

CHAPTER 386

REGISTER OF DEEDS

386.01 BOND.

The duties of the register of deeds is statutory; there are no fixed statutory hours; and the county board has no jurisdiction to control the register's activities. If non-attendance at his office is sufficient to constitute malfeasance the governor may act under section 351.03. OAG Dec. 16, 1946 (104-a-10).

The offices of register of deeds, and member of a city council are not incompatible. OAG Dec. 17, 1946 (358-a).

386.03 RECEPTION BOOKS.

Recourse cannot be had against the surety on the bond of the public officer conditioned for the faithful performance of his official duties because of negligence in acts done not within the scope of his statutory duties; and where the register of deeds made an abstract of chattel mortgages on file in his office the sureties on his bond would not be liable for his negligence. *Federal Bank v Maryland Casualty Co.* 194 M 150, 259 NW 793.

386.04 NUMERICAL REGISTER AND RECEPTION BOOK.

Where the numerical register and reception book is kept strictly in accord with the authority and requirements of section 386.04, the book required by section 386.03 and the consecutive index required by section 386.32 need not be kept. OAG April 18, 1947 (373-B-18-a).

386.05 TRACT INDEX BOOKS.

Subject to reasonable rules abstracters of title serving the public for compensation are entitled to the right of access to an examination of the records in the office of the register of deeds for the purpose of making or completing their "tract indexes." *State v Rachac*, 37 M 372, 35 NW 7.

386.10 BONDS FOR TRACT INDEX, HENNEPIN COUNTY.

The law is none the less general and uniform because it defines the subject of its operation into classes and applies different rules to different classes. To be general, the law must apply and operate uniformly on all members, classes of persons, places or things, requiring legislation peculiar to itself in matters governed by the law. The classification must be based on some reason suggested by necessity or because of some difference in the situation and circumstances of the subjects placed in the different classes. There must be an evident connection between the distinctive features to be regulated and the regulations adopted. Based upon the above rules, L. 1943, c. 15, is special legislation and invalid. *Hamlin v Ladd*, 217 M 249, 14 NW(2d) 396.

Special legislation under guise of classification. 11 MLR 209.

386.17 TO EXHIBIT RECORDS.

See, *Federal Bank v Maryland Casualty Co.* 194 M 150, 259 NW 793, noted under section 386.03.

386.18 ABTRACTER; BOND.

An abstracter is not a guarantor of delivery. *Wacek v Frink*, 51 M 282, 53 NW 633.

Subject to reasonable rules abstracters of title serving the public for compensation are entitled to the right of access and an examination of the records in the office of the register of deeds for the purpose of making or completing their "tract indexes." *State v Rachac*, 37 M 372, 35 NW 7.

386.19 RECORD BOOKS, INDEXES.

The register of deeds should have kept his office at the county seat but his failure to do so does not render void the records in his office. *Thomas v Hanson*, 59 M 274, 61 NW 135.

Where a document containing descriptions of several tracts of land is filed, the register must record it as a whole. OAG July 23, 1945 (373-b-17-d).

Where the original document describes several tracts of land, a certified copy may be obtained omitting all but the one description in which the applicant is interested, and such certified copy may be recorded by the register. OAG July 23, 1945 (373-b-17-d).

386.20 CERTIFICATES OF DISCHARGE FROM U. S. SERVICE FILED WITH REGISTER OF DEEDS.

Separation papers releasing veteran from active duty and placing him on inactive status may be recorded in the office of the register of deeds. OAG March 16, 1945 (310-S).

Veteran must pay for a certified copy of any instrument on file and relating to his military service. OAG Aug. 3, 1945 (310).

Form known as Navpers 660 together with Form 553 are deemed an honorable discharge certificate referred to in section 386.20. OAG Oct. 9, 1945 (310).

Nothing in L. 1945, cc. 19, 512, or 542, authorizes the making of certified copies of certificates of discharge without charge. OAG July 12, 1946 (310).

A proper authenticated certificate of discharge, such as Navy Form 553, is within the purview of section 386.20. OAG Feb. 11, 1947 (310).

A "certificate in lieu of lost or destroyed discharge" is adequate to comply with the provisions of section 386.20. OAG March 7, 1947 (310).

386.31 CONSECUTIVE NUMBERING.

Effect of intention as to priority; priority as between mortgages delivered to the register at the same time. 17 MLR 554.

386.33 DEPUTIES.

A state legislator may not hold the office of deputy register of deeds. OAG Aug. 17, 1942 (280-H).

386.34 SALARY OF DEPUTIES IN CERTAIN COUNTIES.

Amended by L. 1947 c. 488 s. 1.

See, *Hamlin v Ladd*, 217 M 249, 14 NW 396, noted in section 386.10.

Special legislation under guise of classification. 11 MLR 209.

386.39 INSTRUMENTS NOT PROPERLY EXECUTED.

After a vendor tenders a deed which does not comply with our laws but is executed in accordance with the law of a foreign state the exclusive method of proving that it was so executed is by certificate provided as in section 358.26. *Lloyd v Mickelson*, 168 M 441, 210 NW 586.

The record of a deed is not constructive notice of its contents when the deed is one which is not entitled to record. *Prentice v Duluth Storage Co.* 58 F 437.

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Unless the deed has been executed so as to conform to the laws of this state, such deed is not entitled to record unless the same was executed out of the state but in accordance with the laws of the place of execution, and in accordance with section 358.26. OAG June 3, 1946 (382-B).

After a deed has been recorded and a change made in the description, or another description inserted in the recorded deed, the deed cannot be recorded. The remedy is to bring action to reform the deed. OAG Sept. 6, 1946 (373-B-9).

386.46 DISPOSITION OF CERTAIN OBSOLETE RECORDS.

HISTORY. 1947 c. 265 s. 1.

L. 1947, c. 265, does not authorize the register of deeds to destroy all chattel mortgages in his file which have been filed in his office for a period of more than ten years. OAG April 25, 1947 (373-B-18-2).