CHAPTER 3

Proof of Ordinances and Laws

ARTICLE 1

Ordinances

**SECTION 19‑3‑10.** Proof of ordinances of municipalities.

 In all the courts held in this State the printed ordinances of the municipalities in the State, whether they be in pamphlet or book form, shall be admitted into evidence in such courts and shall constitute prima facie evidence of the genuineness of the same, provided the clerk of such municipality certifies to the correctness of the same.

HISTORY: 1962 Code Section 26‑51; 1952 Code Section 26‑51; 1942 Code Section 715; 1932 Code Section 715; 1930 (36) 1107.

Library References

Evidence 330.

Westlaw Topic No. 157.

C.J.S. Evidence Section 1117.

NOTES OF DECISIONS

In general 1

1. In general

Cited in Webb v. Southern Ry. Co. (S.C. 1952) 221 S.C. 450, 71 S.E.2d 12.

ARTICLE 3

Uniform Judicial Notice of Foreign Law Act

**SECTION 19‑3‑110.** Short title.

 This article may be cited as the “Uniform Judicial Notice of Foreign Law Act.”

HISTORY: 1962 Code Section 26‑61; 1952 Code Section 26‑61; 1948 (45) 1813.

Library References

Evidence 34, 35.

Westlaw Topic No. 157.

C.J.S. Evidence Sections 26 to 33, 66.

C.J.S. Statutes Sections 599, 607, 609 to 612, 615.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. South Carolina Rules of Civil Procedure Section 44.1, Reporter’s Notes.

**SECTION 19‑3‑120.** Judicial notice of laws of other United States jurisdictions.

 Every court of this State shall take judicial notice of the common law and statutes of every state, territory and other jurisdiction of the United States when such common law or statutes shall have been put in issue by the pleadings.

HISTORY: 1962 Code Section 26‑62; 1952 Code Section 26‑62; 1948 (45) 1813.

Library References

Evidence 34, 35.

Westlaw Topic No. 157.

C.J.S. Evidence Sections 26 to 33, 66.

C.J.S. Statutes Sections 599, 607, 609 to 612, 615.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Appeal and Error Section 77, Pleadings.

S.C. Jur. Evidence Section 12, Judicial Notice of Local Ordinances‑Of Foreign Law.

LAW REVIEW AND JOURNAL COMMENTARIES

Notice of foreign law must be pleaded. 39 S.C. L. Rev. 113, Autumn, 1987.

NOTES OF DECISIONS

In general 1

1. In general

A divorced father’s failure to plead Texas Law in his answer to an action brought to retroactively modify child support which had been established by a final court of a Texas court precluded the father from relying on Texas law to establish a defense to the action, and, therefore, South Carolina law was applicable to resolve the retroactive modification issue. Marsh v. Hancock (S.C. 1986) 288 S.C. 341, 342 S.E.2d 607.

The Uniform Notice of Foreign Law Act merely relieves the necessity of formal proof of the laws of other United States jurisdictions, and it was not intended to remove the necessity of informing the court, through pleadings, of such laws when relied upon for recovery or defense. Marsh v. Hancock (S.C. 1986) 288 S.C. 341, 342 S.E.2d 607. Evidence 51

The law of another state is a question of fact to be pleaded and proven. Copeland v. Craig (S.C. 1940) 193 S.C. 484, 8 S.E.2d 858. Evidence 35

Thus, in absence of any evidence as to the law in Florida, an action brought in South Carolina for an injury occurring in Florida must be controlled by the common law of the forum. Crosby v. Seaboard Air Line Ry. (S.C. 1908) 81 S.C. 24, 61 S.E. 1064. Courts 7

In the absence of allegations and proof of the laws of another state, the courts will presume that the common law prevails in that state. Rosemand v Southern R. Co. (1903) 66 SC 91, 44 SE 574. Crosby v. Seaboard Air Line Ry. (S.C. 1908) 81 S.C. 24, 61 S.E. 1064.

**SECTION 19‑3‑130.** Means by which court may inform itself of other United States laws.

 The court may inform itself of such laws in such manner as it may deem proper and may call upon counsel to aid it in obtaining such information.

HISTORY: 1962 Code Section 26‑63; 1952 Code Section 26‑63; 1948(45) 1813.

Library References

Evidence 34, 35, 51.

Westlaw Topic No. 157.

C.J.S. Evidence Sections 13, 17 to 19, 26 to 33, 38, 43 to 44, 66.

C.J.S. Statutes Sections 599, 607, 609 to 612, 615.

LAW REVIEW AND JOURNAL COMMENTARIES

Notice of foreign law must be pleaded. 39 S.C. L. Rev. 113, Autumn, 1987.

**SECTION 19‑3‑140.** Court shall determine other United States laws.

 The determination of such laws shall be made by the court and not by the jury and shall be reviewable.

HISTORY: 1962 Code Section 26‑64; 1952 Code Section 26‑64; 1948 (45) 1813.

Library References

Evidence 51.

Trial 136(4).

Westlaw Topic Nos. 157, 388.

C.J.S. Evidence Sections 13, 17 to 19, 27 to 29, 33, 38, 43 to 44.

C.J.S. Trial Sections 368 to 369.

LAW REVIEW AND JOURNAL COMMENTARIES

Notice of foreign law must be pleaded. 39 S.C. L. Rev. 113, Autumn, 1987.

**SECTION 19‑3‑150.** Parties also may present evidence of other United States laws; notice.

 Any party may also present to the trial court any admissible evidence of such laws but, to enable a party to offer evidence of the law in another jurisdiction or to ask that judicial notice be taken thereof, reasonable notice shall be given to the adverse parties either in the pleadings or otherwise.

HISTORY: 1962 Code Section 26‑65; 1952 Code Section 26‑65; 1948 (45) 1813.

Library References

Evidence 51, 331.

Pretrial Procedure 403.

Trial 39.

Westlaw Topic Nos. 157, 307A, 388.

C.J.S. Discovery Sections 111, 146.

C.J.S. Evidence Sections 13, 17 to 19, 27 to 29, 33, 38, 43 to 44, 1117.

C.J.S. Trial Sections 164 to 167.

LAW REVIEW AND JOURNAL COMMENTARIES

Notice of foreign law must be pleaded. 39 S.C. L. Rev. 113, Autumn, 1987.

NOTES OF DECISIONS

In general 1

1. In general

The notice provision of Section 19‑3‑150 is intended to prevent unfair surprise by allowing the adverse party an opportunity to acquaint himself with the foreign law. Where a malicious prosecution complaint contained no allegation that North Carolina law was applicable, and the plaintiff raised the issue of the applicability of North Carolina law for the first time just prior to the presentation of his evidence, timely notice under the statute was not given, and the trial court properly applied the law of South Carolina in determining whether a nonsuit was proper. Stevenson v. Emerson Elec. Corp. (S.C.App. 1985) 286 S.C. 331, 333 S.E.2d 355.

The statute law of a state cannot be proved by the introduction of the reports of the Supreme Court of that state. Nothing less than the printed copies of the volume containing the statute purporting to have been published by the state’s authority will be taken as evidence. Free v Southern R. Co. (1907) 78 SC 57, 58 SE 952, decided prior to the enactment of this article and the repeal of former Section 26‑52 of the 1952 Code. Free v. Southern Ry. (S.C. 1907) 78 S.C. 57, 58 S.E. 952.

**SECTION 19‑3‑160.** Proof of laws of other jurisdictions.

 The law of a jurisdiction other than those referred to in Section 19‑3‑120 shall be an issue for the court but shall not be subject to the foregoing provisions concerning judicial notice.

HISTORY: 1962 Code Section 26‑66; 1952 Code Section 26‑66; 1948 (45) 1813.

Library References

Evidence 36, 37, 331.

Trial 136(4).

Westlaw Topic Nos. 157, 388.

C.J.S. Evidence Sections 38, 40 to 41, 1117.

C.J.S. Trial Sections 368 to 369.

LAW REVIEW AND JOURNAL COMMENTARIES

Notice of foreign law must be pleaded. 39 S.C. L. Rev. 113, Autumn, 1987.

**SECTION 19‑3‑170.** No evidence of foreign law shall be received or noticed judicially unless pleaded.

 No foreign law shall be received in evidence nor shall any court in this State take judicial notice of any foreign law unless such foreign law shall have been appropriately pleaded in the cause in the manner provided by law.

HISTORY: 1962 Code Section 26‑67; 1952 Code Section 26‑67; 1948 (45) 1813.

Library References

Evidence 51.

Trial 39.

Westlaw Topic Nos. 157, 388.

C.J.S. Evidence Sections 13, 17 to 19, 27 to 29, 33, 38, 43 to 44.

C.J.S. Trial Sections 164 to 167.

LAW REVIEW AND JOURNAL COMMENTARIES

Notice of foreign law must be pleaded. 39 S.C. L. Rev. 113, Autumn, 1987.

NOTES OF DECISIONS

In general 1

1. In general

Applied in Seale Motor Co. v. Stone (S.C. 1950) 218 S.C. 373, 62 S.E.2d 824, 25 A.L.R.2d 1118.

**SECTION 19‑3‑180.** Rule of construction.

 This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact substantially identical legislation.

HISTORY: 1962 Code Section 26‑68; 1952 Code Section 26‑68; 1948 (45) 1813.

Library References

Evidence 34 to 37.

Statutes 1225.

Westlaw Topic Nos. 157, 361.

C.J.S. Evidence Sections 26 to 33, 38, 40 to 41, 66.

C.J.S. Statutes Sections 599, 607, 609 to 612, 615.