

# GENERAL STATUTES

OF

# MINNESOTA

1913

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COMPILED AND EDITED BY  
FRANCIS B. TIFFANY

ST. PAUL  
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is to be conducted or transacted and the true or real full name, or names, of the person or persons conducting or transacting the same, with the postoffice address or addresses of such person or persons. Said certificate shall be executed and duly acknowledged by one of the persons conducting, or intending to conduct said business. ('11 c. 271 § 1)

**6108. Certificate to be filed**—Persons now conducting any such business under any such designation, name or style, as referred to in sub-division one, shall file such certificate as hereintofore prescribed within ninety (90) days after this act shall take effect, and persons hereafter conducting or transacting business as aforesaid shall, before commencing such business, file such certificate in the manner hereinbefore prescribed. ('11 c. 271 § 2)

**6109. New certificate on change of ownership—Continuing liability**—On every change in ownership of every such business as is described in sub-division one hereof, a new certificate must be filed with the clerk of said district court, either by one of the retiring or incoming owners of said business, setting forth the full individual name or names, together with the postoffice address or addresses of the new owners thereof. Until the filing of such new certificate, the person or persons whose names appear as owners upon the certificate heretofore filed, shall continue liable to all persons who extend credit to said business, except only in the case of creditors who have actual notice or knowledge of such change of ownership. ('11 c. 271 § 3)

**6110. Duty of clerks of court—Fees—Evidence**—The several clerks of the district courts of this state, shall keep an alphabetical list of all persons filing certificates provided for herein, and for the indexing and filing of such certificates, they shall receive a fee of twenty-five (25) cents. A copy of such certificate, duly certified to by the clerk of the district court in whose office the same shall be filed, shall be presumptive evidence in all courts of law in this state of the facts therein contained. ('11 c. 271 § 4)

**6111. Not applicable to corporations or certain partnerships**—This act shall not apply to corporations, domestic or foreign, nor to co-partnerships in which one of the individual names of all of the members thereof appear in the co-partnership name of designation. ('11 c. 271 § 5)

**6112. Violation a misdemeanor**—Any person or persons carrying on or conducting or transacting a business as aforesaid, who shall fail to comply with the provisions of this act, shall be guilty of a misdemeanor. ('11 c. 271 § 6)

**6113. Pleading failure to file certificate—Costs**—If any person or persons conducting a business contrary to the terms of this act shall, prior to the filing of the certificate herein prescribed, commence a civil action in any court of this state on account of any contract made by or transaction had on behalf of said business, the defendant may plead such failure in abatement of the action; on all proceedings had in said action shall thereupon be stayed until the certificate provided for by this act is duly filed, and the defendant in case he prevails in said action, shall also be entitled to tax five dollars (\$5.00) costs in addition to such other statutory costs as are now allowed by law, and in case he does not prevail in said action, shall be entitled to deduct said five dollars (\$5.00) from the judgment otherwise recoverable therein. ('11 c. 271 § 7)

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## CHAPTER 57

### LIMITED PARTNERSHIP

**6114. How formed**—A limited partnership for the transaction of mercantile, mechanical, or manufacturing business within this state may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities herein prescribed; but the provisions of this chapter shall not be construed to authorize any such partnership for the purpose of banking or insurance. (2819)

**6115. General and special partners**—Such partnership may consist of one or more persons, who shall be called general partners, and who shall be jointly and severally responsible as general partners now are by law; and of one

or more persons who shall contribute, in actual cash payments, a specific sum as capital to the common stock, who shall be called special partners, and who shall not be liable for the debts of the partnership beyond the fund so contributed. The general partners only are authorized to transact business and sign for the partnership, and to bind the same. (2820)

**6116. Certificate**—The persons forming such partnership shall make and severally sign a certificate which shall contain:

1. The name under which such partnership is to be conducted.
2. The general nature of the business to be transacted.
3. The names of all the general and special partners, specifying which are general and which special partners, and their respective places of residence.
4. The amount of capital which each special partner has contributed to the common stock.
5. The time when the partnership is to commence and when it is to terminate. (2821)

**6117. Same—Acknowledged and recorded**—Such certificate shall be acknowledged, and the officer taking the same shall indorse thereon his certificate of such acknowledgment. When so acknowledged and certified, the certificate shall be filed for record with the register of deeds of the county in which the principal place of business of the partnership is situated, and, if the partnership has business places in other counties, a certified copy thereof shall be recorded in every such county. (2822)

**6118. Affidavit to be filed**—At the time of filing the original certificate there shall also be filed for record in the same office the affidavit of one or more of the general partners, stating that the sums specified in the certificate to have been contributed to the common stock by each of the special partners have been actually and in good faith paid in cash. (2823)

**6119. Recording essential—False statement**—No such partnership shall be deemed formed until such certificate and affidavit have been recorded, and, if any false statement is made in either, all the persons interested in such partnership shall be liable, for all the engagements thereof, as general partners. (2824)

**6120. Certificate to be published**—Immediately after such certificate is recorded, four weeks' published notice of the contents thereof shall be given, and, if not given, the partnership shall be deemed general. Proof of the publication may be filed with the register of deeds where the certificate is recorded. (2825)

**6121. Renewal**—Every renewal or continuance of such partnership beyond the time originally fixed for its duration shall be certified, acknowledged, and recorded, and the affidavit of a general partner be made and filed, and notice given, in the manner herein required for its original formation, and every such partnership which is not renewed or continued shall be deemed a general partnership. (2826)

**6122. Alteration of names, etc.**—Every alteration made in the names of the parties, in the nature of the business, in the capital or shares thereof, or in any other matter specified in the original certificate, shall be deemed a dissolution of the partnership; and every such partnership which is carried on in any manner after such alteration shall be deemed a general partnership unless renewed as a special partnership as provided in § 6121. But the certificate may provide that the death of a partner shall not dissolve such partnership, in which case the same may continue as a limited partnership, and its business be carried on by the surviving general partners, until the expiration of the specified period. (2827)

**6123. Firm name—Sign**—The business of the partnership shall be conducted under a firm name, in which the names of the general partners only shall be inserted. Where there are two or more general partners, such name may consist of the name or names of one or more of them, with or without the addition of the words "& Company" or "& Co."; and, if the name of any special partner shall be inserted in the firm name with his privity, he shall be deemed a general partner. Every such partnership shall conspicuously place on the outside of the front of the building in which it has its chief place

of business a sign containing, in legible English, the full names of all its members. (2828)

**6124. Parties to actions**—All actions respecting the business of such partnership shall be prosecuted by and against the general partners only, except in those cases in which provision is made in this chapter that the special partners shall be deemed general partners, and that special partnerships shall be deemed general, in which cases all the partners deemed general may join or be joined; and excepting also those cases wherein special partners are held severally responsible on account of sums by them received or withdrawn from the common stock. (2829)

**6125. Capital not to be withdrawn**—During the continuance of any partnership under the provisions of this chapter, no part of the capital stock thereof shall be withdrawn, nor any division of interest or profits be made, so as to reduce such capital stock below the sum stated in the certificate before mentioned; and if, at any time during the continuance or at the termination of the partnership, the property or assets are not sufficient to pay the partnership debts, then the special partners shall severally be held responsible for all sums by them in any way received, withdrawn, or divided, with interest thereon from the time when they were so withdrawn, respectively. (2830)

**6126. Rights of special partner**—A special partner may from time to time examine into the condition and progress of the partnership business; advise as to its management; loan money to, and advance and pay money for, the partnership; take and hold its notes, drafts, acceptances, and bonds as security for the repayment, with interest, of any money so loaned or advanced by him. He may use and lend his name and credit as security for the partnership in its business, and shall have the same remedies in these respects as its other creditors. With the approval of one or more of the general partners, he may negotiate sales and make purchases for the partnership. Except as herein provided, no special partners shall transact any business for the partnership, and, if he shall interfere contrary to these provisions, he shall be deemed a general partner. (2831)

**6127. Preferences by partnership**—Every sale, assignment, or transfer of its property by any such partnership when insolvent or in contemplation of insolvency, or after or in contemplation of the insolvency of any partner, with the intent to give a preference to any creditor or insolvent partner over other creditors of the partnership, and every judgment confessed, lien created, or security given by it, under like circumstances and with like intent, shall be void as against the creditors of such partnership. (2832)

**6128. Preferences by partners**—Every sale, assignment, or transfer of any of the property of a general or special partner, made by him when insolvent or in contemplation of insolvency, or after or in contemplation of the insolvency of the partnership, with the intent of giving to any creditor of his own or of the partnership a preference over creditors of the partnership, and every judgment confessed, lien created, or security given by such partner under the like circumstances and with like intent, is void as against the partnership creditors. (2833)

**6129. Violations—Liability**—Every special partner who violates any provision of §§ 6127, 6128, or who concurs in or consents to any such violation, shall be liable as a general partner. (2834)

**6130. Special partners as creditors**—In case of the insolvency or bankruptcy of the partnership, no special partner shall be allowed to claim as a creditor until the claims of all the other creditors of the partnership are satisfied. (2835)

**6131. Dissolution by parties—Notice**—No such partnership shall be dissolved by act of the parties before the time specified in the certificate of its formation, or in the certificate of its renewal, until a notice of dissolution shall be recorded and published as required in respect to the certificate of its formation. (2836)

**6132. Accounting—Fraud**—The general and special partners shall be liable to account to each other, both in law and equity, for all their acts relating

to the partnership affairs and the management of its concerns. Any partner who shall be guilty of fraud in the affairs of the partnership shall be guilty of a misdemeanor. (2837)

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## CHAPTER 58

### CORPORATIONS

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#### GENERAL PROVISIONS

**6133. Existing corporations continued**—Until otherwise provided by law, all private corporations existing and doing business at the time of the taking effect of the Revised Laws, shall continue to exercise and enjoy all powers and privileges possessed by them under their respective articles of incorporation and the laws applicable thereto then in force, and shall remain subject to all the duties and liabilities to which they were then subject. (2838)

Right to exercise power of eminent domain, conferred on corporation organized under G. S. 1894 c. 34 tit. 1, was not abrogated, but confirmed and re-enacted, by Revised Laws (101-132, 112+13).

Cited (107-506, 121+395, 23 L. R. A. [N. S.] 1260; 113-459, 130+18).

**6134. Terms defined**—The term "private corporation," as used in this chapter, shall include every company, association, or body endowed by law with any corporate power or function whatsoever, except such as are formed solely for public and governmental purposes, which shall be deemed public corporations. And, when not otherwise indicated by the context, the word "corporation" shall mean a private corporation. The term "certificate of incorporation," whenever used in this chapter in reference to corporations formed prior to the taking effect of the Revised Laws, shall be construed as meaning articles of incorporation. (2839)

Notwithstanding this section, action may be maintained under § 8175 against a municipal corporation (113-55, 129+158, 33 L. R. A. [N. S.] 339, Ann. Cas. 1912A, 216).

**6135. Domestic and foreign corporations defined**—The term "domestic corporation" shall mean every corporation organized under the laws of this state, and the term "foreign corporation" shall mean every other corporation. (2840)

**6136. Public service corporations**—Corporations may be organized for the construction, acquisition, maintenance, or operation of any work of internal improvement, including railways, street railways, telegraph and telephone lines, canals, slack-water or other navigation, dams to create or improve a water supply or to furnish power for public use, and any work for supplying the public, by whatever means, with water, light, heat, or power, including all requisite subways, pipes, and other conduits. But no corporation so formed shall construct, maintain, or operate a railway of any kind, or any subway, pipe line, or other conduit in or upon any street, alley, or other public ground of a city or village, without first obtaining from, and compensating said city or village for, a franchise conferring such right. (2841)

See note under § 6137.

**Right to occupy streets, etc.**—The crossing of streets and alleys incidental to constructing a railroad from place to place does not constitute occupancy of such streets or alleys for purpose of operating a railway thereon, within this section (101-132, 112+13; 108-407, 122+488, 133 Am. St. Rep. 455, 17 Ann. Cas. 550; 117-14, 134+302).

A railway company, organized under G. S. 1878 c. 34 tit. 1, before or since 1893, is not authorized to acquire by condemnation the public easement in a street within a city or village for a railway along such street. A franchise must first be obtained (113-459, 130+18).

Permission of municipality (81-140, 159, 83+527, 86+69, 53 L. R. A. 175).

See note under § 6236.

**Water power—Diversion of navigable waters**—Corporation organized under G. S. 1894 c. 34 not authorized as incident to construction of canal and creation of water power, to divert waters from navigable lakes and streams so as to interfere with navigation (97-429, 107+405, 5 L. R. A. [N. S.] 638, 7 Ann. Cas. 1182).

A public service corporation, though authorized to condemn private property for the construction of canals and reservoirs for generation of electric power, may not exercise such power