CHAPTER 3

Commissions, Oaths, and Bonds

**SECTION 8-3-10. Oath and commission prerequisite to assumption of duties.**

 It shall be unlawful for any person to assume the duties of any public office until he has taken the oath provided by the Constitution and been regularly commissioned by the Governor.

HISTORY: 1962 Code § 50-51; 1952 Code § 50-51; 1942 Code §§ 1512, 3042; 1932 Code §§ 1512, 3042; Civ. C. '22 § 733; Cr. C. '22 § 460; Civ. C. '12 § 649; Cr. C. '12 § 535; 1901 (23) 754.

**SECTION 8-3-30. Form of bond by all public officers.**

 The bond given by any person elected or appointed to any office for which bond is required shall be of the form following:

"State of South Carolina.

 "Know all men by these presents, that we (here insert the names of the person and his sureties) are held and firmly bound unto the State of South Carolina in the penal sum of (insert the amount required by law) dollars, to the payment of which, well and truly to be made, we bind ourselves and each and every of us, our heirs, executors and administrators, firmly by these presents. Sealed with our seal and dated this (insert the day) day of (insert the month) Anno Domini one thousand nine hundred and (insert the year) and in the (insert the year) year of the Independence of the United States of America.

 "Whereas, The above bound (insert the name of the person appointed or elected) hath been appointed (or elected, as the case may be) to the office of (insert the office).

 "Now the condition of the above obligation is such that if the above bound (insert the name of the person appointed or elected) shall well and truly perform the duties of said office, as now or hereafter required by law, during the whole period he may continue in said office, then the above obligation to be void and of none effect or else to remain in full force and virtue.

 "Sealed and delivered in the presence of:

|  |  |
| --- | --- |
|  |  |
|   | "\_\_\_\_\_\_\_\_\_\_, (L.S.) |
| "(Here place name of witness.)" |   |

HISTORY: 1962 Code § 50-55; 1952 Code § 50-55; 1942 Code § 3045; 1932 Code § 3045; Civ. C. '22 § 736; Civ. C. '12 § 652; Civ. C. '02 § 584; G. S. 443; R. S. 504; 1829 (6) 383.

**SECTION 8-3-40. Secretary of State to supply blank forms of bonds.**

 The Secretary of State shall ascertain the number of officers in this State for whom bonds are required and cause an equal number of such bonds to be printed annually at the expense of the State. Such forms shall include space for the proper officers to approve securities and for probate. The Secretary of State shall distribute to each county, annually, the number of such bonds equal to the number of officers for whom bonds are required in that county.

HISTORY: 1962 Code § 50-56; 1952 Code § 50-56; 1942 Code § 3046; 1932 Code § 3046; Civ. C. '22 § 737; Civ. C. '12 § 655; Civ. C. '02 § 587; G. S. 444; R. S. 505; 1829 (6) 384; 1982 Act No. 329.

**SECTION 8-3-50. Clerks shall receive blank forms and give to officers.**

 Each county clerk shall receive the bonds for his county and deliver one to each person elected or appointed to any such office, whenever called for.

HISTORY: 1962 Code § 50-57; 1952 Code § 50-57; 1942 Code § 3047; 1932 Code § 3047; Civ. C. '22 § 738; Civ. C. '12 § 656; Civ. C. '02 § 588; G. S. 445; R. S. 506.

**SECTION 8-3-60. Assumption of office before giving bond.**

 It shall be unlawful for any person to assume or attempt to assume the duties of any office for which a bond is required, without having given the bond required. Any person assuming or attempting to assume the duties of any office as aforesaid shall be guilty of a misdemeanor and shall be subject to a fine of five hundred dollars or imprisonment for not less than three months, in the discretion of the court.

HISTORY: 1962 Code § 50-58; 1952 Code § 50-58; 1942 Code § 1513; 1932 Code § 1513; Cr. C. '22 § 461; Cr. C. '12 § 536; Cr. C. '02 § 379; 1901 (23) 750.

**SECTION 8-3-70. Prohibition on pay until bond given.**

 No executive, judicial or other officer, elected or appointed to any office in the State, shall be entitled to receive any pay or emoluments of office until he shall have been duly commissioned and qualified and shall have given bond when so required to do by law.

HISTORY: 1962 Code § 50-59; 1952 Code § 50-59; 1942 Code § 3077; 1932 Code § 3077; Civ. C. '22 § 764; Civ. C. '12 § 680; Civ. C. '02 § 610; G. S. 582; R. S. 529; 1901 (23) 750.

**SECTION 8-3-80. Certain county officials required to give corporate surety.**

 Before any county official, other than a magistrate, constable or rural county policeman, who is required by law to give bond shall enter into the discharge of the duties of his office he shall secure bond in some reliable surety company authorized to do business in this State, except that if any official be refused bond by any of such surety companies, after proper application, a personal bond shall be accepted when approved as provided by law.

HISTORY: 1962 Code § 50-60; 1952 Code § 50-60; 1942 Code § 3058; 1932 Code § 3058; Civ. C. '22 § 749; Civ. C. '12 § 667; Civ. C. '02 § 599; R. S. 517; 1892 (21) 76; 1894 (21) 757; 1896 (22) 28; 1912 (27) 703.

**SECTION 8-3-90. Surety company bonds authorized.**

 Solvent guaranty companies, surety companies, fidelity insurance companies and fidelity and deposit companies incorporated and organized under the laws of this State or any other state of the United States or foreign governments for the purpose of transacting the business of fidelity insurance which have a paid-up capital or surplus of two hundred fifty thousand dollars and which shall have complied with all the requirements of law as to a license required by this State may, upon proper proof thereof and upon production of evidence of solvency, be accepted upon the bonds of all city, county and State officers of this State. The various officers of this State whose duty it is to approve the sureties upon such bonds may accept such a company as one of the sureties or the only surety upon such bond as the solvency of such company may warrant. But no person having the approval of any bond shall exact that it be furnished by a guaranty company or by any particular guaranty company. Any such bond shall be made payable to the State.

HISTORY: 1962 Code § 50-61; 1952 Code § 50-61; 1942 Code § 3058; 1932 Code § 3058; Civ. C. '22 § 749; Civ. C. '12 § 667; Civ. C. '02 § 599; R. S. 517; 1892 (21) 76; 1894 (21) 757; 1896 (22) 28; 1912 (27) 703; 1947 (45) 322.

**SECTION 8-3-100. Cost of bonds from corporate surety.**

 When the official of any county secures bond from a surety company the cost of such bond shall be paid by the governing body of the county out of the ordinary county funds.

HISTORY: 1962 Code § 50-63; 1952 Code § 50-63; 1942 Code § 3058; 1932 Code § 3058; Civ. C. '22 § 749; Civ. C. '12 § 667; Civ. C. '02 § 599; R. S. 517; 1892 (21) 76; 1894 (21) 757; 1896 (22) 28; 1912 (27) 703.

**SECTION 8-3-110. Distribution of liability among sureties.**

 Each surety on a personal official bond may state in writing the amount of the liability assumed by him, beyond which amount he shall not be held. The aggregate of the amounts assumed by all the sureties shall not be less than the penalty of the bond. In case of loss or default, the sureties will be entitled, as between each other, to contribution in the proportion of their liability.

HISTORY: 1962 Code § 50-65; 1952 Code § 50-65; 1942 Code § 3048; 1932 Code § 3048; Civ. C. '22 § 739; Civ. C. '12 § 657; Civ. C. '02 § 589; G. S. 452; R. S. 507; 1866 (13) 469; 1868 (14) 19.

**SECTION 8-3-120. Residence of sureties for county officers.**

 The sureties, other than corporate sureties, on bonds of all county officers must be citizens of the county in which their principal resides.

HISTORY: 1962 Code § 50-66; 1952 Code § 50-66; 1942 Code § 3048; 1932 Code § 3048; Civ. C. '22 § 739; Civ. C. '12 § 657; Civ. C. '02 § 589; G. S. 452; R. S. 507; 1866 (13) 469; 1868 (14) 19.

**SECTION 8-3-130. Examination and approval of bonds.**

 The official bond of each officer of the executive department must be submitted to the Governor for his approval. The official bonds of all county officers must be examined and approved or disapproved by the governing body of the county, except the bonds of the members of such governing body which must be examined and approved or disapproved by the clerk of court or the Attorney General. In all cases in which the governing body of the county refuses to approve the bond of any county officer, such officer may refer the bond to the Attorney General and, if approved by him, after hearing evidence, the bond shall be accepted by the governing body of the county.

HISTORY: 1962 Code § 50-67; 1952 Code § 50-67; 1942 Code § 3049; 1932 Code § 3049; Civ. C. '22 § 740; Civ. C. '12 § 658; Civ. C. '02 § 590; G. S. 453, 466, 611; R. S. 508; 1868 (14) 70; 1872 (15) 106; 1875 (15) 986; 1893 (21) 481.

**SECTION 8-3-140. Approval by Attorney General of form and execution of bonds of officers of State; recordation.**

 The bonds of all public officers of the State shall, before they are accepted or recorded, be examined by the Attorney General or by one of the solicitors, who must certify in writing upon the bond that he approves the form and execution thereof. When so examined, approved and certified the bonds of State, district or circuit officers shall be filed with the Secretary of State and shall be recorded by him, without charge, in suitable books kept by him for the purpose and when so recorded shall be filed with the State Treasurer except that the bond of the State Treasurer shall be filed with the Governor.

HISTORY: 1962 Code § 50-68; 1952 Code § 50-68; 1942 Code § 3050; 1932 Code § 3050; Civ. C. '22 § 741; Civ. C. '12 § 659; Civ. C. '02 § 591; G. S. 446; R. S. 509; 1877 (16) 301; 1901 (23) 750.

**SECTION 8-3-150. Recordation and filing of bonds of county officers.**

 Every county officer who is required to give bond for the faithful performance of the duties of his office shall, within thirty days after notification of his election or appointment, have his bond recorded in the office of the register of deeds or, if there be no such officer, in the office of the clerk of the circuit court for the county in which such officer resides and the register or clerk shall keep a separate book, properly indexed, for the purpose of recording such bonds, which shall be provided by the governing body of the county. The register or clerk shall be entitled to exact a fee from the public officer of one dollar for recording his bond. But no such bond shall be recorded until first approved as to surety by the proper officials as prescribed by law and as to execution and form by the Attorney General or such other official as may be designated for this purpose. Such bonds when recorded shall be immediately transmitted to the Secretary of State who, after recording them as required by Section 8-3-140, shall file them with the State Treasurer.

HISTORY: 1962 Code § 50-69; 1952 Code § 50-69; 1942 Code § 3051; 1932 Code § 3051; Civ. C. '22 § 742; Civ. C. '12 § 660; Civ. C. '02 § 592; G. S. 449; R. S. 510; 1866 (13) 382; 1901 (23) 749; 1920 (31) 785; 1997 Act No. 34, § 1, eff January 1, 1998.

**SECTION 8-3-160. Governing body of county to examine sufficiency of county officers' bonds and correct deficiencies.**

 The governing body of each county in the State shall make an annual examination into the sufficiency of all the county officers' bonds within their respective counties and take action to correct any deficiencies with regard to any bond which, in its judgment, may be insufficient.

HISTORY: 1962 Code § 50-70; 1952 Code § 50-70; 1942 Code § 3053; 1932 Code § 3053; Civ. C. '22 § 744; Civ. C. '12 § 662; Civ. C. '02 § 594; R. S. 512; 1876 (16) 699; 1982 Act No. 326.

**SECTION 8-3-180. Procedure when bond becomes unsatisfactory.**

 If any surety on any such official bond should die or depart permanently from the State or if such board or the Governor, respectively, should, at the time of the annual examination or at any other time, be of opinion that any of the sureties is not worth as much clear of debt as his proportion of the obligation to which his name is affixed, the board or the Governor, as the case may be, shall cause the public officer whose surety has departed this life or removed from the State or is objected to for insufficiency of estate to be notified of such exception. Any such officer shall, within thirty days after the service of such notification, procure other surety satisfactory to the board or the Governor, as the case may be, but so as not to cancel or at all impair the original bond or produce satisfactory evidence to the board or the Governor, as the case may be, that the surety objected to as owning insufficient property, as aforesaid, is worth as much as his proportion of the obligation, clear of debt; or else the officer shall procure such additional and sufficient surety or sureties as the board or the Governor, respectively, shall approve. And in default of compliance with either of such requirements within thirty days the office of the defaulting officer shall be regarded as vacant.

HISTORY: 1962 Code § 50-72; 1952 Code § 50-72; 1942 Code § 3052; 1932 Code § 3052; Civ. C. '22 § 743; Civ. C. '12 § 661; Civ. C. '02 § 593; G. S. 447; R. S. 511; 1820 (6) 147; 1886 (19) 381.

**SECTION 8-3-190. Execution of new bond when surety demands relief; release of prior sureties.**

 When any of the sureties of any officer elected or appointed to any office shall, in writing, notify the proper officer whose duty it is to approve the bond of such officer that they desire to be relieved from their suretyship, the officer authorized by law to approve such bond shall require the officer to execute a new bond with surety, which, when approved, shall be as valid as the bond given on the original election of appointment of such officer. And the sureties upon the prior bond shall be released from responsibility for all acts or defaults of such officer which may be done or committed subsequent to the approval of such new bond.

HISTORY: 1962 Code § 50-73; 1952 Code § 50-73; 1942 Code § 3056; 1932 Code § 3056; Civ. C. '22 § 747; Civ. C. '12 § 665; Civ. C. '02 § 597; R. S. 515; 1887 (19) 783.

**SECTION 8-3-200. Effect of failure to submit satisfactory new bond.**

 When any officer shall be required to execute a new bond, with surety, as provided for in Section 8-3-190, he shall proceed forthwith to execute such new bond and submit it for approval to the officer authorized by law to approve it. If he shall fail or neglect to so execute and submit such new bond or fail or neglect to execute and submit a bond satisfactory to the officer authorized to approve such bond within thirty days after having been required so to do, the officer authorized to approve such new bond shall forthwith report to the Governor that such officer has been duly required under the provisions of Section 8-3-190 to furnish a new bond and that such officer has failed so to do. Upon being so informed and upon receiving a certified copy of all the papers relative to the case, the Governor, by public proclamation shall forthwith declare the office held by such defaulting officer vacant and such office so made vacant shall be filled in the manner now provided by law.

HISTORY: 1962 Code § 50-74; 1952 Code § 50-74; 1942 Code § 3057; 1932 Code § 3057; Civ. C. '22 § 748; Civ. C. '12 § 666; Civ. C. '02 § 598; R. S. 516; 1887 (19) 783.

**SECTION 8-3-210. State officers and employees shall advise interested persons as to bonds and furnish copies.**

 Any officer, agent, servant or employee in any office of the State or any of its boards, bureaus, departments, commissions or other instrumentalities, upon request therefor by any interested person, shall supply such person with information as to whether any person employed in any office, board, bureau, department, commission, agency or other instrumentality of the State is bonded for any purpose and, if so, furnish such interested person with a copy of such bond.

HISTORY: 1962 Code § 50-75; 1952 Code § 50-75; 1942 Code § 3061; 1939 (41) 335.

**SECTION 8-3-220. Bonds of public officers may be sued on.**

 The bond of any public officer in this State may at all times be sued on by the public, any corporation or private person aggrieved by any misconduct of any such public officer.

HISTORY: 1962 Code § 50-76; 1952 Code § 50-76; 1942 Code § 3054; 1932 Code § 3054; Civ. C. '22 § 745; Civ. C. '12 § 663; Civ. C. '02 § 595; G. S. 450; R. S. 513; 1901 (23) 750.

**SECTION 8-3-230. Certified copies of bonds delivered to parties to suit on request.**

 For the purpose of any suit brought under Section 8-3-220 the officer or officers, for the time being, with whom such bond may be filed or recorded, upon application at his or their office, shall deliver to any person applying therefor and paying the fees for doing so an exact and certified copy of the bond of such public officer there deposited or recorded.

HISTORY: 1962 Code § 50-77; 1952 Code § 50-77; 1942 Code § 3054; 1932 Code § 3054; Civ. C. '22 § 745; Civ. C. '12 § 663; Civ. C. '02 § 595; G. S. 450; R. S. 513; 1901 (23) 750.

**SECTION 8-3-240. Distribution of moneys recovered on bond after defalcation.**

 Whenever any officer of this State charged with the care, collection or disbursement of public funds is required to give bond to the State and a recovery is had upon such bond or any moneys are seized, levied upon or attached in his hands or turned over or surrendered by such officer to the State Treasurer upon his commitment to jail, under warrant from the State Treasurer, the moneys so recovered, seized, levied upon, attached, surrendered or turned over shall be distributed between the State, county, school or other specific funds, in proportion to the several amounts due by the officer to the State, county, school or other specific funds, at the time of such recovery, seizure, attachment, levy or surrender. The provision of this section shall only apply to suits, seizures, attachments or levies by or surrenders to public officers and not to suits upon the bonds of such officers brought by private individuals.

HISTORY: 1962 Code § 50-78; 1952 Code § 50-78; 1942 Code § 3055; 1932 Code § 3055; Civ. C. '22 § 746; Civ. C. '12 § 664; Civ. C. '02 § 596; G. S. 451; R. S. 514.

**SECTION 8-3-250. State officers shall not be officers of surety companies.**

 No State officer shall be an officer of any company issuing bonds for any of the county or State officers.

HISTORY: 1962 Code § 50-79; 1952 Code § 50-79; 1942 Code § 3058; 1932 Code § 3058; Civ. C. '22 § 749; Civ. C. '12 § 667; Civ. C. '02 § 599; R. S. 517; 1892 (21) 76; 1894 (21) 757; 1896 (22) 28; 1912 (27) 703.