

state, whether duly or properly admitted to record or otherwise in which any of the following defects of execution or acknowledgment exist, either in such instrument or in the records thereof viz.: Where there is no seal affixed to the signature of any person or persons executing the same; where there is no subscribing witness; where there is but one subscribing witness; where the instrument has been acknowledged before a notary public or other officer required to keep an official seal, to whose signature his official seal has not been affixed; all such instruments and the records thereof hereby are legalized and made as valid and effectual to all intents and purposes, and of the same force and effect in all respects, for the purpose of notice, evidence and otherwise, as if such defects of execution, acknowledgment, or record had not existed; provided that nothing herein contained shall in any manner affect the right of or title of any bona fide purchaser without notice of such instrument or record thereof for a valuable consideration, of any such real estate prior to the passage of this act; and a purchaser without notice, at any execution or mortgage foreclosure sale, shall be considered such bona fide purchaser; and *provided, further*, that this act shall not extend nor apply to any action or proceeding now pending.

Approved April 19, 1911.

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#### CHAPTER 278—H. F. No. 915.

*An Act providing for the establishment, completion and construction of public drainage ditches lying wholly or partly within the territory of new counties, petitioned for or established prior to the creation of such new counties, and to provide for the payment thereof and all obligations arising thereunder, and to apportion the indebtedness paid or incurred relative thereto between the old and the new county.*

Be it enacted by the Legislature of the State of Minnesota:

**Record in drainage ditches to be certified by auditor of old county to auditor of new county.**—Section 1. In all cases arising in this state where proceedings have been or may hereafter be instituted by petition filed with the county auditor of any county, praying for the construction of any public drainage ditch, drain or water course, or for the repair thereof, and after the filing of such petition and before the bonds of said old county have been issued for securing funds for payment of expenses of construction of such ditch, a new county has been or may hereafter be created and organized out of any of the territory embraced within the boundaries of said county wherein said petition is or may be hereafter filed and such public ditch, drain

or watercourse, and the lands affected thereby shall lie wholly within the boundaries of such new county, the county auditor of such old county shall upon demand to him made by the county auditor of such new county, transmit to the auditor of such new county all petitions, reports and files in the proceedings, and certified copies of all book entries therein, relative to any and all such ditches, drains, watercourses or for the repair thereof, the same to be filed in his office, and all book entries and proceedings relative thereto shall be transcribed by the auditor of such new county into the records of his office, and thereafter the officers of such new county shall proceed in such matter, and such drainage ditch proceeding shall be continued and completed in the same manner and with like force and effect as though such proceedings had been originally instituted in said new county.

**Itemized statements of obligations and contracts to be certified.**—Sec. 2. That at the time of the transmission of such petitions and files mentioned in section one of this act, the county auditor of such old county shall certify to the auditor of such new county an itemized statement of all obligations and contracts, and all indebtedness paid, incurred or entered into by such old county relative to any such ditch, drain, watercourse or repairs thereof, verified by such county auditor of the old county, and the same shall be assumed and paid, carried out and entered into by the proper officers of the new county, the same as if originally made and entered into by such new county, and all moneys paid out or expended relative to any such ditch, drain, watercourse or the repair thereof by such old county prior to such transmission, shall with accumulated interest thereon be paid into the treasury of said old county by auditor's warrants of the new county, payable as provided by law for payment of warrants for expenses of construction of drainage ditches under drainage laws of this state.

**Bonds to be issued by new county.**—Sec. 3. In all cases where proceedings have been instituted by petition for the construction of a public drainage ditch, drain, watercourse or for the repair thereof under conditions mentioned in section one of this act, except that such ditch, drain or watercourse or the lands, roads or public corporations assessed or to be assessed for the benefits arising therefrom shall lie partly within the old county and partly within the new county, but such construction or the repair thereof shall not have been completed and bonds for securing funds for payment of expense of construction have not been issued, the auditor of such old county shall immediately certify and transmit to the clerk of the district court in and for said old county all petitions and files in his

office relative to such construction, together with all book entries and proceedings relative thereto, and thereupon such district court and such respective counties and the county officials of the respective old and new counties, shall have jurisdiction thereof, and shall proceed from the completed stage of proceedings, the same as if petition for such ditch were originally filed in the office of the said clerk of district court, and thereafter all further proceedings shall be had in said court as in the case of judicial ditches and with like force and effect as though originally commenced in said court, and the said clerk shall forthwith proceed to cause to be filed in the office of the county auditor of such new county, certified copies of all instruments which would have been required, had such proceedings been originally instituted in such court, and all payments made and liabilities incurred by said old county prior to the court assuming jurisdiction shall be apportioned between the old and new county as in the case of judicial ditches and paid upon the order of the said district court or judge thereof.

**Bonds a lien upon the new county.**—Sec. 4. If prior to the creation of any such new county, such old county shall have established or constructed any such ditch, drain or watercourse, the whole or any part of which, or any parts of the land assessed for benefits arising therefrom, lie within the territory of such new county, for the construction of which such old county has issued its bonds and interest coupons, the same being outstanding at the time of the creation of such new county, such new county shall assume and pay a share of such outstanding bonds and accumulated interest in proportion to the amounts of benefits assessed and levied against lands and roads, public and private corporations within the territory respectively of such old and such new county, *provided*, however, that from the total amount of assessments of benefits levied for such construction and paid into the treasury of such old county prior to the creation of such new county, or to the apportionment herein provided for, as payment upon the bonds and interest coupons issued against such construction, shall be deducted the total amount of money paid by such old county prior to the creation of such new county or to such apportionment, upon such bonds and interest coupons and the balance of the money remaining in the treasury of the old county to the credit of such ditch, shall after such deduction, be apportioned between the old and new county in the same proportion as the total amount of assessments of benefits in each county bears to the total assessment of benefits levied for such construction as shown by the viewers' report, approved as provided by law, and the amount due said new county shall be paid by the auditor's warrant of such old county, to such new county. The amount of such indebtedness to be assumed

and paid by such new county and the amount of such money in the treasury of the old county to be paid to such new county, shall be ascertained and agreed upon by the county auditors of such old and new county, and for that purpose they shall meet at the county auditor's office in the old county upon ten days' notice given by either auditor and served upon the other. A written agreement stating all the facts so ascertained shall be signed in duplicate by both auditors and filed in their respective offices, and shall be final and conclusive as to all facts therein stated. If said county auditors are unable to agree as to the facts to be so ascertained, they shall call to their assistance a disinterested county auditor of any other county in the state, and the said auditors shall proceed to ascertain said facts, and said agreement if signed by any two thereof shall have the same force and effect as if signed by the auditor of the old county and the auditor of the new county and shall be final and conclusive as to all facts so ascertained.

**Proportionate amount to be paid by new county.—Sec. 5.** At least thirty days before any bond or interest coupon mentioned in section 4 of this act and which represents a debt to be partly assumed and paid by such new county, falls due, the auditor of such old county shall certify to the auditor of such new county the amount and due date thereof and the proportionate amount to be paid by such new county, and the auditor of such new county shall on or before the due date thereof draw his warrant therefor payable to the treasurer of such old county as provided by law for payment of outstanding bonds under the drainage laws of this state, for the proportionate share to be paid by such new county as herein provided, and deliver same to such treasurer of such old county to be applied to the payment of such due indebtedness.

**Auditor of new county to transcribe records of the old county.—Sec. 6.** The auditor of such new county shall transcribe into the records of his office all records of said old county relative to the assessments levied or to be levied upon said lands, roads, or public or private corporations within the territory of such new county for ditches established by said old county prior to the organization of the new county, which ditches or the lands assessed therefor lie wholly or partly within the new county as set forth in section 4 of this act; and the register of deeds of such new county shall transcribe into his official records, all lien statements in such ditch proceedings recorded in the office of the register of deeds of such old county, and affecting lands in such new county.

Such transcribed records shall have all the force and effect of the original records, the same as if the proceedings to estab-

lish the ditch in question had been commenced in said new county; and such county auditor of such new county shall thereafter extend upon the tax books of his county and of the proper subdivisions and public corporations thereof each annual assessment levied against and a lien upon the lands within said new county, in the same manner and with the same force and effect as if such ditch proceedings had been commenced and completed in said new county, and such annual assessments shall be thereafter paid into the treasury of such new county in the same manner and at the same time as is provided by law for the payment of county ditch assessments in this state, or as provided in the order establishing such ditch.

**Services of officials.**—Sec. 7. In carrying out the provisions of this act, the respective county boards, in the case of a county ditch, and the district court in the case of a judicial ditch, may require the services of the county auditor, register, county attorney, clerk of court, and such other officers as shall be deemed necessary. The compensation of such county boards and such other officers for services performed in carrying out the provisions hereof shall be paid as is provided by the General Laws of this state in the establishment of county and judicial ditches, and shall be in addition to any other salary or fees received by them in the performance of the regular duties of their offices.

**Provisions applicable.**—Sec. 8. Where any petition for judicial ditch has been or shall hereafter be filed with the clerk of any district court of any county of this state, praying for the construction of a public drainage ditch, partly within or affecting such county where such petition is filed, and partly within or affecting an adjoining county or counties, and where after the filing of such petition and prior to the issuance of bonds for securing funds for payment of expenses of construction of such ditch, any such adjoining county has been or may hereafter be divided and a new county created out of a part of the territory thereof, and when such drainage ditch so far as the same affects the territory comprising such adjoining county which was divided, only affects lands or municipal corporations wholly within the territory of such new county, the provisions of section 1 and section 2 hereof shall govern and be applicable.

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