CHAPTER 11

Agents Acting After Death of Principal

**SECTION 32‑11‑10.** Binding effect of acts of agent acting for deceased principal.

If any agent constituted by power of attorney or other authority shall do any act for his principal which would be lawful if such principal were living such act shall be valid and binding on the estate of the principal, although he or she may have died before such act was done, provided the party treating with such agent dealt bona fide, not knowing at the time of the doing of such act that such principal was dead.

HISTORY: 1962 Code Section 11‑301; 1952 Code Section 11‑301; 1942 Code Section 7018; 1932 Code Section 7018; Civ. C. ‘22 Section 3848; Civ. C. ‘12 Section 2536; Civ. C. ‘02 Section 1678; G. S. 1302; R. S. 1405; 1828 (6) 359; 1945 (44) 48.

CROSS REFERENCES

Application of the law of agency to partnerships, see Section 33‑41‑40.

Dissolution of partnership upon death of any partner, see Section 33‑41‑930.

Provisions of the South Carolina Probate Code relative to powers of attorney, see Sections 62‑5‑501, 62‑5‑502.

Right of legal representative of last surviving partner to wind up partnership affairs, see Section 33‑41‑1020.

Right of survivorship in partnership property, see Section 33‑41‑720.

Rights of estate of deceased partner when business is continued, see Section 33‑41‑1080.

**SECTION 32‑11‑20.** Binding nature of notes or bills made before death and negotiated or transferred by agent afterwards.

If any note or bill, whether filled up before or after having been signed or endorsed, shall be negotiated or transferred after the death of such drawer or endorser by an agent duly constituted in the lifetime of such drawer or endorser, such note or bill shall be valid and binding on the estate, in like manner as though he had not died before such negotiation or transfer, if the receiver of such note or bill received the same bona fide, without a knowledge of such death, and if the act of the agent would have been binding on the principal if it had been done before such death. The act to be done, either under the power of attorney or authority or in relation to the bill or note, must be done within nine months after the death of the principal or of the drawer or endorser of such note or bill.

HISTORY: 1962 Code Section 11‑302; 1952 Code Section 11‑302; 1942 Code Section 7019; 1932 Code Section 7019; Civ. C. ‘22 Section 3849; Civ. C. ‘12 Section 2537; Civ. C. ‘02 Section 1679; G. S. 1291; R. S. 1406; 1828 (6) 359; 1960 (51) 1735.

CROSS REFERENCES

Effect of death of customer on authority of bank, see Section 36‑4‑405.

Provisions of the South Carolina Probate Code relative to powers of attorney, see Sections 62‑5‑501, 62‑5‑502.

**SECTION 32‑11‑30.** Affidavit as proof of lack of knowledge of death of principal.

An affidavit executed by the attorney in fact or agent setting forth that he has not or had not at the time of doing any act pursuant to the power of attorney received actual knowledge or actual notice of the death of the principal or notice of any facts indicating his death shall, in the absence of fraud, be conclusive proof of the absence of knowledge or notice by such agent of the death of the principal at such time. If the exercise of the power requires the execution and delivery of any instrument which is recordable under the laws of the State such affidavit shall likewise be recordable.

HISTORY: 1962 Code Section 11‑303; 1952 Code Section 11‑303; 1942 Code Section 7018; 1932 Code Section 7018; Civ. C. ‘22 Section 3848; Civ. C. ‘12 Section 2536; Civ. C. ‘02 Section 1678; G. S. 1302; R. S. 1405; 1828 (6) 359; 1945 (44) 48.

CROSS REFERENCES

Provisions of the South Carolina Probate Code relative to powers of attorney, see Sections 62‑5‑501, 62‑5‑502.

**SECTION 32‑11‑40.** Effect of report that principal is “missing” or “missing in action”.

No report or listing, either official or otherwise, of “missing” or “missing in action” regarding any person in connection with any activity pertaining to or connected with the prosecution of any war in which the United States is then engaged, as such words “missing” or “missing in action” are used in military parlance, shall constitute or be interpreted as constituting actual knowledge or actual notice of the death of such principal or notice of any facts indicating the death of such person or shall operate to revoke the agency.

HISTORY: 1962 Code Section 11‑304; 1952 Code Section 11‑304; 1942 Code Section 7018; 1932 Code Section 7018; Civ. C. ‘22 Section 3848; Civ. C. ‘12 Section 2536; Civ. C. ‘02 Section 1678; G. S. 1302; R. S. 1405; 1828 (6) 359; 1945 (44) 48.

CROSS REFERENCES

Provisions of the South Carolina Probate Code relative to powers of attorney, see Sections 62‑5‑501, 62‑5‑502.