

CHAPTER 360.

[H. F. No. 1228.]

AN ACT RELATING TO CONTRACTS WITH THE CITY OF SAINT PAUL IN THE COUNTY OF RAMSEY, AND TO THE GIVING OF BONDS FOR THE PROTECTION OF PERSONS DOING WORK OR FURNISHING MATERIAL IN THE PERFORMANCE OF ANY SUCH CONTRACT.

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

SECTION 1. Before any contract for the doing of any work or labor or furnishing any skill or material to or for the city of Saint Paul, shall be binding and valid against said city, the contractor shall enter into a joint and several bond with the city of Saint Paul for the use of said city and also for the use of all persons who may perform any work or labor, or furnish any skill or material in the execution of such contract, conditioned to pay as they become due, all just claims for all work and labor performed, and all skill and material furnished, in the execution of such contract; and to comply with all the requirements of the charter of said city and the amendments thereto and with all the provisions of this act; which bond shall be in an amount not less than the contract price agreed to be paid for the performance of such contract, and shall be duly signed and acknowledged by such contractor and two or more good and sufficient sureties, and after being approved as herein provided, shall be filed in the office of the city comptroller of Saint Paul.

SEC. 2. The sureties on such bond shall each take and subscribe an oath that he is a resident of the state of Minnesota; and that he is seized in fee of real estate situate in said state, not exempt by law from sale on execution for the value and worth over and above all incumbrances thereon, the sum specified in the bond; and that he is worth double the sum specified in the bond, over and above his debts and liabilities and exclusive of his property exempt by law from sale on execution.

More than two (2) sureties may be accepted on such bond, and they may justify in separate and different sums less than the sum specified in such bond; *provided*, that the aggregate of their justifications shall be equal to two (2) sureties justifying in double the amount of the bond in the manner herein provided.

SEC. 3. It shall be the duty of the city attorney of said city to see that such bond is fully and properly executed, and conforms in all respects to the provisions of this act; and thereupon he shall endorse on said bond his approval of the form thereof.

SEC. 4. Such bond and sureties thereon shall be approved by one of the judges of the district court of Ramsey county, but no judge of said court shall approve any such bond unless said city attorney's approval of the form thereof be endorsed thereon, nor unless the sureties on such bond appear personally before such judge, and are by him examined touching their fitness and ability to become sureties on such bond; and it shall be the duty of such judge to reject any

person, notwithstanding his justification subscribed to the bond, if he shall deem such person of insufficient ability or otherwise unfit to become a surety upon such bond.

SEC. 5. Whoever shall perform or cause to be performed any work or labor, or furnish or cause to be furnished any skill or material, (including any work, labor, skill or material necessary in the repair of any tool or machine, also including any tool, machine or material furnished particularly for such contract and used thereon), in the execution of such contract, at the request of the contractor, his agents, heirs, administrators, executors or assigns, or at the request of any sub-contractor, his agents, heirs, administrators, executors or assigns, or at the request of the board of public works of said city, in case said board shall have determined such contract and shall complete the same as herein provided, shall be considered a party in interest in said bond, and may bring an action thereon, in his own name, for the reasonable value or agreed price (as the case may be) of the work or labor performed, or skill or material furnished by him. The city of Saint Paul, shall also be considered a party in interest in said bond, and may bring an action thereon, whenever any such contract shall have become ended or void, and the board of public works shall have completed the same, as in this act provided.

SEC. 6. Before any contractor, his agents, heirs, administrators or assigns, shall receive any estimate on any such contract with said city of Saint Paul, he, his heirs, administrators, executors or assigns, shall make and file with the city comptroller an affidavit that all claims for all work and labor to date, and for which an estimate is asked, have been fully paid.

SEC. 7. No contract with said city for the doing of any public work shall hereafter be assigned or transferred in any manner, and any assignment or transfer, except by operation of law, of any such contract, shall fully end and determine such contract, and shall make the same null and void, as to any further performance thereof by the contractor or his assigns, without any act on the part of said city; and the board of public works of said city shall at once proceed to re-let such contract, or said board may, in its discretion, proceed to complete the same as the agent and at the expense of such contractor and his bondsmen.

SEC. 8. No assignment, transfer, abandonment or surrender, either voluntary or otherwise, of any contract with said city for the doing of any work or labor, or the furnishing of any skill or material, nor any change in any such contract, nor any extension of time in which to complete any such contract, shall ever operate to release the sureties on the bond in this act provided for; and no such assignment, transfer, abandonment, surrender, change or extension of time shall ever be pleaded as a defense to any action upon such bond in any court in his state.

SEC. 9. The board of public works of the city of Saint Paul may, whenever in their judgment one or more of the sureties on such bond have become insolvent, or for any cause are no longer fit and sufficient sureties, require any such contractor to file a new or additional bond within ten (10) days after notice to that effect; and thereupon all

work on such contract shall cease until such new or additional bond shall be filed with the city comptroller of said city; and if any such contractor shall fail for ten (10) days after notice to that effect, to file a new or additional bond, as aforesaid, his contract shall by that fact alone, become fully ended and void as to any further performance thereof by such contractor. And thereupon said board of public works shall proceed to relet such contract, or said board may, in its discretion, proceed to complete the same, as the agent and at the expense of such contractor and his bondsmen.

SEC. 10. If any such contract shall for any reason become ended or void, and the board of public works shall complete the same, as in this act provided, and the costs of so completing such contract shall exceed the amount unpaid by said city upon such contract at the time the same shall become ended or void, in such case it shall be the duty of the city attorney of the city of Saint Paul to at once commence an action in the name of said city against such contractor and his bondsmen for the recovery of the difference in amount between the costs of so completing such contract and the amount unpaid by said city upon such contract at the time the same became ended or void.

SEC. 11. The board of public works in the city of Saint Paul are hereby prohibited from entering into any contract for the doing of any work or labor or the furnishing of any skill or material, with any person who within two (2) years prior thereto shall have made default in the payment of any just claim for any work or labor performed, or for any skill or material furnished, pursuant to any such contract with said city; or with any person who within two (2) years prior thereto shall have assigned, abandoned, surrendered or failed to complete any such contract, or who shall have failed to comply with any of the provisions of this act.

SEC. 12. Whoever shall become surety on any such bond and shall take and subscribe the oath provided for in section two (2) of this act, who, at the time, is not a resident of the state of Minnesota, or who is then not seized in fee of real estate in the state of Minnesota, of the value and worth the sum specified in such bond (or so much of said bond as he becomes surety for) over and above all incumbrances thereon, or who is not worth double the sum specified in such bond (or double so much of said sum as he becomes surety for) over and above his debts and liabilities, exclusive of his property exempt by law from sale or execution, is guilty of perjury; and upon conviction thereof shall be punished by imprisonment in the state prison for not less than one (1) year nor more than five (5) years.

SEC. 13. Whoever shall make the affidavit required in section six (6) of this act, and shall receive or cause to be received from said city of Saint Paul, by himself, his agents, attorneys, or assigns, any such estimate or any part thereof, while any such claim for work or labor remains unpaid, and for the recovery of which an action might be maintained on the bond herein provided for, is guilty of perjury; and upon conviction thereof shall be punished by imprisonment in the states prison for not less than one (1) year nor more than five (5) years.

SEC. 14. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 15. This act shall take effect and be in force from and after its passage.

Approved April 24, 1889.

CHAPTER 361.

[H. F. No. 1276.]

AN ACT TO REGULATE THE FEES AND COMPENSATION OF REGISTER OF DEEDS OF WINONA COUNTY.

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

SECTION 1. The fees and compensation of the register of deeds of Winona county, shall be as follows:

For entering, indexing or recording any deed or other instrument seven and one-half cents ($7\frac{1}{2}$) per folio, to be paid when the same is left for record.

For every certificate ten (10) cents.

For copies of any record or papers when required, seven and one-half ($7\frac{1}{2}$) cents for each folio.

For recording any deed or any other paper in any other than the English language fifteen cents (15) per folio.

For entering the discharge of mortgage in the margin of the record ten (10) cents.

For filing every instrument and making an entry thereof, when necessary five (5) cents.

SEC. 2. That all acts and parts of acts inconsistent with this act are hereby repealed so far as the same apply to Winona county.

SEC. 3. This act shall take effect and be in force from and after January first (1st), one thousand eight hundred and ninety-one (1891).

Approved April 8, 1889.