interest, how judgment obtained, costs (separating attorney, clerk, sheriff, witnesses and total), kind of execution, date of issuing execution, sheriff’s return thereon and satisfaction, together with an index by the names of defendants and a cross index by the names of plaintiffs, each alphabetically arranged and kept in separate volumes with the number of enrollment of judgment;

 (7) A “Sessions Index” by names of defendants, alphabetically arranged, together with the offense charged, disposition of the case, term when ended and number on file;

 (8) “Pleadings and Judgments” in which shall be entered, at length, the complaint, answer and judgment in each cause wherein judgment may have been signed and also the proceedings in dower, partition and escheat when the final order and judgment of the court shall have been had, with an index to the names of plaintiffs; provided, that such records in Edgefield County may be photostated by the clerk of court and filed for record in a loose‑leaf binder;

 (9) “Confessions of Judgment before Clerk” in which shall be entered such proceedings kept with reference to the number of enrollment in book of abstracts, instead of page, together with an index to this particular volume in the names of defendants;

 (10) “Fines and Forfeitures” in which shall be entered the names of all persons fined by the court or whose recognizance may be estreated, with separate columns showing names, cause of fine, when fined, by whom fined, amount of fine, to whom due, when collected, by whom collected, why not collected, when paid over and to whom paid over;

 (11) “Magistrates’ and Constables’ Roll” in which shall be entered the name of each magistrate and constable on taking the oaths of office, representing in separate columns the names, date of qualification, office, expiration of term, a genuine signature and, in the case of a constable, the names of the sureties to his bond, with an index of each name, alphabetically arranged.

 (12) “Book of Orders Appointing Receivers of Judgment Debtors”;

 (13) “Miscellaneous Index” in which shall be entered, alphabetically, the names of all aliens who have taken any step towards naturalization; all persons concerning whom proceedings de lunatico inquirendo may be instituted; the names of aliens naturalized; certificates and papers concerning corporations; and all matters required by law to be recorded and not otherwise provided for, referring to papers on file by number and label; and

 (14) “A Record Book of Pardons” in which shall be recorded the names of persons pardoned in the county, arranged alphabetically, the offenses for which they were convicted, the date of conviction and the date of pardon.

HISTORY: 1962 Code Section 15‑1767; 1952 Code Section 15‑1767; 1942 Code Section 3586; 1932 Code Section 3586; Civ. C. ‘22 Section 2130; Civ. C. ‘12 Section 1309; Cr. C. ‘12 Section 73; Cr. C. ‘02 Section 46; Civ. C. ‘02 Section 911; G. S. 732; R. S. 783; 1839 (11) 103; 1850 (12) 70; 1896 (22) 122; 1900 (22) 442; 1911 (27) 86; 1935 (39) 273; 1940 (41) 1653; 1970 (56) 2630.

CROSS REFERENCES

Abstract of judgments, see Sections 15‑35‑510, 15‑35‑520, 15‑35‑540, 22‑3‑300.

Duty of clerk to keep books under South Carolina Rules of Civil Procedure, see Rule 79, SCRCP.

Library References

Clerks of Courts 69.

Westlaw Topic No. 79.

C.J.S. Courts Section 341.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Probation, Parole, and Pardon Section 30, The Order of Pardon and Its Effect.

Attorney General’s Opinions

Supreme Court decision concludes that each state may enact legislation authorizing disclosure of “rap sheets” to public; SLED’s regulation as to particular data to be disseminated is consistent with Court’s ruling and present South Carolina law; Supreme Court has concluded that “rap sheets” may continue to be treated as in the past by SLED, in accordance with SLED’s regulation; General Assembly could, consistent with Supreme Court ruling, specifically authorize by legislation disclosure of “rap sheets” to public. 1990 Op.Atty.Gen. No. 90‑15 (January 24, 1990) 1990 WL 482403.

United States Supreme Court in Reporters Committee case construed federal law relative to criminal history records maintained by Federal Bureau of Investigation. 1990 Op.Atty.Gen. No. 90‑15 (January 24, 1990) 1990 WL 482403.

Documents at original sources, such as arrest warrants, would not be affected by Supreme Court’s ruling and would be available to public. 1990 Op.Atty.Gen. No. 90‑15 (January 24, 1990) 1990 WL 482403.

Decision to disclose particular record or document in given instance remains with custodian of document or record; such view constitutes a discussion of the ruling by the United States Supreme Court in Reporters Committee case and is not intended to usurp authority of custodian to determine whether disclosure is appropriate in particular instance. 1990 Op.Atty.Gen. No. 90‑15 (January 24, 1990) 1990 WL 482403.

NOTES OF DECISIONS

In general 1

1. In general

Confessions of judgment before clerk. A confession of judgment is not void if not entered on this book. Ex parte Graham (S.C. 1899) 54 S.C. 163, 32 S.E. 67.

Abstracts of judgments. The entry on this book is the judgment record. Harrison v Southern Porcelain Manuf. Co., 10 SC 278 (1878). Ex parte Graham (S.C. 1899) 54 S.C. 163, 32 S.E. 67.

Where the clerk has made no entry on the minutes of the court of a judgment in summary process, a motion to amend by entering judgment nunc pro tunc cannot be granted, because there is no judgment to amend. Brown v. Coward, 1835, 1835 WL 1373, Unreported.

Where the clerk has made no entry on the minutes of the court of a judgment in summary process, there is nothing on which a scire facias to revive can issue. Brown v. Coward, 1835, 1835 WL 1373, Unreported.

Neither the state, nor any one authorized by the state, can maintain an action against a clerk of the court of common pleas, on his bond, for neglecting to record judgments recovered in his office. Treasurers v. Ross, 1827, 1827 WL 989, Unreported.

**SECTION 14‑17‑550.** Entries on and preservation of calendars.

 No cause shall be entered on the calendar except by the clerk or his deputy, nor by him until the pleadings are made up. The calendars for the court shall be regularly preserved as a record of the court.

HISTORY: 1962 Code Section 15‑1769; 1952 Code Section 15‑1769; 1942 Code Section 3586; 1932 Code Section 3586; Civ. C. ‘22 Section 2130; Civ. C. ‘12 Section 1309; Cr. C. ‘12 Section 73; Cr. C. ‘02 Section 46; Civ. C. ‘02 Section 911; G. S. 732; R. S. 783; 1839 (11) 103; 1850 (12) 70; 1896 (22) 122; 1900 (22) 442; 1911 (27) 86; 1935 (39) 273; 1940 (41) 1653.

CROSS REFERENCES

Duties of clerk regarding court calendar under South Carolina Rules of Civil Procedure, see Rule 79, SCRCP.

Library References

Clerks of Courts 69.

Westlaw Topic No. 79.

C.J.S. Courts Section 341.

**SECTION 14‑17‑560.** Size of books required to be kept.

 The books mentioned in Section 14‑17‑540 shall be of the following sizes, respectively:

 (1) Court of common pleas journal, general sessions journal, rules and fines and forfeitures, each of the size denominated “Demi,” the journals containing not less than six quires each and the other books not less than three quires each;

 (2) Calendars, sessions index, confessions of judgment before clerk, magistrates’ and constables’ roll, book of orders appointing receivers of judgment debtors and miscellaneous index, each of the size denominated “Board Cap,” the first named containing not less than two quires and the remaining books not less than four quires each;

 (3) Pleadings and judgments in a volume not less than the size denominated “Medium,” containing not less than six quires;

 (4) Abstract of judgments of the size denominated “Super Royal,” containing not less than four quires; and

 (5) Indexes to the preceding volumes of the size denominated “Long Demi,” containing not less than six quires.

HISTORY: 1962 Code Section 15‑1770; 1952 Code Section 15‑1770; 1942 Code Section 3587; 1932 Code Section 3587; Civ. C. ‘22 Section 2131; Civ. C. ‘12 Section 1310; Civ. C. ‘02 Section 912; G. S. 733; R. S. 784; 1839 (11) 105 Section 8.

Library References

Clerks of Courts 69.

Westlaw Topic No. 79.

C.J.S. Courts Section 341.

**SECTION 14‑17‑570.** Books and records shall remain in clerk’s office; inspection; copies.

 The clerk shall not in any case permit either the books or records to be removed from his office, though he shall at all times permit either party to a suit, or his agent or attorney, to inspect or copy, during the pendency of suit, any papers pertaining thereto without charge or to furnish on application certified copies thereof on payment of fees per copy sheet.

HISTORY: 1962 Code Section 15‑1771; 1952 Code Section 15‑1771; 1942 Code Section 3589; 1932 Code Section 3589; Civ. C. ‘22 Section 2133; Civ. C. ‘12 Section 1312; Civ. C. ‘02 Section 914; G. S. 735; R. S. 786; 1839 (11) 105 Section 9.

CROSS REFERENCES

Duty of clerk to keep books under South Carolina Rules of Civil Procedure, see Rule 79, SCRCP.

Library References

Clerks of Courts 69.

Westlaw Topic No. 79.

C.J.S. Courts Section 341.

NOTES OF DECISIONS

In general 1

1. In general

This court cannot sanction the withdrawal of a paper from the files of a public office, even though by permission of the officer in charge. Sternberger v. McSween (S.C. 1880) 14 S.C. 35, 1880 WL 5678, Unreported.

**SECTION 14‑17‑580.** Clerk is responsible for books, papers, and other property; transfer to successor.

 Every clerk shall be held responsible for the books, papers and furniture in his office. Upon his retiring from office or upon his death, he or his representative shall be bound to transfer the same to his successor immediately after such successor has entered upon the duties of his office, under a penalty of one thousand dollars and imprisonment not exceeding one year for failure so to do.

HISTORY: 1962 Code Section 15‑1772; 1952 Code Section 15‑1772; 1942 Code Section 1520; 1932 Code Section 1520; Cr. C. ‘22 Section 468; Cr. C. ‘12 Section 541; Cr. C. ‘02 Section 384; G. S. 757; R. S. 301; 1839 (11) 114.

Library References

Clerks of Courts 69.

Westlaw Topic No. 79.

C.J.S. Courts Section 341.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 9, Discipline and Removal.

**SECTION 14‑17‑590.** Receipt for books, papers, and furniture of office.

 Before surrendering such books, papers and furniture, the clerk so retiring from office or his representative shall be entitled to require from such successor, who, under like penalty, shall be bound to execute the same, a receipt in writing therefor which shall specify the number, title and condition of every book, the number of records, as appears by the enrollment, and such other classification as it may be convenient to adopt from the arrangement of the office, all the packages of papers in office and the description and condition of each article of furniture. A duplicate of such receipt shall also be given and shall, by the clerk so retiring from office or his representatives, be filed in the office of the governing body of the county and every clerk having retired from office or his representative shall be liable to an action, in the name of the county, for damages to any books, papers and furniture which shall be proven to have been in his possession and shall not appear, by such receipt, to have been transferred to his successors or, having been so transferred, shall appear to have been, through neglect, injured during his continuance in office.

HISTORY: 1962 Code Section 15‑1773; 1952 Code Section 15‑1773; 1942 Code Section 3610; 1932 Code Section 3610; Civ. C. ‘22 Section 2154; Civ. C. ‘12 Section 1333; Civ. C. ‘02 Section 935; G. S. 757; R. S. 807; 1839 (11) 114 Section 41.

Library References

Clerks of Courts 69.

Westlaw Topic No. 79.

C.J.S. Courts Section 341.

**SECTION 14‑17‑595.** Clerks of court may maintain records on computers; paper or microfilm records required in certain instances.

 Notwithstanding the provisions of this article or any other provision of law, a public record required to be kept by a clerk of court including, but not limited to, a book, journal, index, paper, writing, written record, and written findings may be maintained in a computer system provided that a paper or microfilm record must be maintained on all permanently valuable records.

HISTORY: 1994 Act No. 412, Section 1, eff May 25, 1994.

Library References

Clerks of Courts 69.

Westlaw Topic No. 79.

C.J.S. Courts Section 341.

**SECTION 14‑17‑600.** Judges shall require clerks to comply with Sections 14‑17‑540 and 14‑17‑550.

 The circuit judge shall require the clerks of court to comply with the requirements of Sections 14‑17‑540 and 14‑17‑550.

HISTORY: 1962 Code Section 15‑1774; 1952 Code Section 15‑1774; 1942 Code Section 3586; 1932 Code Section 3586; Civ. C. ‘22 Section 2130; Civ. C. ‘12 Section 1309; Cr. C. ‘12 Section 73; Cr. C. ‘02 Section 46; Civ. C. ‘02 Section 911; G. S. 732; R. S. 783; 1839 (11) 103; 1850 (12) 70; 1896 (22) 122; 1900 (22) 442; 1911 (27) 86; 1935 (39) 273; 1940 (41) 1653.

Library References

Clerks of Courts 69.

Westlaw Topic No. 79.

C.J.S. Courts Section 341.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 10, Duties.

ARTICLE 7

Accounts and Disposition of Money

**SECTION 14‑17‑710.** Accounts against county for fees in State cases.

 In all cases the clerk shall render his account against the county for fees in State cases under oath, to be taken and subscribed before the judge, magistrate or other office authorized to administer an oath. In such statement the nature of the services shall be fully set forth and, if in the sessions, the name of the party, offense and termination thereof. He shall not be entitled to receive any fees from the county in any case in which the defendant is convicted unless he makes oath that the costs in such case have not been recovered out of the defendant and that the defendant is unable to pay costs. And he must, in all cases, further make oath that all fines and penalties theretofore collected by him have been faithfully and fully paid over to the county treasurer.

HISTORY: 1962 Code Section 15‑1781; 1952 Code Section 15‑1781; 1942 Code Section 3605; 1932 Code Section 3605; Civ. C. ‘22 Section 2149; Civ. C. ‘12 Section 1328; Civ. C. ‘02 Section 930; G. S. 752; R. S. 802; 1839 (11) 113 Section 35; 1869 (14) 274 Section 2; 1875 (15) 992; 1879 (17) 175.

Library References

Clerks of Courts 70.

Westlaw Topic No. 79.

C.J.S. Courts Sections 342, 345 to 346.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 14, Budget.

**SECTION 14‑17‑720.** Disposition of certain fines, penalties, and taxes.

 All fines and penalties imposed and collected by the circuit court of general sessions in criminal causes shall be forthwith turned over by the clerk of such court to the county treasurer of the county wherein the same are imposed; provided, that when, by law, any person is entitled as informer to any portion of the fine or penalty imposed and collected the same shall be immediately paid over to him. They shall also pay, monthly, to the county treasurers of their respective counties, for the use of the State, all such moneys as may have come into their hands as taxes from persons representing, publicly, plays and shows within the limits of their counties.

HISTORY: 1962 Code Section 15‑1782; 1952 Code Section 15‑1782; 1942 Code Section 3611; 1932 Code Section 3611; Civ. C. ‘22 Section 2155; Civ. C. ‘12 Section 1334; Civ. C. ‘02 Section 936; G. S. 758; R. S. 808; 1871 (14) 655 Section 1; 1813 (5) 711 Section 35; 1843 (11) 246 Section 3; 1875 (15) 845.

CROSS REFERENCES

Disposition of fines for violations of the law regulating traffic on the highways, see Section 56‑5‑6200.

Library References

Clerks of Courts 70.

Westlaw Topic No. 79.

C.J.S. Courts Sections 342, 345 to 346.

NOTES OF DECISIONS

In general 1

1. In general

Charging jury with section not prejudicial error in prosecution for official misconduct. See State v. Wilson (S.C. 1965) 246 S.C. 580, 145 S.E.2d 20.

**SECTION 14‑17‑725.** Collection cost imposed on installment payments of fines or restitution.

 Where criminal fines, assessments, or restitution payments are paid through installments, a collection cost charge of three percent of the payment also must be collected by the clerk of court, magistrate, or municipal court from the defendant and transferred to the county treasurer or city treasurer, as appropriate, for deposit to credit of the county or municipal general fund.

HISTORY: 1992 Act No. 435, Section 1, eff June 1, 1992; 1994 Act No. 497, Part II, Section 36I, eff January 1, 1995.

Library References

Clerks of Courts 70.

Westlaw Topic No. 79.

C.J.S. Courts Sections 342, 345 to 346.

**SECTION 14‑17‑730.** Penalty for not paying over funds, fines, and forfeitures; penalty for failure to give notice to county.

 If any clerk fail to pay over fines and forfeitures received by him or any moneys paid to him by order or permission of the court within five days after demand of the person entitled to receive the same, he shall forfeit and pay five per cent per month until the same shall be paid over, to be recovered, together with such amount received, by action on his official bond, besides being liable to rule and attachment as for contempt. If he shall fail to give to some member of the governing body of the county the notice required by law to be given he shall forfeit and pay double the amount so detained without notice.

HISTORY: 1962 Code Section 15‑1783; 1952 Code Section 15‑1783; 1942 Code Sections 3613, 3614; 1932 Code Sections 3613, 3614; Civ. C. ‘22 Sections 2157, 2158; Civ. C. ‘12 Sections 1336, 1337; Civ. C. ‘02 Sections 938, 939; G. S. 760, 761; R. S. 810, 811; 1839 (11) 111 Section 28.

Library References

Clerks of Courts 70.

Westlaw Topic No. 79.

C.J.S. Courts Sections 342, 345 to 346.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 9, Discipline and Removal.

NOTES OF DECISIONS

In general 1

1. In general

Legislative intent. The penalties prescribed were intended to punish the failure of an official who willfully refuses to turn over funds in his hand. Chandler v. Britton (S.C. 1941) 197 S.C. 303, 15 S.E.2d 344.

Clerk not liable because of insolvent bank. This section [Code 1962 Section 15‑1783] was not applicable to a clerk of court who deposited funds in his hands in a bank which subsequently became insolvent. Chandler v. Britton (S.C. 1941) 197 S.C. 303, 15 S.E.2d 344.

**SECTION 14‑17‑740.** Annual accounts of fines and forfeitures; suit to recover upon failure to account.

 The clerk shall return to the governing body of the county, on or before the last day of October in every year, an account, upon oath, in duplicate, of all fines and forfeitures inflicted in his court during the preceding year and of the amounts had and received by him and of the manner in which such fines were disposed of, under penalty of two hundred dollars, to be recovered against any clerk for default herein by action. The governing body of the county shall request the Attorney General or solicitor, as the case may be, to sue for and recover such sum of every clerk that may fail to render such account.

HISTORY: 1962 Code Section 15‑1784; 1952 Code Section 15‑1784; 1942 Code Section 3609; 1932 Code Section 3609; Civ. C. ‘22 Section 2153; Civ. C. ‘12 Section 1332; Civ. C. ‘02 Section 934; G. S. 756; R. S. 806; 1812 (5) 710 Section 27; 1819 (6) 139 Section 14.

Library References

Clerks of Courts 70.

Westlaw Topic No. 79.

C.J.S. Courts Sections 342, 345 to 346.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 9, Discipline and Removal.

**SECTION 14‑17‑750.** Clerk shall report all moneys collected; penalty for failure to report.

 Every clerk of the court is required, on the first Wednesday in each month or within ten days thereafter, to make in writing to the auditor and treasurer of his county a full and accurate statement of all moneys collected on account of licenses, fines, penalties and forfeitures during the past month on pain of indictment and, in case of conviction, of being fined not more than one hundred dollars or imprisoned not more than two months or both, at the discretion of the court.

HISTORY: 1962 Code Section 15‑1785; 1952 Code Section 15‑1785; 1942 Code Section 1521; 1932 Code Section 1521; Cr. C. ‘22 Section 469; Cr. C. ‘12 Section 542; Cr. C. ‘02 Section 385; R. S. 302; G. S. 759; 1878 (16) 763.

CROSS REFERENCES

Fees for bail bondsmen’s licenses, see Section 38‑53‑100.

Library References

Clerks of Courts 70.

Westlaw Topic No. 79.

C.J.S. Courts Sections 342, 345 to 346.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 9, Discipline and Removal.

**SECTION 14‑17‑760.** Clerk shall account for moneys at each session of common pleas.

 At each stated session of the court of common pleas the clerk thereof shall present an account to the court of all moneys remaining therein or subject to the order thereof, stating particularly on account of what cause or causes such moneys are deposited, which account and the vouchers thereof shall be filed in court.

HISTORY: 1962 Code Section 15‑1787; 1952 Code Section 15‑1787; 1942 Code Section 3615; 1932 Code Section 3615; Civ. C. ‘22 Section 2159; Civ. C. ‘12 Section 1338; Civ. C. ‘02 Section 940; G. S. 762; R. S. 812; 1868 (16) 17.

Library References

Clerks of Courts 70.

Westlaw Topic No. 79.

C.J.S. Courts Sections 342, 345 to 346.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 2, Creation of the Office.