

# GENERAL STATUTES

OF

# MINNESOTA

1913

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be notice of the contents thereof and of the rights of all parties thereunder, as well after as before the severance or separation of such property from the land: Provided, that this section shall not affect any action or proceeding pending prior to March 6, 1903. (3359)

81-15, 83+471, 83 Am. St. Rep. 362; 93-505, 101+959.

**6850. Record of conveyance of land in unorganized county**—The record of every conveyance or other instrument affecting real estate in any unorganized county, heretofore recorded in the county to which such unorganized county was then attached for judicial purposes, shall have the same force and effect as if recorded in the county where the real estate is situated. (3360)

33-25, 21+841; 59-274, 61+135.

**6851. When deed not defeated by defeasance**—When a deed purports to be an absolute conveyance, but is made or intended to be made defeasible by force of an instrument of defeasance, the original conveyance shall not thereby be defeated or affected as against any person other than the maker of the defeasance, or his heirs or devisees, or persons having actual notice thereof, unless the instrument of defeasance is recorded in the county where the lands lie. (3361)

18-232, 212; 22-137; 25-448; 34-547, 27+66; 45-116, 120, 47+644, 22 Am. St. Rep. 719.

A recording statute, and serves merely to protect persons dealing in land on faith of record title (114-415, 131+494).

**6852. Recorded letter of attorney, how revoked**—No instrument containing a power to convey lands, when recorded, shall be deemed to be revoked by any act of the party by whom it was executed, unless the instrument containing such revocation be also recorded in the same office. (3362)

**6853. Mortgages, how discharged of record**—A mortgage may be discharged by filing for record a certificate of its satisfaction executed and acknowledged by the mortgagee, his personal representative, or assignee, as in the case of a conveyance. The register shall enter the number of such certificate and the book and page of its record upon the record of the mortgage. A discharge may also be made by an entry in the margin of the record of the mortgage, acknowledging its satisfaction, signed by the mortgagee, his personal representative or assignee, without other formality. If such entry be made by a corporation, it shall be signed by its president or vice-president and attested by its secretary or treasurer. If a mortgage be recorded in more than one county, and discharged of record in one of them, a certified copy of such discharge may be recorded in another county with the same effect as the original. If the discharge be by marginal entry, such copy shall include the record of the mortgage. In all cases the discharge shall be entered in the reception book and indexes as conveyances are entered. (3363)

27-396, 7+826.

**6854. Refusal of mortgagee to discharge—Action**—Whenever any mortgagee, his personal representative or assignee, upon full performance of the conditions of the mortgage, shall fail to discharge the same within ten days after being thereto requested, and after tender of his reasonable charges therefor, he shall be liable to the mortgagor, his heirs or assigns, for all actual damages thereby occasioned; and a claim for such damages may be asserted in an action for discharge of the mortgage. If the defendant be not a resident of the state, such action may be maintained upon the expiration of sixty days after the conditions of the mortgage have been performed, without such previous request or tender. (3364)

27-396, 7+826; 39-32, 38+755.

## CHAPTER 64

### PLATS

**6855. Platting of land—Donations**—Plats of land may be made in accordance with the provisions of this chapter, and, when so made and recorded, every donation to the public or any person or corporation noted thereon shall operate to convey the fee of all land so donated, for the uses and purposes

named or intended, with the same effect, upon the donor and his heirs, and in favor of the donee, as though such land were conveyed by warranty deed. Land donated for any public use in any municipality shall be held in the corporate name in trust for the purposes set forth or intended. (3365)

8-456, 405; 10-82, 59, 88 Am. Dec. 59; 11-119, 75; 12-546, 458; 17-260, 237; 17-265, 243; 21-493; 22-251; 44-281, 46+358; 46-321, 48+1129; 50-551, 52+931; 110-228, 124+1096; 110-276, 124+373, 125+262, 32 L. R. A. (N. S.) 778; 117-20, 134+298.

**6856. Survey and plat—Monument—Rivers, lakes, etc.**—The land shall be surveyed and a plat made setting forth and naming all thoroughfares, showing all public grounds, and giving the dimensions of all lots, thoroughfares and public grounds. All in-lots shall be numbered progressively, by the block in which they are situated, all blocks shall be numbered progressively, and all out-lots shall be numbered progressively and shall not exceed ten acres in size. At least three iron or stone monuments shall be placed at some corners in the ground, in such way that the lines between said monuments form two or more base lines from which to make future surveys. The monuments and the angles between said base lines shall be shown on the plat, as well as the north and south line. All rivers, streams, creeks, lakes, ponds, swamps, and all public highways and thoroughfares laid out, opened or traveled—existing before the platting—shall be correctly located and plainly shown and designated on the plat. (R. L. § 3366, amended '07 c. 438 § 1; '11 c. 347 § 1)

22-251.

**6857. Dedication—Certification—Approval—Verification**—On the plat shall be written an instrument of dedication, which shall be signed and acknowledged by the owner of the land. Said instrument shall contain a full and accurate description of the land platted and shall set forth what part or parts of said land is dedicated, and also to whom, and for what purpose said part or parts are dedicated. The surveyor shall certify on the plat that the plat is a correct representation of the survey, that all distances are correctly shown on the plat, that the monuments for guidance of future surveys have been correctly placed in the ground as shown, that the outside boundary lines are correctly designated on the plat, and that the topography of the land is correctly shown on the plat. If there are no wet lands or public highways to be designated in accordance with section 1 [6856] of this act, he shall so state. The certificate shall be sworn to before any officer authorized to administer an oath. The plat shall, except in cities whose charters provide for official supervision of plats by municipal officers or bodies, together with an abstract and certificate of title be presented for approval to the council of the city or village in which the land is located; and, if the land is located outside the limits of any city, incorporated village, then to the board of county commissioners of the county in which the land is located. If the council or board to whom the plat has been presented have any reason to doubt the accuracy of the same, they may, after having notified the proprietor to that effect, employ a competent surveyor to check and verify the surveys and plat, and the surveyor shall make a full report of his findings. If the survey or plat is found incorrect, the expense of verifying the same shall be paid by the proprietor, but if the survey and plat is found to be correct, then this expense shall be paid by the city, village or county to whose council or board the plat has been presented for approval. When the plat has been approved, it shall so be certified to by the city clerk, village recorder, or county auditor, as the case may be. (R. L. § 3367, amended '07 c. 438 § 2)

8-491, 436; 11-119, 75; 22-251; 56-259, 57+452; 62-388, 64+922; 94-25, 101+954.

**6858. Recording, etc.—Fees—Penalties**—Every plat, when duly certified, signed, and acknowledged, as provided in the foregoing section, shall be recorded in the office of the register of deeds, and a duplicate thereof filed with the county auditor. The register shall transcribe such plat, or bind the original into the proper volume, and shall receive as his fee five cents for each lot designated in the plat in case of transcribing, and two cents for each lot when the original is bound. Any person who shall dispose of, lease, or offer to sell any land included in a plat before the same is recorded shall forfeit to

the county \$25 for each lot or part of a lot so disposed of, leased or offered; and any official or person whose duty it is to comply with any of the provisions of this chapter shall forfeit not less than \$10 nor more than \$100 for each month during which compliance is delayed. All forfeitures under this chapter shall be recovered in an action brought in the name of the county. (R. L. § 3368, amended '07 c. 438; '11 c. 347 § 2)

39-158, 39+98.

Conveyance according to plat, estoppel (103-479, 115+274).

**6859. Certain village plats to be recorded**—That any village plat which has been heretofore filed in the office of the register of deeds of the county in which said village is located, but not recorded, but has been and remain on file in the office of said register of deeds for more than fifteen (15) years prior to the passage of this act, shall, upon the request of any property owner whose property is affected by or included in said plat, and upon the payment of his legal fees therefor, be recorded by said register of deeds and to entitle any such plat to be so recorded, it shall not be necessary to have the same approved by the village council of such village, nor shall it be necessary to have the certificate of the recorder of such village or the county auditor of such county to or upon said plat or to have any certificate upon such plat, not on the same at the time such plat was so filed in the office of said register of deeds. ('13 c. 325 § 1)

**6860. Certain village plats declared official**—That in all cases in which such numerous plats have thus been made and recorded between the 15th day of September, A. D. 1887, and the 15th day of January, A. D. 1904, the last plat thus made and recorded and effecting a particular village is hereby declared to be, and is hereby made the official plat of the particular village to which it relates. ('13 c. 497 § 1)

The preamble is as follows:

"Whereas, several plats of the same village have occasionally been made and recorded in the office of the respective registers of deeds of the different counties of the state of Minnesota, and each succeeding plat of each of such villages has included all of the previously platted territory in the particular village and has added new territory thereto, and

"Whereas, confusion arises in the conveyance of property by reason of the existence of such numerous plats, now therefore. Be it enacted by the legislature of the state of Minnesota."

**6861. Plats in counties having 300,000 inhabitants**—That in counties which now have or which shall hereafter have a population of 300,000, or more, inhabitants, every plat when duly certified, signed and acknowledged, as provided in section 3367, Revised Laws 1905 [6857], shall be filed in the office of the register of deeds together with a correct copy thereof, which plat and copy filed, shall be made on cloth mounted paper and shall be of two sizes, either (20x30) twenty by thirty or (30x40) thirty by forty inches in size, which plat shall be placed under the direct supervision of the register of deeds and shall be open to inspection only in the presence of the register of deeds or his representative.

And the copy thereof shall be compared and certified to by the register of deeds in the manner in which certified copies of records are issued in his office, and said copy thereof shall be bound in a proper volume for the use of the general public and anyone shall have access to and may inspect such certified copy at their pleasure. When said copy or any part thereof shall become unintelligible from use or wear or otherwise, at the request of the register of deeds it shall be the duty of the county surveyor to make a copy of the original plat, under the direct supervision of the register of deeds, who shall compare the said copy, certify that it is a correct copy thereof, by proper certificate as above set forth, and it shall be bound in the volume, and under the page, and in the place of the discarded copy. The register of deeds shall receive as fee for filing said plats as aforesaid described, three cents (3c) per lot, but shall receive not less than one dollar (\$1.00) for any plat filed in his office. Any person who shall dispose of, lease, or offer to sell any land included in a plat before the same is recorded, shall forfeit to the county twenty-five dollars (\$25.00) for each lot or part of a lot so disposed of, leased or offered; and any official or person whose duty it is to comply with

any of the provisions of this chapter, shall forfeit not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for each month during which compliance is delayed. All forfeitures under this chapter shall be recovered in an action brought in the name of the county. ('13 c. 101 § 1)

**6862. Same—Provisions not applicable—**The provisions of section 3368, Revised Laws of Minnesota, 1905, as amended by chapter 438, Laws 1907, and chapter 347, Laws 1911 [6858], shall not be applicable to any such county. ('13 c. 101 § 2)

**6863. Vacation of plats—**Upon the application of an owner of land included in any plat, and upon proof that all taxes assessed against such land have been paid, and a notice hereinafter provided for given, the district court may vacate or order all or any part of such plat, and adjudge the title to all streets, alleys and public grounds to be in the persons entitled thereto; but streets or alleys connecting separate plats or lying between blocks or lots, shall not be vacated between such lots, blocks or plats as are not also vacated, unless it appears that the street or alley or part thereof sought to be vacated is useless for the purpose for which it was laid out. The petitioner shall cause two weeks' publication to be at least ten days before the term at which it shall be heard. The court shall hear all persons owning or occupying land that would be affected by the proposed vacation, and if, in the judgment of the court, the same would be damaged, the court may determine the amount of such damage and direct its payment by the applicant before the vacation or alteration shall take effect. A certified copy of the order of the court shall be filed with the county auditor, and recorded by the register of deeds; provided, however, that the district court shall not vacate or alter any street, alley or public ground dedicated to the public use in or by any such plat in any city, town or village organized under a charter or special law which provides a method or procedure for the vacation of streets and public grounds by the municipal authorities of such city, town or village. Provided, that the provisions of this act shall not apply to nor be affected in any city of the first class having and operating under a special charter. (R. L. § 3369, amended '09 c. 503 § 1)

8-456, 405; 42-511, 44+535; 65-491, 67+1031, 60 Am. St. Rep. 487; 84-392, 87+1021; 91-242, 97+977; 91-404, 98+98.

Provision as to publication in amended section, how construed. Right of county to be heard (114-230, 130+1000).

Conveyance of lot abutting on vacated street, whether title to middle of street passes to grantee (110-276, 124+373, 125+262, 32 L. R. A. [N. S.] 778).

**6864. Certain plats validated—**That in all cases where the record owner of real estate in this state has heretofore conveyed the same or any part thereof, by express reference in the instrument of such conveyance to a plat of such real estate on file in the office of the register of deeds in the county in which such real estate is situated, and a plat so referred to in said conveyance is actually of record in such register's office at the time when such conveyance is made, such record owner and all persons claiming under such record owner, shall be forever estopped from questioning the validity of such plat, notwithstanding that at the time of the execution and record thereof, title to the premises covered thereby, appears of record to have been in the name of a person or persons other than the person who executed such plat as proprietor of the premises covered thereby, and notwithstanding any irregularity or informality in the execution, acceptance or record of such plat, and in all such cases such plat shall be deemed and taken to be valid, confirmed and legalized in all respects as if actually executed and recorded by the person or persons who appear of record to have been the owners of the premises covered thereby at the time of the execution and record thereof. ('05 c. 129 § 1)

**6865. Same—To what plats applicable—**This act shall apply to all plats heretofore recorded of any townsite and to any addition to any town, village or city within the state. ('05 c. 129 § 2)

**6866. Same—Pending actions—**Nothing herein contained shall be construed to affect the subject matter of any action or proceeding now pending in any of the courts of this state. ('05 c. 129 § 3)

6867. **Certain certificates and plats—Prima facie evidence—**That all certificates heretofore made and recorded under the provisions of chapter twenty-five General Laws of Minnesota for the year 1891, the same being "An act relative to plats of towns and cities in this state and of additions to, and subdivisions thereof and the correction and legalization of the same," or the record of such certificates, together with the plats to which they respectively refer, shall be prima facie evidence in all cases as to the lands covered by said plats. ('07 c. 53 § 1)

## CHAPTER 65

### REGISTRATION OF TITLE

6868.—Real estate in this state may be registered under the provisions of this act in the manner herein provided. ('05 c. 305 § 1, amended '09 c. 183 § 2)

**Historical—**1905 c. 305 was printed in R. L. 1905 as sections 3370-3451 [6868-6950] thereof. By section 82 of said act, 1901 c. 237, 1902 c. 11, and 1903 cc. 87, 234, are repealed: "Provided, however, that all rights which have accrued under and by virtue of said acts or any of them, and all proceedings pending thereunder shall be in no manner affected by such repeal. Providing, further, that all rules, orders, judgments, decrees and appointments of the district court heretofore made, entered or declared by virtue of or pursuant to said acts or any of them and not inconsistent with this act, shall be and remain in full force and virtue until the same are altered, modified or revoked." The acts repealed by section 82 were repealed by §§ 9454, 9456. 1909 c. 183 § 1 amends 1905 c. 305 § 1 and R. L. § 3370 to read as above.

Act constitutional (85-437, 89+175, 57 L. R. A. 297, 89 Am. St. Rep. 571; 96-119, 104+678; 119-96, 137+390).

Effect of registration proceedings (108-443, 122+316).

The right to apply for registration is not affected by the availability or adequacy of other remedies (119-96, 137+390).

6869. **Registered land subject to same incidents as unregistered, except adverse possession—**Registered land shall be subject to the same burdens and incidents which attach by law to unregistered land. This chapter shall not operate to relieve registered land or the owners thereof from any rights, duties or obligations incident to or growing out of the marriage relation, or from liability to attachment on mesne process, or levy on execution, or from liability to any lien or charge of any description whatever, created or established by law upon the land or the buildings situated thereon, or the interest of the owner in such land or buildings. It shall not operate to change the laws of descent or the rights of partition between cotenants, or the right to take the land by eminent domain. It shall not operate to relieve such land from liability to be taken or recovered by any assignee or receiver under any provision of law relative thereto, and shall not operate to change or affect any other rights, burdens, liabilities or obligations created by law and applicable to unregistered land except as otherwise expressly provided herein. No title to registered land in derogation of that of the registered owner shall be acquired by prescription or by adverse possession. (3371)

94-216, 102+453.

6870. **Application, who may make—**An application for registration may be made by any of the following persons:

First—The person or persons who singly or collectively own the land. Tenants in common shall join in the application.

Second—The person or persons who singly or collectively have the power of disposing of the land.

Third—Infants and other persons under disability, by their guardian duly appointed by the proper probate court in this state.

Fourth—A corporation, by its proper officer, or by an agent duly authorized by the board of directors.

Fifth—Any executor or administrator duly appointed by the proper probate court in this state.

Sixth—A municipal corporation, by its mayor and city clerk, in the case of a city, after a resolution duly passed by its common council so directing,