

## CHAPTER 384

## COUNTY AUDITOR

**384.02 BOND.**

A deputy county auditor authorized by law to act in the name of his principal and for whose official acts the auditor and his bondsmen were responsible, made up and sold forged refunding invalid tax sales certificates. These on their due date were paid by the treasurer to the purchasing bank. On discovery of the forgeries the county brought suit on the auditor's bond and recovered judgment, which was paid by the surety. The present action is by the surety against the bank. Although the orders were not negotiable, the bank was not chargeable for any negligence in their purchase, the loss being caused by the misconduct in office of the deputy auditor for which the surety was liable but could not recover over against the bank. *National Surety v Arosin*, 198 F. 605.

**384.04 ACTION ON BOND.**

Sureties upon an official bond are liable for the improper conduct of an officer in the performance of required duties, and are liable for trespass upon person or property by an officer acting within the scope of his official capacity; but are not liable for his acts outside the scope of his official authority. *County of Mower v American Bonding Co.* 133 M 274, 158 NW 394.

**384.06 TO ATTEND MEETINGS CALLED BY COMMISSIONER OF TAXATION; EXPENSES ALLOWED.**

County has no authority to pay the annual dues of its county auditor in Minnesota County Auditors Association. OAG March 27, 1945 (18).

**384.13 CLAIMS, HOW PAID; DISBURSEMENTS; WARRANTS.**

County warrants drawn on special fund and endorsed by the treasurer "not paid for want of funds" are not negotiable instruments. *Cardozo v Fawcett*, 158 M 57, 196 NW 809.

County warrants are not negotiable under the law merchant but the transferee takes them subject to all defenses which existed against them in the hands of the payee. *Kalman v Co. of Grant*, 167 M 458, 209 NW 638.

The test of assignability of a claim is whether the cause of action it represents survives to the personal representative of the claim in the event of the latter's death; and where a verified claim was duly filed with the county auditor and was audited and allowed but, through mistake of the county officer, the warrant was issued to the assignor who cashed it instead of to the assignee who was entitled to recover, the assignee has a cause of action against the county. *Leuthold v Redwood*, 206 M 199, 288 NW 165.

It is the duty of the chairman of the county board to determine the fund from which a warrant is payable. OAG May 8, 1946 (353-A-1).

**384.141 DESTRUCTION OF CERTAIN RECORDS.**

HISTORY. 1947 c. 160 s. 1.

**384.15 SALARIES AND CLERK HIRE.**

The classification made by a general law must be based upon "substantial distinctions." There must be some natural reason suggested by necessity or by some difference in the situation and circumstances of the subjects placed in the different classes, suggesting the necessity of different legislation with respect to them. Based upon these rules, L. 1943, c. 15, is special and invalid. *Hamlin v Ladd*, 217 M 249, 14 NW(2d) 396.

Special legislation under guise of classification; need for constitutional revision. 11 MLR 206.