COMPILED CODE

OF

SOUTH CAROLINA

1930

Submitted by the Code Commissioner pursuant to the Constitution and Statutes of South Carolina for the consideration of the General Assembly of 1931 and for adoption by the General Assembly of 1932 as the official Code of South Carolina

FURMAN R. GRESSETTE
Code Commissioner

WILLIAM H. WICKER
Code Editor

VOLUME IV

CIVIL CODE §§ 4219--6915

THE R. L. BRYAN COMPANY AND THE STATE COMPANY
COLUMBIA, S. C.

CIVIL CODE

TABLE OF CONTENTS FOR VOLUME IV

CIVIL CODE

PART II

Business Regulations, Transactions and Associations

TITLE 12

TRADE REGULATIONS

TITLE 13

BUSINESS TRANSACTIONS AND HOLIDAYS

NOTE—See Volume II for a Complete Table of Contents of the Civil Code.

TITLE 14

MUNICIPAL CORPORATIONS

TITLE 15

PRIVATE CORPORATIONS AND UNCORPORATED ASSOCIATIONS

TITLE 16

SPECIAL TYPES OF CORPORATIONS AND ASSOCIATIONS

PART III

Domestic Relations and Property Rights

TITLE 17

Domestic Relations

TITLE 18

Property Rights

TITLE 19

Notice

TITLE 20

Estates of Decedents

TITLE 21

TITLE TO PROPERTY BY OPERATION OF LAW

be at least equal to the amount, as in the opinion of the Court, he shall have in hand at any one time.

(6) STOCKHOLDER'S LIABILITY.—Any receiver appointed to liquidate the assets of any closed State bank shall, under the authority of this Section when it is necessary to collect the liability of stockholders, have full power and authority to demand of such stockholders the statutory liability, provided for in Section 5708 of the Civil Code, and upon failure of any stockholder to pay into his hands such liability, he is hereby invested with full power and authority to bring suit, either individually or collectively, against such stockholder, or stockholders, for the collection of such liability, and all funds received from said assessment by payment with or without suit shall be kept as a separate fund to be paid to the depositors solely. Said receiver shall receive as compensation for the collection of the stockholders' liability, two and one-half (2½) per cent. and in case same is placed in the hands of the attorney for collection by suit, or otherwise, an additional five per cent. may be paid to the attorney for his services, or so much as the Court may decide the attorney is entitled to.

1929, XXXVI, 199; 1930, XXXVI, 1235.

ARTICLE 2

Trust Companies

§ 5719. Definitions.—Wherever used in this Article, unless the context otherwise requires, the words "trust company" or "such corporations" means a trust company incorporated as such in the State of South Carolina, and the "examiner" means the State Bank Examiner.

1928, XXXV, 1271.

§ 5720. To what Trust Companies Applicable.—All trust companies shall be subject to this Article, except that any such corporation chartered prior to the adoption of this Article shall not be subject to any provisions of this Article which are inconsistent with its charter, until it adopts this Article as part of its charter.

1928, XXXV, 1271.

§ 5721. Adoption of Provisions of Article.—Any trust company chartered under the laws of the State of South Carolina prior to the date of the passage and approval of this Article which is transacting business in the State of South Carolina, may adopt as part of its charter this Article by a majority vote of the stock represented at a special meeting called for the purpose and by filing within ten days from the date of such meeting, with the Secretary of

State, and with the State Bank Examiner, a certificate sworn to by the Secretary of such corporation and stating such adoption.

1928, XXXV, 1271.

§ 5722. Mimimum Capital Stock.—Every trust company hereafter organized or which shall adopt this Article as part of its charter shall have a minimum capital stock as hereinafter provided:

(a) In cities, towns, villages and unincorporated communities having a population of three thousand or less, and in rural communities, a minimum of twenty-five thousand ($25,000.00) dollars;

(b) In cities, towns, villages having a population of more than three thousand and less than ten thousand a minimum of fifty thousand ($50,000.00) dollars;

(c) In cities or towns having a population of more then ten thousand a minimum of one hundred thousand ($100,000.00) dollars;

And in addition to such capital stock requirements, every such trust company shall furnish satisfactory evidence to the State Bank Examiner that ten per centum of the amount of such capital stock of the trust company has been paid into the surplus of the trust company: *Provided,* That the provisions of this Section shall in no way affect any trust company heretofore incorporated except those trust companies adopting this Article as part of their charters; and, *Provided, further,* That any trust company heretofore chartered by the State of South Carolina must at the time of the adoption of this Article have an aggregate capital stock and surplus in an amount provided for in this Section and have assets at the time of the adoption of this Article equal to the par value of the capital stock and to the surplus required in this Section.

1928, XXXV, 1271.

§ 5723. Declaration for Charter.—The Declaration mentioned in this Article shall set out:

(1) The corporate name of the proposed corporation which shall not be the name of any corporation heretofore incorporated in this State for similar purposes, or an imitation of such name.

(2) The name of the city or town and county in this State in which the corporation is to be located.

(3) The amount of the capital stock of the corporation, the number of shares into which it is divided, and the par value thereof; that the same has been subscribed in good faith and all thereof actually paid up in lawful money of the United States and is in the custody of the persons named as the first board of directors or managers.

(4) The names and places of residence of the several shareholders and the number of shares subscribed by each.

(5) The number of directors or managers, and their names and addresses.

(6) The names of the officers elected.

1928, XXXV, 1271.

§ 5724. Signing Declaration—Filing—Approval of Bank Examiner—Recordation of Charter.—The Declaration for Charter shall be signed by the President and Secretary of the trust company, and a copy sent both to the State Bank Examiner and to the Secretary of State. The Secretary of State shall not issue a charter to a trust company without the approval of the State

Bank Examiner. The charter when issued shall be recorded in the same manner required by law for charters of other corporations.

1928, XXXV, 1271.

§ 5725. Conditions of Approval by Bank Examiner—Certificate—Refusal of Approval—Appeal—Examination of Companies Adopting.—When any trust company shall have filed with the Bank Examiner a certified copy of its Declaration for Charter and shall have paid all incorporation and other fees in full as required by law, and shall have provided the cash required by law the examiner shall, before such trust company shall complete its incorporation, examine or cause an examination to be made, in order to ascertain whether the requisite capital of such trust company has been subscribed in good faith and paid in actual cash and is ready for use in the transaction of business of the proposed trust company, and whether the character, responsibility and general fitness of the persons named in such Declaration for Charter are such as to command confidence and warrant belief that the business of the proposed corporation will be honestly and efficiently conducted in accordance with the intent and purpose of this Article. In case the examiner shall find all the provisions of the law have been complied with and shall have satisfied himself by such investigation as to the facts as above provided, he shall authorize the granting of a certificate setting forth that such corporation has been duly organized and the amount of its capital and surplus subscribed and paid up in full. Such certificate shall be recorded in the office of the Clerk of Court in the county in which the corporation is to be located, and such certificate, so recorded, or certified copies thereof, shall be taken in all Courts of this State as evidence of such incorporation. In case the Examiner shall not be satisfied, as the result of such examination, that the character, responsibility and general fitness of the persons named in such Declaration for Charter is up to the requirement herein specified, and on that account shall refuse to grant or consent to the incorporation, of the company he shall forthwith give notice thereof to the proposed incorporators from whom such Declaration for Charter was received; and in such event such incorporators, if they so desire, may within ten days thereafter appeal from such refusal to a board composed of the Secretary of State, the Attorney General and the State Treasurer, which board shall within sixty days thereafter finally decide the matter; and the Examiner shall act in accordance with such decision. Such board may prescribe rules and regulations for the proceedings in connection with such appeal. In case any trust company already chartered and operating under the laws of the State of South Carolina seeks to adopt this Article as a part of its charter, the State Bank Examiner shall make a thorough investigation of its affairs in the same manner as hereinabove provided for new companies.

1928, XXXV, 1271.

§ 5726. Organization Fees, Etc., Prohibited—Proviso—Penalty.—No individual, partnership, unincorporated association or corporation shall, directly or indirectly, receive or contract to receive any commission, compensation, bonus, right or privilege of any kind for organizing any trust company in this State, or for securing a subscription to the original capital stock or surplus or any trust company in this State, or to any increase thereof: *Provided,* That this Section shall not be construed as prohibiting any attorney at law from receiving compensation for legal services in connection with the organization or incorporation of such companies. Each and every individual, partnership, unincorporated association or corporation violating the provisions of this Section shall forfeit to the State one hundred ($100.00) dollars for each and every such violation.

1928, XXXV, 1271.

§ 5727. **Purposes of Corporation—Commercial Banking Prohibited.**—Corporations may be created under this Article for any one or more of the following purposes.

(1) To receive money in trust and to accumulate the same at such rate of interest as may be agreed upon.

(2) To receive for safe-keeping personal property of every description and to own or control a safety vault and to rent the boxes therein: *Provided,* That no trust company organized under the provisions of this Article shall receive demand deposits or checking accounts, or otherwise engage in the business of commercial banking.

(3) To accept and execute all such trusts and perform such duties of every description as may be committed to them by any person or persons whatsoever, or by any corporation, and to act as assignee, receiver, trustee, depository or in any other fiduciary capacity, and to accept and execute all such trusts and perform such duties of every description as may be committed to or placed in them by order, judgment or decree of any of the Courts of record of this State, or other State or of the United States.

(4) To take, accept and hold, by the order, judgment or decree of any Court of this State or of any other State, or of the United States, or by gift, grant, assignment, transfer, devise or bequest of any person or corporation, any real or personal property in trust, and to execute and perform any and all such legal and lawful trusts in regard to the same upon the terms, conditions, limitations and restrictions which may be declared, imposed, established or agreed upon in and by such order, judgment, decree, gift, grant assignment, transfer, devise or bequest.

(5) To execute as principal or surety any bond or bonds, including bonds or other undertakings required by law to be given in any proceeding in law or equity in any of the Courts of this State or of the United States.

(6) To act as agent or attorney in fact for any person or corporation in the management and control of real or personal property, in the sale and conveyance of such property, and for the investment of money.

(7) To act as the fiscal or transfer or other agent of the United States, or any State, municipality, body politic or corporation, and to receive, invest and disburse money, to transfer, register and countersign certificates of stock, bonds or other evidence of indebtedness; and to act as attorney in fact or agent of any person or corporation, foreign or domestic, for any lawful purpose.

(8) To act as executor under the last will and testament or administrator of the estate of any deceased person; or as guardian of the estate of any infant; or as committee of any insane person, idiot or feeble-minded person, under the appointment of any court of record, judge or clerk thereof having jurisdiction of the estate of such deceased person, infant, insane person, idiot or feeble-minded person.

(9) To discount and negotiate promissory notes, drafts, bills of exchange and other evidences of debt, loan money upon real estate or personal property and on collateral or personal security at a rate of interest not exceeding that allowed by law, and to execute and issue the bonds, notes, certificates and/or debentures of such trust company, and to pledge its mortgages on real estate

and other securities as security therefor, which bonds, notes, debentures and certificates may be issued to an amount not exceeding in the aggregate twenty times the amount paid on the capital stock and surplus of the trust company issuing the same and in no case shall exceed the amount of the securities pledged to secure their payment.

(10) To buy, underwrite, invest in and sell all kinds of government, State, municipal and other bonds, and all kinds of negotiable and non-negotiable paper, stocks or other investment securities.

(11) To purchase, hold, manage and sell real property.

(12) In the case of trust companies incorporated under the laws of this State prior to the passage of this Article and which shall adopt this Article as part of their charters, to engage in any other business or activities authorized by the charters of such trust companies.

1928, XXXV, 1271.

§ 5728. Regulations as to Trusteeships, Etc.—Merger.—(1.) When any trust company organized under the laws of this State shall have been nominated as executor of the last will of any deceased person, the Court or officer authorized under the laws of this State to grant letters testamentary thereon shall, upon proper application, grant letters testamentary thereon to such trust company or to its successor.

(2) Any trust company may be appointed guardian, trustee, adminstrator with or without will annexed, receiver, assignee or in any other fiduciary capacity, in the manner now provided by law for appointment of individuals to any such office. On the application of any natural person acting in any such office or on the application of any natural persons acting jointly in any such office, any trust company may be appointed by the Court or officer having jurisdiction in the place and stead of any such person or persons; or on the application of any such person or persons, any trust company may be appointed to any such office to act jointly with any such person or persons theretofore appointed or appointed at the same time: *Provided,* Such appointment shall not increase the compensation to be paid the joint fiduciaries over the amount under the law payable to a fiduciary acting alone.

(3) In all cases where any trust company in this State shall be appointed as trustee, executor or administrator of any estate, guardian of any infant or in any fiduciary capacity, it shall be lawful for the president, vice-president, trust officer, cashier, treasurer, secretary or other officer of such trust company to take and subscribe for such corporation any and all oaths required to be taken or subscribed by such executor, administrator, trustee, guardian or other fiduciary; and when any trust company in this State shall be so appointed to act as such trustee, executor, administrator, guardian or fiduciary, no official bond shall be required of such trust company.

(4) Property or securities received or held by a trust company in any fiduciary capacity shall be a special deposit in such trust company and the accounts thereof shall be kept separate from each other and separate from the company's individual business. Such property or securities held in trust shall not be mingled with the investments of the capital stock or other property belonging to such trust company or be liable for the debts or obligations thereof.

(5) No trust company shall be liable for the payment of interest on any funds held by it in any fiduciary capacity where such funds are not under its control and in its possession for at least one year; and shall not be liable for the payment of interest on any uninvested part of such funds to the ex-

tent that such uninvested part of such funds is in fractional parts only of the sum of one hundred ($100.00) dollars.

(6) When any trust company organized under the laws of this State shall have been appointed executor of the last will of any deceased person, or administrator, with or without the will annexed, of the estate of any deceased person, or as guardian, trustee, receiver, assignee, or in any other fiduciary capacity, if such trust company has heretofore merged or consolidated with or shall hereafter merge or consolidate with any other trust company organized under the laws of this State, then, at the option of said first-mentioned company and upon the filing by it with the Court having jurisdiction of the estate being administered, of a certificate of such merger or consolidation, together with a statement that such other trust company is to thereafter administer the estate held by it and an acceptance by said latter trust company of the trust to be administered, such certificate, statement and acceptance to be executed by the president or vice-president of said respective companies, and to have affixed thereto the corporate seals of said respective companies, attested by the secretary thereof, and further upon the approval of said Court, all the rights, privileges, title and interest in and to all property of whatever kind, whether real, personal or mixed, and things in action, belonging to said trust estate, and every right, privilege or asset of conceivable value or benefit then existing which would inure to said estate under an unmerged or unconsolidated existence of said first-mentioned company, shall be fully and finally and without right or reversion transferred to and vested in the corporation into which it shall have been merged or with which it shall have been consolidated, without further act or deed, and such last-mentioned corporation shall have and hold the same in its own right as fully as the same was possessed and held by the corporation from which it was, by operation of the provisions of this Section, transferred, and said corporation shall succeed to all the relations, obligations and liabilities, and shall execute and perform all the trusts and obligations devolving upon it, in the same manner as though it had itself assumed the relation or trust.

1928, XXXV, 1271.

§ 5729. **Investments.**—Investments of trust funds by fiduciaries may be made in such securities or property as authorized by the will, deed, order, decree, gift, grant, or other instrument creating or fixing the respective trusts, and when not otherwise provided in such instrument may be in the bonds of the United States, bonds of the Federal Land Bank or Joint Stock Land Bank, bonds or obligations of any of the States of the United States, or other sub-divisions thereof, or in first mortgages or first mortgage bonds on real estate in any State, or in their own first mortgages or bonds secured by first mortgages on real estate if such fiduciary be a trust company, or in the first mortgages or first mortgage bonds of any corporation of any State upon which no default shall have occurred within a period of five years: *Provided*, That any fiduciary may continue to hold any investment made with trust funds prior to the adoption by it of the provisions of this Article: *And provided, further,* That any such fiduciary may continue to hold any investment received by it under any trust.

1928, XXXV, 1271.

§ 5730. **Limitation on Loans—Exceptions.**—A trust company subject to the provisions of this Article: (1) Shall not lend to any individual, partnership, corporation, or body politic amount or amounts in the aggregate which will exceed fifteen per centum (15%) of the capital stock actually paid in and surplus fund of such trust company, if located in a city having a population of one hundred thousand or over; and twenty per centum (20%) of the capital stock actually paid in and surplus fund of such trust company if located in a city having a population of less than one hundred thousand and over ten thousand; and twenty-five per centum (25%) of the capital stock actually paid in and surplus fund of such trust company if located elsewhere in the State, with the following exceptions:

(a) The restrictions in this sub-division shall not apply to loans or to investments in the interest-bearing obligations of the United States, this State or any State, county, town, village or political sub-division in this State, or in any of the investments in which trust funds by fiduciaries are authorized as enumerated in Section 5729, nor to the purchase of first mortgage bonds of any corporation.

(b) In computing the total liabilities of any individual to a trust company there shall be included all liabilities to the trust company of any partnership of which he is a member, and any loan made for his benefit or for the benefit of such partnership; in computing the total liabilities of any partnership to a trust company there shall be included all liabilities of its individual members and all loans made for the benefit of such partnership or any member thereof; and in computing the total liabilities of any corporation to a trust company there shall be included all loans made for the benefit of the corporation.

(c) The purchase or discount of drafts, or bills of exchange drawn in good faith against actually existing values and the discount of commercial or business papers shall not be considered nor computed as money borrowed within the meaning of this Section.

(d) This subdivision shall not be construed to render unlawful the continued holding of any securities heretofore lawfully acquired by any such trust company.

(2) Shall not make any loan secured by the stock of another bank or trust company if by the making of such loan the total stock of such bank or trust company and held as collateral security by it will exceed fifteen per centum of the total capital stock of such bank or trust company.

(3) Shall not at any time take or hold loans or discounts secured by stock in any one corporation, which loans in the aggregate shall exceed thirty-three and one-third per centum of the capital and surplus fund of the trust company making the loan. Shall not make any loan or discount on the security of the shares of its own capital stock, or be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, and stock so purchased or acquired shall be sold at public or private sale, or otherwise disposed of, within six months from the time of its purchase or acquisition unless the time is extended by the bank examiner.

(4) Shall not knowingly lend, directly or indirectly, any money or property for the purpose of enabling any person to pay for or hold shares of its stock, unless the loan is made upon other security or securities having an ascertained or market value of at least fifty per centum (50%) more than the amount of the loan.

(5) No director, officer, clerk or employee of a trust company of this State shall be permitted to borrow any of the money of the trust company in which

he is a director, officer, clerk or employee in excess of ten per centum (10%) of the capital and surplus fund without the consent of a majority of the directors of the trust company, other than the borrower, first having been obtained in a meeting of the board, said consent to be made a matter of record before the loan is made: *Provided*, If any such officer, director, clerk or employee shall own or control a majority of the stock of any other corporation a loan to that corporation shall be considered for the purpose of this sub-division as a loan to him.

(6) Shall not invest or keep invested in the stock of any one private corporation an amount in excess of twenty-five per centum (25%) of the capital and surplus fund of such trust company; nor shall it purchase or continue to hold stock of another bank or trust company if by such purchase or continued investment the total stock of such other bank or trust company owned or held by it as collateral will exceed twenty-five per centum (25%) of the stock of such other bank or trust company: *Provided, however*, That this limitation shall not apply to the ownership of the capital stock of a safe deposit company, the vaults of which are connected with or adjacent to an office of such trust company, nor to the ownership by such trust company, or its stockholders, of a part or all of the capital stock of one bank organized under the laws of the United States or of this State, nor to the ownership of a part or all of the capital of one corporation, organized under the laws of this State, for the principal purpose of receiving savings deposits or issuing debentures or loaning money on real estate or dealing in or guaranteeing the payment of real estate securities or investing in other securities in which trust companies may invest under this Article, nor to the continued ownership of stocks lawfully acquired prior to the passage of this Article.

1928, XXXV, 1271.

§ **5731. False Entries on Books.**—No trust company shall by any system of accounting or any device of bookkeeping directly or indirectly enter any of its assets upon its books in the name of any other individual, partnership or corporation or under any title or designation that is false or misleading.

1928, XXXV, 1271.

§ **5732. Directors.**—The affairs and business of the corporation shall be managed by a board of directors or managers, consisting of not less than five nor more than thirty shareholders, who shall be elected annually as hereinafter provided. Each director must be a citizen of the United States, and at least three-fourths of the directors must be residents of this State at the time of their election and during their continuance in office. If at any time when not more than three-fourths of the directors are residents of this State any director shall cease to be a resident of this State, he shall forthwith cease to be a director of the trust company and his office shall be vacant. Every director of a trust company shall be a stockholder of the trust company, owning in his own right capital stock of the aggregate par value of at least five hundred ($500.00) dollars.

1928, XXXV, 1271.

§ **5733. Periodic Examination of Affairs of Company to be Made.**—It shall be the duty of the board of directors of every trust company not less than once in every year and whenever and as often as required by the Bank Examiner, and within thirty days after notice from him, to examine, or cause a committee of at least three of its members or stockholders to examine fully the books, papers and affairs of the trust company, and the loans or discounts or acceptances made, directly or indirectly to its officers or directors, or for the benefit of such officers or directors, or for the benefit of other corporations of which such officers or directors are also officers or directors, or in which they have a beneficial interest as stockholders, creditors, or otherwise, with the special view of ascertaining their safety and present value, and the value of the collateral security, if any, held in connection therewith, and into such other matters as the Bank Examiner may require. Such directors or a committee of stockholders shall have the power to employ such assistance in making such examination as they may deem necessary.

1928, XXXV, 1271.

§ 5734. **Reports of Examinations.**—Within thirty days succeeding any examination made pursuant to the requirements of the last Section, a report in writing thereof, sworn to by the directors or stockholders making the same, shall be made to the board of directors of such trust company, and placed on file in said trust company. Such report shall particularly contain a statement of the assets and liabilities of the trust company, examined, as shown by the books, together with such deductions from the assets, and the addition of such liabilities, direct, indirect, contingent, or otherwise as such directors or committee, after such examination, may find necessary in order to determine the true condition of the trust company.

1928, XXXV, 1271.

§ 5735. **Communications from Bank Examiner.**—Each official communication by the Bank Examiner or one of his deputies to a trust company or to any officer thereof, relating to an examination or investigation conducted by the banking department, or containing suggestions or recommendations as to the conduct of the business of the trust company, shall be submitted, by the officer receiving it, to the board of directors at the next meeting of such board and duly noted in the minutes of the meeting of such board.

1928, XXXV, 1271.

§ 5736. **Duties and Powers of Bank Examiner.**—The State Bank Examiner shall have the same duty and powers with regard to trust companies as are now provided by law with respect to his powers and duties toward banks, and the trust companies shall make such reports to the State Bank Examiner as are demanded by bank examiners.

1928, XXXV, 1271.

§ 5737. **Fees of Bank Examiner.**—The fees of the Bank Examiner for examination shall be the same as now provided by law for the examination of banks in the State of South Carolina.

1928, XXXV, 1271.

§ 5738. **Increase or Decrease of Capital Stock.**—Any trust company now existing or hereafter formed for any of the purposes contemplated by this Article may increase or diminish its capital stock by complying with the provisions of this Article in any amount within the limits of this Article, and may also extend its business to any other purposes authorized by this Article, and may make any change in its articles of agreement or charter not inconsistent with the provisions of this Article, subject to the provisions and liabilities thereof.

1928, XXXV, 1271.

§ 5739. Method of Change in Charter.—Whenever any trust company shall desire to call a meeting of its shareholders for the purpose of availing itself of the privileges and provisions of this Article or for increasing or diminishing the amounts of its capital stock, it shall be the duty of the directors to publish a notice, signed by the President or Secretary, in a newspaper published in the county or city, if any shall be published therein, four successive weeks, and to deposit a written or printed copy thereof in the post office, postage prepaid, addressed to each stockholder at his last known place of residence, at least thirty days previous to the date fixed upon for holding such meeting, specifying the object of the meeting, the time and place, when and where such meeting shall be held, and the amount to which the capital stock shall be extended or changed. An affirmative vote of the holders of a majority of all the shares of stock shall be necessary to increase or diminish the amount of the capital stock, or to enable a trust company to avail itself of the provisions of this Article. The notice provided for in this Section shall be published at least once a week, and the first publication must be at least twenty-one days before the day of such meeting.

1928, XXXV, 1271.

§ 5740. Receipt of Assets by Officer, Etc., Knowing of Insolvency, Prohibited.—No president, director, manager, secretary, or other officer or agent of any trust company organized and doing business under the provisions of this Article, shall receive or assent to the reception of any funds or property or create or assent to the creation of any debts of such trust company, after he shall have knowledge of the fact that it is insolvent. Every person violating the provisions of this Section shall be individually responsible for such funds or property so received, and all such debts so contracted.

1928, XXXV, 1271.

§ 5741. Preservation of Records.—Every trust company shall preserve all its records of final entry, including cards used under the card system, for a period of at least six years from the date of making the same or from the date of the last entry thereon.

1928, XXXV, 1271.

§ 5742. Use of Words "Trust Company," Etc., Regulated.—No person, association, firm or corporation, other than trust companies chartered under the laws of the State of South Carolina prior to the passage and approval of this Article, or other than a corporation authorized to do business of a trust company and subject to the supervision of the State Bank Examiner, shall make use of the words "trust" or "trust company" as part of any artificial or corporate name or title, nor make use of any sign at the place where his or its business is transacted, having thereon such words or any other word or words indicating that such place or office is the place or office of a trust company, nor make use of or circulate any written or printed or partly written or partly printed matter whatever having thereof any such words or any other word or words indicating that the business conducted is that of a trust company, nor transact business in such way or manner as to lead the public to believe or as in the opinion of the Bank Examiner might lead the public to believe, that his or its business is that of a trust company. Every person violating the provisions of this Section, either as an individual or an interested party in any association, firm or corporation, shall be punished by fine of not less than one hundred dollars nor more than one thousand dollars. The Bank Examiner shall have authority to examine the accounts, books and papers of any person, association, firm or corporation whom he has reason to suspect is violating the provisions of this Section and to summon and examine under oath, which he is empowered to administer, any person whom he may have reason to believe has violated or is a participant in any violation of the provisions of this Section.

1928, XXXV, 1271.

§ 5743. Safe Deposit Boxes.—Every trust company doing a safe deposit business shall be entitled to the following special remedies in enforcing the liability of depositors and renters or lessees of boxes: Whenever any trust company doing a safe deposit business shall have received personal property upon deposit, as bailee, and shall have issued a receipt therefor, it shall be deemed a warehouseman as to such property, and all existing statutes and laws affecting warehousemen shall apply to such deposits, and the trust company shall have a lien on such deposits or the proceeds thereof to the same extent and with the same effect, and enforceable in the same manner as now provided by law with reference to warehousemen.

If the amount due for the rental of any safe or box in the vaults of any trust company shall not have been paid for one year, such company may, at the expiration thereof, send to the person or persons, partnership or corporation in whose name such safe or box stands on its books a notice in writing in a securely closed, postpaid, registered letter, directed to such renter or lessee at his, their or its last known postoffce address, notifying such renter or lessee that if the amount due for the rental of such safe or box shall not be paid within thirty days from date, the trust company will then cause such safe or box opened, and the contents thereof to be inventoried, sealed and placed in one of the general safes or boxes of the trust company. Upon the expiration of thirty days from the date of mailing of such notice that the failure within said period of time for the renter or lessee in whose name the safe box stands on the books of the trust company to pay the amount due for the rental thereof to the date of notice, the trust company may, in the presence of a notary public and of its president or secretary, cause such safe or box to be opened, and the contents thereof, if any, to be removed, inventoried and sealed up by such notary public in a package upon which the notary public shall distinctly mark the name of the renter or lessee in whose name the safe or box stood on the books of the trust company and the date of removal of the property, and when such package has been so marked for identification by the notary public, it shall, in the presence of the president or secretary of the trust company, be placed by the notary public in one of the general safes or boxes of the trust company, at a rental not to exceed the original rental of the safe which was opened, and shall remain in such general safe or box for a period of not less than two years, unless sooner removed by the owner thereof, and the notary public shall thereupon file with the trust company a certificate under seal, which shall fully set out the date of the opening of such safe or box, the name of the renter or lessee in whose name it stood and a list of the contents, if any. A copy of such certificate shall within ten days thereafter be mailed to the renter or lessee in whose name the safe or box so opened stood on the books of the trust company, at his, their, or its last known postoffice address, in a securely closed, postpaid, registered letter, together with a notice that the contents will be kept, at the expense of such renter or lessee, in a general safe or box in the vaults of the trust company, for a period of not less than two years. At any time after the mailing of such certificate and notice, and before the expiration of two years, such renter or lessee may require the delivery of the contents of the safe as shown by said certificate upon the payment of all rentals due at the time of opening of the safe or box, the cost of opening the box, the fees of the notary public for issuing his certificate thereon, and the payment of all further charges accruing during the period the contents remained in the general safe or box of the trust company. After the expiration of two years from the time of mailing the certificate herein provided for, the trust company shall mail in a securely closed, postpaid, registered letter, addressed to such renter or lessee at his, their, or its last known postoffice address, a notice stating that two years have elapsed since the opening of the safe or box and the mailing of the certificate thereof, and that the trust company will sell the property or articles of value set out in said certificate, at a time and place stated in such notice, not less than thirty days after time of mailing such notice, and stating the amount which shall have then been due for rental up to the time of opening such safe, the costs of opening thereof, and the further cost of safe-keeping all of its contents for the period since the opening of the safe or box. Unless such renter or lessee shall pay on or before the day mentioned all said sums, and all the charges accruing to the time of payment, including advertising, the trust company may sell all the property or articles of value set out in said certificate at public auction, at the time and place stated in said notice, provided a notice of the time and place of sale has been published once within ten days prior to the sale in a newspaper published in the place where the sale is held. From the proceeds of the sale, the trust company shall deduct all its charges as stated in said notice, together with any other charges that shall have accrued since the mailing thereof, including reasonable expenses for notice, advertising and sale. The balance, if any, of such proceeds, shall be held as a special deposit by the trust company. The trust company shall file with such deposits a certificate stating the name and last known place of residence of the owner of the property sold, the articles sold, the price obtained therefor, and showing that the notices herein required were duly mailed and that the sale was advertised as required herein. The trust company holding such balance shall credit the same to the owner of the property, and pay the same to such owner, his, their, or its assignee, or legal representatives, or demand satisfactory evidence of identity. If such balance remains in the possession of such trust company for a period of five years, unclaimed by the person, partnership or corporation legally entitled thereto, it shall be treated as an unclaimed deposit. Whenever the contents of any such safe or box, so opened, shall consist either wholly or in part of documents or letters or other papers of a private nature, such documents, letters or papers shall not be sold, but shall be retained by the trust company for a period of ten years from the time of the opening of the box, and, unless sooner claimed by the owner, may be thereafter destroyed in the presence of an officer of the trust company and a notary public not an officer or employee of the trust company. The provisions of this Section do not preclude any other remedy by action or otherwise now existing for the enforcement of the claims of a trust company against the person, partnership or corporation in whose name such safe or box stood, nor bar the right of a trust company to recover so much of the debt due it as shall not be paid by the proceeds of the sale of the property deposited with it.

1928, XXXV, 1271.

§ 5744. Deposits on Savings.—In addition to the powers authorized under Section 5727, trust companies organized under the provisions of this Article, or which shall adopt the provisions of this Article as part of their charters as provided in Section 5721, if the charter of the said companies shall specifically authorize the same, or if the stockholders of a trust company heretofore organized under the laws of this State and electing to adopt this Article as a part of its charter shall specifically authorize the same at the time of making such election, may receive and accept deposits of money upon savings accounts only, but no such trust company shall receive such deposits or pay or honor checks against such deposits except in its own banking house: *Provided,* That any trust company accepting or receiving savings deposits as in this Section authorized, in addition to the restrictions and limitations in this Article provided, shall be subject to all laws of this State restricting or controlling the management, operation and conduct of banking corporations or banking institutions, and the stockholders of such trust companies shall be subject to the same liabilities for the protection of depositors having savings deposits with such trust companies as are imposed upon stockholders of banking institutions under the laws of this State for the protection of deposits made with such banking institutions.

1928, XXXV, 1271.

§ 5745. Construction of Article—License of Foreign Companies.—The provisions of this law, so far as they are the same as those existing laws, shall be construed as a continuation of such laws and not as new enactments; and the repeal by this law of any provisions of law shall not revive any law heretofore repealed or superseded; nor shall it affect any act done, liability incurred, or any right accrued and established, or any suit or prosecution, civil or criminal, pending or to be instituted, to enforce any right or penalty or to punish any offense under the authority of the repealed laws; and any person who at the time when said repeal takes effect holds office under any of the laws repealed shall continue to hold such office according to the tenure thereof: *Provided,* That the provisions of this Article shall not be applicable to, nor affect the doing of business in the State of South Carolina nor the maintenance of a place of business therein, by trust companies organized or chartered under the laws of any other state or the licensing thereof under the laws of the State of South Carolina, when the sole business of said trust company within the State of South Carolina is the lending of money on real estate therein, or when the business of said foreign corporation or trust company is not the operation of a trust or banking business in South Carolina within the meaning of the provisions of this Article. A license to such trust companies incorporated under the laws of any other state shall be issued by the Secretary of State upon the approval of the State Bank Examiner.

1928, XXXV, 1271.

§ 5746. State Banks, Trust Companies and Fiduciary Corporations Doing a Trust Business.—All state banks, trust companies, and fiduciary corporations doing a trust business, shall be subject to examination by the State banking department, and shall be further subject to the following rules and regulations for the conduct of such trust business.

1930, XXXVI, 1367.

§ 5747. Fiduciary Assets to be Segregated—Separate Records—Officer in Charge.—Banks, trust companies, or corporations acting in a fiduciary capacity shall segregate all assets held in any fiduciary capacity from the general assets of the bank, trust company, or corporation, and shall keep a separate set of books or records showing in proper detail all transactions relative to such fiduciary business, and such books and records shall be under the management of an officer or officers whose duty shall be prescribed by the Board of Directors of the bank, trust company, or corporation.

1930, XXXVI, 1367.

§ 5748. **Funds to be Secured.**—Funds received or held in the trust department awaiting investment or distribution shall be secured to the trust department if such funds have been deposited in its own bank, or in any other banking corporation, by the bonds acceptable for the securing of public funds in South Carolina, and shall be equal in market value to the amount of funds so deposited.

1930, XXXVI, 1367.

§ 5749. **Funds to be Invested.**—Funds held by the trust department shall be invested as soon as practicable in strict accordance with the will or agreement governing the trust and in the absence of such direction, shall be invested under the terms of the laws for such investments in the State of South Carolina. The investments shall be made by an investment committee, appointed by the Board of Directors, and all such investments shall be approved by the Board of Directors.

1930, XXXVI, 1367.

§ 5750. **Investments to be Kept Separate.**—The investments of each individual trust shall be kept separate and distinct from all other trusts and plainly marked.

1930, XXXVI, 1367.

§ 5751. **Securities.**—The securities of the trust department for each individual trust shall be in the joint custody of two or more officers or other employees of the bank designated by the Board of Directors of the bank or trust company, as the case may be, and such officers or employees shall be bonded.

1930, XXXVI, 1367.

ARTICLE 3

Cooperative Credit Unions

§ 5752. **Cooperative Credit Union—Meaning.**—In this Article the words "cooperative credit union" shall mean a cooperative association formed for the purpose of promoting thrift among its members and to enable them, when in need, to obtain for productive and provident purposes moderate loans of money for short periods and at reasonable rates of interest.

Civ. C. '22, § 4003; 1915, XXIX, 240.

§ 5753. **May Receive Deposits—Lend—Invest—Other Powers.**—A co-operative credit union may receive the savings of its members in payment for shares or on deposit, may lend to its members at reasonable rates of interest,