

## CHAPTER 9

## EXECUTIVE COUNCIL

**9.036 TIMBER PERMITS.**

HISTORY. L. 1947, c. 17, ss. 1, 2.

**9.04 DEPOSITORIES OF STATE FUNDS.**

The statute requiring notice by a depositor to a bank which has paid a forged check, within six months after return of the check to him, as a condition to liability of the bank to the depositor for the amount paid, has no application to a case where a bank advances money to cash a voucher issued by the state, the endorsement of the payee of which is forged. The state is not estopped by the fact that the forger was a trusted state employee. *State v Mchts. Nat'l Bank*, 145 M 322, 177 NW 135.

The state is a preferred creditor in proceedings to wind up an insolvent bank in which state funds are deposited. *American Surety v Person*, 146 M 342, 178 NW 817.

The bond by the depository to the state executed by plaintiff's surety was a continuing obligation and need not be renewed annually. *United States F. & G. Co. v Rathbun*, 160 M 176, 199 NW 561.

A surety who has paid more than his proportion of the liability is entitled to contribution from cosureties who are bound for the performance by the same principal of the same obligation although on different instruments. *Nat'l Surety Co. v Becklund*, 169 M 177, 210 NW 882.

The sureties on a bond to secure state deposits in a bank are not released by the consolidation or merger of the bank with another bank, under L. 1925, c. 156. *State v Wood*, 173 M 406, 217 NW 360.

A commercial bank has no power to pledge any of its assets to secure repayment of deposits, except as the right is given by statute with respect to the deposit of state and municipal bonds, and as to them the power does not extend to assets other than those specifically authorized to be pledged. *Farmers & Mchts. v Consolidated School District*, 174 M 286, 219 NW 163.

Distinction between investments of retirement associations and similar in shares, bonds, or certificates on the one hand, and bank deposits on the other, as they relate to the provisions of sections 9.04 to 9.11. OAG Feb. 4, 1946 (928-B-5).

There is no restriction as to the amounts of deposit of state funds in banks or trust companies organized for one year and designated by the executive council as depositories. The maximum amount may be prescribed by the executive council. OAG May 29, 1947 (454-E).

**9.10 SECURITY NOT SUBROGATED TO STATE'S CLAIM IN INSOLVENCY OF BANKS.**

The right of plaintiff to be subrogated to the preference given the state, in case of insolvency of the depository, attached when the bond was given and the relation of surety was assumed, and cannot be affected by subsequent legislation enacted prior to a termination of the bond. *United States F. & G. Co. v Rathbun*, 160 M 176, 199 NW 561.

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### 9.11 DEPOSITORIES; SECURITIES IN LIEU OF BOND.

Circumstances under which a surety may compel a creditor to resort to security. 15 MLR 95.

### 9.19 DISTRESSED SCHOOL DISTRICTS.

HISTORY. Amended by L. 1947, c. 533, s. 1.

### 9.28 EMERGENCY RELIEF.

In an action by the state to recover on a seed grain note, the defendant may assert the sale to have been fraudulent on the part of state agents and upon proper proof recover damages. *State v Bucholz*, 169 M 226. 210 NW 1096.

Ex. L. 1919, c. 35, does not authorize the state board of relief to take a note for seed grain furnished to certain flood stricken farmers. By receiving the grain and giving his note the farmer was not estopped from denying liability. *State v Satre*, 172 M 344, 215 NW 510.

During the polio epidemic the executive council is empowered to permit the use of Gillette state hospital and establish service rates for non-indigent persons. When paid by the national foundation for infantile paralysis, or otherwise, the receipts are deposited with the state treasurer and credited to the general revenue fund. OAG Sept. 16, 1946 (1001-F).