

## Article 13.

### Reorganization of Public Utilities.

#### **§ 62-290. Corporations whose property and franchises sold under order of court or execution.**

When the property and franchises of a public utility corporation are sold under a judgment or decree of a court of this State, or of the district court of the United States, or under execution, to satisfy a mortgage debt or other encumbrance thereon, such sale vests in the purchaser all the right, title, interest and property of the parties to the action in which such judgment or decree was made, to said property and franchises, subject to all the conditions, limitations and restrictions of the corporation; and the purchaser and his associates thereupon become a new corporation, by such name as they select, and they are the stockholders in the ratio of the purchase money by them contributed; and are entitled to all the rights and franchises and subject to all the conditions, limitations and penalties of the corporation whose property and franchises have been so sold. In the event of the sale of a railroad in foreclosure of a mortgage or deed of trust, whether under a decree of court or otherwise, the corporation created by or in consequence of the sale succeeds to all the franchises, rights and privileges of the original corporation only when the sale is of all the railroad owned by the company and described in the mortgage or deed of trust, and when the railroad is sold as an entirety. If a purchaser at any such sale is a corporation, such purchasing corporation shall succeed to all the properties, franchises, powers, rights, and privileges of the original corporation: Provided, that this shall not affect vested rights and shall not be construed to alter in any manner the public policy of the State now or hereafter established with reference to trusts and contracts in restraint of trade. (Code, ss. 697, 698; 1897, c. 305; 1901, c. 2, s. 99; Rev., s. 1238; 1913, c. 25, s. 1; 1919, c. 75; C.S., s. 1221; 1955, c. 1371, s. 2; 1963, c. 1165, s. 1.)

#### **§ 62-291. New owners to meet and organize; special rule for railroads.**

(a) The persons for whom the property and franchises have been purchased pursuant to G.S. 62-290 shall meet within 30 days after the delivery of the conveyance made by virtue of said judgment or decree, and organize the new corporation, 10 days' written notice of the time and place of the meeting having been given to each of said persons. At this meeting they shall adopt a corporate name and seal, determine the amount of the capital stock of the corporation, and shall have power and authority to make and issue certificates of stock in shares of such amounts as they see fit. The corporation may then, or at any time thereafter, create and issue preferred stock to such an amount, and at such time, as they may deem necessary.

(b) Whenever the purchaser of the real estate, track and fixtures of any railroad corporation which has heretofore been sold, or may hereafter be sold, by virtue of any mortgage executed by such corporation or execution issued upon any judgment or decree of any court, shall acquire title to the same in the manner prescribed by law, such purchaser may associate with him any number of persons, and make and acknowledge and file articles of association as prescribed by this Chapter. Such purchaser and his associates shall thereupon be a new corporation, with all the powers, privileges and franchises and subject to all of the provisions of this Chapter.

(c) When any railroad corporation shall be dissolved, or its property sold and conveyed under any execution, deed of trust, mortgage or other conveyance, the owner or purchaser shall constitute a new corporation upon compliance with law. (1871-2, c. 138, s. 5; Code, ss. 1936, 2005; 1901, c. 2, ss. 100, 101, 102; Rev., ss. 1239, 1240, 2552, 2565; C.S., ss. 1222, 3462, 3463; 1955, c. 1371, s. 2; 1963, c. 1165, s. 1.)

**§ 62-292. Certificate to be filed with Secretary of State.**

It is the duty of the new corporation provided for by this Article, within one month after its organization, to make certificate thereof, under its common seal, attested by the signature of its president, specifying the date of the organization, the name adopted, the amount of capital stock, and the names of its president and directors, and transmit the certificate to the Secretary of State, to be filed and recorded in his office. A certified copy of this certificate so filed shall be recorded in the office of the clerk of the superior court of the county in which is located the principal office of the corporation, and is the charter and evidence of the corporate existence of the new corporation. (1901, c. 2, s. 103; Rev., s. 1241; C.S., s. 1223; 1955, c. 1371, s. 2; 1963, c. 1165, s. 1.)

**§ 62-293. Effect on liens and other rights.**

Nothing contained in this Article in any manner impairs the lien of a prior mortgage, or other encumbrance, upon the property or franchises conveyed under a sale pursuant to this Article when by the terms of the judgment or decree under which the sale was made, or by operation of law, the sale was made subject to the lien of any such prior mortgage or other encumbrance. No such sale and conveyance or organization of such new corporation in any way affects the rights of any person or body politic not a party to the action in which the judgment or decree was made, nor of any party except as determined by the judgment or decree. When a trustee has been made a party to such action and his cestui que trust, for reason satisfactory to the court, has not been made a party thereto, the rights and interest of the cestui que trust are concluded by the decree. (1901, c. 2, s. 103; Rev., s. 1241; C.S., s. 1224; 1955, c. 1371, s. 2; 1963, c. 1165, s. 1.)

**§§ 62-294 through 62-299. Reserved for future codification purposes.**