CHAPTER 3

Uniform Recognition of Acknowledgments Act

CROSS REFERENCES

Methods of entering satisfaction, affidavit, see Section 29‑3‑330.

Notarial certificate, see Section 26‑1‑120.

**SECTION 26‑3‑10.** Citation of chapter.

 This chapter may be cited as the Uniform Recognition of Acknowledgments Acts.

HISTORY: 1962 Code Section 49‑69; 1972 (57) 2374.

Library References

Acknowledgment 1.

Westlaw Topic No. 12.

C.J.S. Acknowledgments Sections 2 to 4.

RESEARCH REFERENCES

Encyclopedias

91 Am. Jur. Proof of Facts 3d 345, Acknowledgment of Real Property Instruments and Other Acknowledgments.

S.C. Jur. Affidavits Section 13, Foreign Affidavits.

S.C. Jur. Affidavits Section 21, Other Officers.

S.C. Jur. Notaries Section 1, Scope Note.

S.C. Jur. Notaries Section 9, Under Common Law.

NOTES OF DECISIONS

In general 1

1. In general

Acknowledgment of signature of transferor on deed by notary public has nothing to do with the statutory requirement of two subscribing witnesses to deed. Acts (Section 26‑3‑20 et seq. and Section 30‑5‑30) recognize and permit recording of deed or other instrument properly subscribed by required number of witnesses if execution is provided by affidavit of subscribing witness under terms of Uniform Recognition of Acknowledgment Act or acknowledgment of person executing instrument under conditions prescribed therein. Leasing Enterprises, Inc. v. Livingston (S.C.App. 1987) 294 S.C. 204, 363 S.E.2d 410.

**SECTION 26‑3‑20.** “Notarial acts” defined; notarial acts performed outside of State.

 For the purposes of this chapter, “notarial acts” means acts which the laws and regulations of this State authorize notaries public of this State to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents. Notarial acts may be performed outside this State for use in this State with the same effect as if performed by a notary public of this State by the following persons authorized pursuant to the laws and regulations of other governments in addition to any other person authorized by the laws and regulations of this State:

 (1) A notary public authorized to perform notarial acts in the place in which the act is performed;

 (2) A judge, clerk or deputy clerk of any court of record in the place in which the notarial act is performed;

 (3) An officer of the foreign service of the United States, a consular agent or any other person authorized by regulation of the United States Department of State to perform notarial acts in the place in which the act is performed;

 (4) A commissioned officer in active service with the Armed Forces of the United States and any other person authorized by regulation of the Armed Forces to perform notarial acts if the notarial act is performed for one of the following or his dependents: a merchant seaman of the United States, a member of the Armed Forces of the United States, or any other person serving with or accompanying the Armed Forces of the United States, and, further, such commissioned officers and other authorized persons, in the manner and under the conditions prescribed by this chapter, also may perform notarial acts inside this State for use in this State with the same effect as if performed by a notary public of this State;

 (5) Any other person authorized to perform notarial acts in the place in which the act is performed.

HISTORY: 1962 Code Section 49‑61; 1972 (57) 2374; 1985 Act No. 14, Section 1.

Library References

Acknowledgment 15, 17.

Notaries 6.

Westlaw Topic Nos. 12, 276.

C.J.S. Acknowledgments Sections 30, 33.

C.J.S. Notaries Sections 11, 15, 17.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Affidavits Section 13, Foreign Affidavits.

S.C. Jur. Affidavits Section 20, Judge.

S.C. Jur. Affidavits Section 21, Other Officers.

S.C. Jur. Notaries Section 10, Under Uniform Recognition of Acknowledgments Act.

NOTES OF DECISIONS

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Acknowledgment of signature of transferor on deed by notary public has nothing to do with the statutory requirement of two subscribing witnesses to deed. Acts (Section 26‑3‑20 et seq. and Section 30‑5‑30) recognize and permit recording of deed or other instrument properly subscribed by required number of witnesses if execution is provided by affidavit of subscribing witness under terms of Uniform Recognition of Acknowledgment Act or acknowledgment of person executing instrument under conditions prescribed therein. Leasing Enterprises, Inc. v. Livingston (S.C.App. 1987) 294 S.C. 204, 363 S.E.2d 410.

**SECTION 26‑3‑30.** Proof of authority.

 (a) If the notarial act is performed by any of the persons described in items (1) to (4), inclusive, of Section 26‑3‑20, other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, the signature, rank or title and serial number, if any, of the person are sufficient proof of the authority of a holder of that rank or title to perform the act. Further proof of his authority is not required.

 (b) If the notarial act is performed by a person authorized by the laws or regulations of a foreign country to perform the act, there is sufficient proof of the authority of that person to act if:

 (1) Either a foreign service officer of the United States resident in the country in which the act is performed or a diplomatic or consular officer of the foreign country resident in the United States certifies that a person holding that office is authorized to perform the act;

 (2) The official seal of the person performing the notarial act is affixed to the document; or

 (3) The title and indication of authority to perform notarial acts of the person appear either in a digest of foreign law or in a list customarily used as a source of such information.

 (c) If the notarial act is performed by a person other than one described in subsections (a) and (b), there is sufficient proof of the authority of that person to act if the clerk of a court of record in the place in which the notarial act is performed certifies to the official character of that person and to his authority to perform the notarial act.

 (d) The signature and title of the person performing the act are prima facie evidence that he is a person with the designated title and that the signature is genuine.

HISTORY: 1962 Code Section 49‑62; 1972 (57) 2374.

Library References

Acknowledgment 32.

Notaries 9.

Westlaw Topic Nos. 12, 276.

C.J.S. Acknowledgments Sections 60, 64.

C.J.S. Notaries Sections 7, 9.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Affidavits Section 13, Foreign Affidavits.

S.C. Jur. Notaries Section 10, Under Uniform Recognition of Acknowledgments Act.

S.C. Jur. Notaries Section 12, Requirement of Seal.

**SECTION 26‑3‑40.** Substance of certification.

 The person taking an acknowledgment shall certify that:

 (1) The person acknowledging appeared before him and acknowledged he executed the instrument; and

 (2) The person acknowledging was known to the person taking the acknowledgment or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

HISTORY: 1962 Code Section 49‑63; 1972 (57) 2374.

Library References

Acknowledgment 28, 36.

Notaries 9.

Westlaw Topic Nos. 12, 276.

C.J.S. Acknowledgments Sections 60 to 74, 77.

C.J.S. Notaries Sections 7, 9.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Notaries Section 10, Under Uniform Recognition of Acknowledgments Act.

**SECTION 26‑3‑50.** Form of certification.

 The form of a certificate of acknowledgment used by a person whose authority is recognized under Section 26‑3‑20 shall be accepted in this State if:

 (1) The certificate is in a form prescribed by the laws or regulations of this State;

 (2) The certificate is in a form prescribed by the laws or regulations applicable in the place in which the acknowledgment is taken; or

 (3) The certificate contains the words “acknowledged before me,” or their substantial equivalent.

HISTORY: 1962 Code Section 49‑64; 1972 (57) 2374.

Library References

Acknowledgment 29.

Notaries 9.

Westlaw Topic Nos. 12, 276.

C.J.S. Acknowledgments Sections 60 to 61, 69.

C.J.S. Notaries Sections 7, 9.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Notaries Section 10, Under Uniform Recognition of Acknowledgments Act.

**SECTION 26‑3‑60.** “Acknowledged before me” defined.

 The words “acknowledged before me” mean:

 (1) That the person acknowledging appeared before the person taking the acknowledgment;

 (2) That he acknowledged he executed the instrument;

 (3) That, in the case of:

 (a) A natural person, he executed the instrument for the purposes therein stated;

 (b) A corporation, the officer or agent acknowledged he held the position or title set forth in the instrument and certificate, he signed the instrument on behalf of the corporation by proper authority, and the instrument was the act of the corporation for the purpose therein stated;

 (c) A partnership, the partner or agent acknowledged he signed the instrument on behalf of the partnership by proper authority and he executed the instrument as the act of the partnership for the purposes therein stated;

 (d) A person acknowledging as principal by an attorney in fact, he executed the instrument by proper authority as the act of the principal for the purposes therein stated;

 (e) A person acknowledging as a public officer, trustee, administrator, guardian or other representative, he signed the instrument by proper authority and he executed the instrument in the capacity and for the purposes therein stated; and

 (4) That the person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging was the person named in the instrument or certificate.

HISTORY: 1962 Code Section 49‑65; 1972 (57) 2374.

Library References

Acknowledgment 36.

Notaries 9.

Westlaw Topic Nos. 12, 276.

C.J.S. Acknowledgments Sections 69 to 74, 77.

C.J.S. Notaries Sections 7, 9.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Notaries Section 10, Under Uniform Recognition of Acknowledgments Act.

**SECTION 26‑3‑70.** Statutory Short Forms of Acknowledgment.

 The forms of acknowledgment set forth in this section may be used and are sufficient for their respective purposes under any law of this State. The forms shall be known as “Statutory Short Forms of Acknowledgment” and may be referred to by that name. The authorization of the forms in this section does not preclude the use of other forms.

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| (1) | For an individual acting in his own right: |
|   | State of \_\_\_\_\_\_\_\_\_\_ |
|   | County of \_\_\_\_\_\_\_\_\_\_ |
|   | The foregoing instrument was acknowledged before me this (date) by (name of person acknowledged). |
|   |   | (Signature of Person Taking Acknowledgment) |
|   |   | (Title or Rank) |
|   |   | (Serial Number, if any) |
| (2) | For a corporation: |
|   | State of \_\_\_\_\_\_\_\_\_\_ |
|   | County of \_\_\_\_\_\_\_\_\_\_ |
|   | The foregoing instrument was acknowledged before me this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging) a (state or place of incorporation) corporation, on behalf of the corporation. |
|   |   | (Signature of Person Taking Acknowledgment) |
|   |   | (Title or Rank) |
|   |   | (Serial Number, if any) |
| (3) | For a partnership: |
|   | State of \_\_\_\_\_\_\_\_\_\_ |
|   | County of \_\_\_\_\_\_\_\_\_\_ |
|   | The foregoing instrument was acknowledged before me this (date) by (name of acknowledging partner or agent), partner (or agent) on behalf of (name of partnership), a partnership. |
|   |   | (Signature of Person Taking Acknowledgment) |
|   |   | (Title or Rank) |
|   |   | (Serial Number, if any) |
| (4) | For an individual acting as principal by an attorney in fact: |
|   | State of \_\_\_\_\_\_\_\_\_\_ |
|   | County of \_\_\_\_\_\_\_\_\_\_ |
|   | The foregoing instrument was acknowledged before me this (date) by (name of attorney in fact) as attorney in fact on behalf of (name of principal). |
|   |   | (Signature of Person Taking Acknowledgment) |
|   |   | (Title or Rank) |
|   |   | (Serial Number, if any) |
| (5) | By any public officer, trustee or personal representative: |
|   | State of \_\_\_\_\_\_\_\_\_\_ |
|   | County of \_\_\_\_\_\_\_\_\_\_ |
|   | The foregoing instrument was acknowledged before me this (date) by (name and title of position). |
|   |   | (Signature of Person Taking Acknowledgment) |
|   |   | (Title or Rank) |
|   |   | (Serial Number, if any) |

HISTORY: 1962 Code Section 49‑66; 1972 (57) 2374.

Library References

Acknowledgment 29.

Notaries 9.

Westlaw Topic Nos. 12, 276.

C.J.S. Acknowledgments Sections 60 to 61, 69.

C.J.S. Notaries Sections 7, 9.

**SECTION 26‑3‑80.** Application of chapter.

 A notarial act performed prior to May, 8, 1972 is not affected by this chapter. This chapter provides an additional method of proving notarial acts. Nothing in this chapter diminishes or invalidates the recognition accorded to notarial acts by other laws or regulations of this State.

HISTORY: 1962 Code Section 49‑67; 1972 (57) 2374.

Library References

Acknowledgment 3.

Westlaw Topic No. 12.

C.J.S. Acknowledgments Section 6.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Notaries Section 10, Under Uniform Recognition of Acknowledgments Act.

**SECTION 26‑3‑90.** Construction.

 This chapter shall be so interpreted as to make uniform the laws of those states which enact it.

HISTORY: 1962 Code Section 49‑68; 1972 (57) 2374.

Library References

Acknowledgment 1.

Notaries 1.

Westlaw Topic Nos. 12, 276.

C.J.S. Acknowledgments Sections 2 to 4.

C.J.S. Notaries Section 2.

RESEARCH REFERENCES

Encyclopedias

91 Am. Jur. Proof of Facts 3d 345, Acknowledgment of Real Property Instruments and Other Acknowledgments.

S.C. Jur. Affidavits Section 13, Foreign Affidavits.

S.C. Jur. Affidavits Section 21, Other Officers.

S.C. Jur. Notaries Section 1, Scope Note.

S.C. Jur. Notaries Section 9, Under Common Law.

S.C. Jur. Notaries Section 10, Under Uniform Recognition of Acknowledgments Act.