

MINNESOTA STATUTES 1953 ANNOTATIONS

47.28 FINANCIAL CORPORATIONS

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47.28 SAVINGS BANKS MAY CONVERT INTO SAVINGS, BUILDING AND LOAN ASSOCIATIONS

HISTORY. 1949 c 337 s 2.

47.29 SAVINGS BANKS MAY CONVERT INTO FEDERAL SAVINGS AND LOAN ASSOCIATIONS

HISTORY. 1949 c 337 s 3.

47.30 SAVINGS, BUILDING AND LOAN ASSOCIATION MAY CONVERT INTO SAVINGS BANK

HISTORY. 1949 c 337 s 4.

47.31 FEDERAL SAVINGS AND LOAN ASSOCIATION MAY CONVERT INTO SAVINGS BANK

HISTORY. 1949 c 337 s 5.

47.32 CONVERTING INSTITUTION DEEMED CONTINUANCE; TRANSFER OF PROPERTY AND RIGHTS

HISTORY. 1949 c 337 s 6.

CHAPTER 48

BANKS AND TRUST COMPANIES

As of July 1, 1953, there are four trust companies and one savings bank operating independently; all others are amalgamated with commercial banks.

48.01 DEFINITIONS

Banks and banking; libel and slander; bank's negligent dishonor of a depositor's check. 33 MLR 528.

48.03 STOCK LIST; FILING; TRANSFER; LIABILITY OF STOCKHOLDERS

Since the surviving joint owner of a joint bank account takes an interest in the account not from the estate of the deceased joint owner but by virtue of the contract of deposit, the provisions of section 525.87 are not applicable to bar a surviving joint owner who feloniously takes the life of the other joint owner from acquiring balance of joint account. *Vesey v Vesey*, 237 M 10, 54 NW(2d) 385.

48.15 SPECIAL POWERS

Liability of a bank for paying a stopped check. 33 MLR 179.

In suing to recover an alleged bank deposit, the claimant depositor may show by parol evidence that he made a deposit and such evidence is admissible and he need not require production of the bank's books. *Larson v Citizens' Bank*, 142 M 334, 172 NW 125.

A state bank is without power to purchase or hold stock in a building corporation which owns its banking premises, OAG July 7, 1949 (29-A-19).

48.153 BANKS; INSTALMENT LOANS; INTEREST IN ADVANCE

Limitation on bank instalment loans. 33 MLR 33.

Are instalment loans usurious? 36 MLR 744.

Instalment finance charge under the general usury laws. 36 MLR 747.

Existing instalment sales act. 36 MLR 753.

48.16 BANKS MAY NOT PLEDGE ASSETS; EXCEPTIONS

The funds of the public corporation known as the regents of the University of Minnesota are public funds for the deposit of which the banks are authorized to pledge their assets. OAG April 8, 1948 (454-E).

48.19 LOANS ON REAL ESTATE RESTRICTED

Exception to requirements authorizing real estate loans by banks. 33 MLR 34.

48.21 MAY HOLD REAL ESTATE; RESTRICTIONS

Notwithstanding the provisions of sections 47.19 and 48.61, a Minnesota state bank is without power to purchase and hold stock in a building corporation even though the building corporation owns the banking premises. OAG July 7, 1949 (29-A-19).

48.22 CASH RESERVES

HISTORY. 1895 c 145 s 18; 1915 c 362 s 1; 1931 c 93 s 1; 1951 c 66 s 1; 1953 c 36 s 1.

48.24 RESTRICTIONS UPON TOTAL LIABILITY TO A BANK

Laws 1943, Chapter 23, permits loans without limitation based on capital and surplus to the extent that they are secured by guaranties, or by commitments to purchase, made by any federal reserve bank or any agency of the United States. The amendment closely follows the federal act coded as 12 USCA, Section 84 (10). 31 MLR 38.

Only the unguaranteed portion of a veteran's mortgage loan must be taken into consideration in determining the limit of the veteran's liability to a bank. OAG Feb. 14, 1947 (29-A-20).

48.245 WAR VETERAN, MINORITY; CONTRACT FOR LOAN

HISTORY. 1945 c 177 s 1; 1947 c 178 s 1; 1953 c 699 s 3.

Minority of war veterans not to affect their contract for loans. 33 MLR 54.

48.27 LIMITATION ON AMOUNT OF DEPOSITS

HISTORY. 1927 c 325 s 1; 1943 c 342 s 2; 1945 c 73 s 1; 1947 c 11 s 1; 1949 c 24 s 1.

48.28 LIQUIDATION, UNLESS DEPOSITS ARE REDUCED

HISTORY. 1927 c 325 s 2; 1943 c 342 s 2; 1945 c 73 s 2; 1947 c 11 s 2; 1949 c 24 s 2.

What constitutes payment of a check for purposes of rendering a stop payment order ineffectual. 36 MLR 159.

48.29 PAYMENT OF FORGED OR RAISED CHECK; LIABILITY; NOTICE TO DEPOSITOR.

Liability of bank for paying stopped check. 33 MLR 179.

48.30 DEPOSITS BY MINOR OR IN TRUST; JOINT DEPOSITS

HISTORY. 1879 c 109 s 24; 1901 c 74; 1907 c 468 s 6.

Each one of the persons named as joint-depositors has absolute control over a bank account insofar as withdrawals are concerned, and no distinction can be made between absolute right of each depositor to draw out part of the deposit and the right to withdraw the entire amount, either by a formal withdrawal order or by transferring the joint account to one depositor, especially where the withdrawing depositor is sole contributor. *Cashmen v Mason*, 72 F. Supp. 488, 166 F(2d) 693.

A "joint and several" bank account is a creature of contract between parties avowedly indifferent to exact percentage of ownership between themselves and courts will give effect to their contract without making detailed and evidentiary inquiries to establish factual ownership. Such an account can be garnisheed for the individual debt of one of its depositors. *Park Enterprises v Trach*, 233 M 467, 47 NW(2d) 194.

Since the surviving joint owner of a joint and several bank account takes an interest in the account not from the estate of the deceased joint owner but by virtue of the contract of deposit, the provisions of section 525.87 are not applicable to bar surviving joint owner who feloniously takes the life of the other joint owner from acquiring the balance of the account. The court will impose a constructive trust upon the entire account for the benefit of the estate of the decedent. *Vesey v Vesey*, 237 M 10, 54 NW(2d) 385.

48.34 BRANCH BANKS PROHIBITED

Where a bank remodeled a building of its subsidiary as a drive-in facility which would be permanently and structurally attached to the main bank by a tunnel, the proposed enlargement of the banking house would not be in violation of this section. OAG Dec. 14, 1951 (29-A-3).

48.38 POWERS AND DUTIES

If the officers of a federal reserve bank, under exceptional circumstances and in order to reestablish a business with reasonable hope of success, made a loan and if their accounts were within the restrictions of the federal reserve act, the conduct of the officers of the bank is not subject to judicial review. *Billings Utility Co. v Advisory Committee*, 135 F(2d) 108.

A real estate broker cannot enlarge upon his authority by performance of acts in excess thereof without knowledge of his principal, and cannot extend his powers by declarations or assertions with reference thereto. A vendor is bound by the acts of his real estate broker only to the extent of authority, actual or apparent, which has been conferred upon such broker. The broker's authority to sell property is not necessarily inclusive of the right to receive the purchase money thereof on behalf of his principal, and payment to the broker does not constitute payment to the principal in the absence of express or implied authorization to receive the purchase money. *Lynn v Northern Federal Savings & Loan Ass'n.*, 235 M 484, 51 NW(2d) 588.

48.39 TRUST ACCOUNTS RECORDED

Under Laws 1943, Chapters 338, 339, a state bank, local trust company, or national bank, acting as fiduciary, either alone or with individuals, may, with the consent of the latter, cause any securities or property acquired to be registered and held in the name of the nominee of such fiduciary without mention of the fiduciary relationship. 31 MLR 39.

48.48 REPORTS TO COMMISSIONER

HISTORY. 1895 c 145 s 10; 1949 c 35 s 1; 1951 c 65 s 1.

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BANKS AND TRUST COMPANIES 48.527

48.515 DEPOSIT OF DEMAND ITEMS; TIME CREDITED

HISTORY. 1949 c 187 s 1-3.

Effect of a contract limiting banks' liability for loss from night depositories. 35 MLR 197.

What constitutes payment of a check for purposes of rendering a stop payment order ineffectual. 36 MLR 159.

48.52-48.55 Repealed, 1943 c 620 s 9.

48.521 DEFINITIONS

Escheat of abandoned funds, Laws 1943, Chapter 620, coded as sections 48.521 to 48.528, created a new procedure whereby the state asserts its right to abandoned funds in financial institutions in the state. 31 MLR 40.

The fact that certain associations have converted their state charters to federal charters, as authorized by section 51.41, does not affect the provisions of the 20-year period provided by section 48.523. The 20-year period starts to run from the date of the last addition or withdrawal of assets of any claim on the account in question. OAG March 21, 1949 (29-A).

48.522 ABANDONED FUNDS ESCHEAT TO STATE

By answering the complaint of the state brought under the provisions of section 48.522, and by appearing in the instant action, the depositor has effectively rebutted the presumption stated in section 48.523. The state's burden of proving abandonment has not been met. *State v McCoy*, 228 M 420, 38 NW(2d) 386.

48.523 ABANDONED FUNDS

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48.524 ABANDONED FUNDS, LISTS FILED

HISTORY. 1943 c 620 s 1; 1953 c 589 s 1.

48.525 ESCHEATED FUNDS

NOTE: Excepted from Rules of Civil Procedure insofar as inconsistent or in conflict therewith.

An action by the state to have bank deposits declared escheated is not an action in the nature of a "penalty" so as to preclude taxation of costs against the state, but was an ordinary action for the recovery of money or property in which costs could be taxed against the state where it was determined that there had been no abandonment. *State v McCoy* 228 M 420, 38 NW(2d) 386.

48.526 MONEYS CREDITED TO GENERAL REVENUE FUND

NOTE: Excepted from Rules of Civil Procedure insofar as inconsistent or in conflict therewith.

48.527 OWNERS MAY SUE STATE TO RECOVER MONEY

HISTORY. 1943 c 620 s 7; 1953 c 589 s 2.

NOTE: Excepted from Rules of Civil Procedure insofar as inconsistent or in conflict therewith.

48.64 BANKS AND TRUST COMPANIES

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48.64 DEPOSITS OF TRUST FUNDS

Where funds of the village are carried on depository's books in separate deposit accounts, the village is entitled to protection under federal deposit insurance coverage laws to the extent of \$5,000 on each account. OAG Feb. 28, 1949 (140-B).

48.67 CAPITAL OF TRUST COMPANIES

A company formed under the provisions of section 48.67, with a minimum capital of \$10,000, is not subject to the supervision of the commissioner of banks. OAG May 15, 1950 (29-A-6).

48.74 TRUST ACCOUNTS KEPT SEPARATE; SECURITIES, HOW DEPOSITED

Under Laws 1943, Chapters 338, 339, a state bank, local trust company or national bank acting as fiduciary, either alone or with individuals, may, with the consent of the latter, cause any securities or property acquired to be registered and held in the name of the nominee of such fiduciary without mention of the fiduciary relationship. 31 MLR 39.

48.80 COMPENSATION; COMMISSION NOT DEEMED INTEREST

HISTORY. 1883 c 107 s 9; 1885 c 3 s 6.

A trustee could not increase his compensation by delegating to others at the expense of the estate for performance of duties for which he, as trustee, is receiving compensation, and trustees are not entitled to extra compensation or to reimbursement for expenditures made in employing others to perform such services. In re Butler's Trusts, 223 M 196, 26 NW(2d) 204; 68 S.C. 149, 332 U.S. 819.

48.81 INVESTMENT POWERS; LIMITATIONS ON

HISTORY. 1883 c 107 s 9; 1885 c 3 s 5; 1887 c 74 s 2.

48.82 DEPOSITS OF TRUSTS AND OTHER FUNDS RECEIVED

HISTORY. 1883 c 107 s 9; 1885 c 3 s 6.

The word "legal representative" as used in section 48.82 includes a guardian appointed by the probate court. OAG April 27, 1951 (346-D).

48.83 DEPOSIT WITH TRUST COMPANY INSTEAD OF LARGER BOND

HISTORY. 1885 c 3 s 7; 1887 c 74.

48.84 CORPORATE TRUSTEE; TRUST FUNDS; INVESTMENT, COMMINGLING

HISTORY. 1883 c 107 s 9; 1937 c 174 s 1; 1941 c 298 s 1; 1947 c 234 s 1; 1951 c 165 s 1.

The amount a trustee is authorized to invest in any one trust raised from \$25,000 to \$50,000. 33 MLR 53.

48.85 TRANSFER OF TRUSTS TO COMPANY; CONDITION

HISTORY. 1883 c 107 s 9.

48.86 TRUST FUNDS; INVESTMENT OF ACCUMULATIONS

A bank acting as trustee cannot lawfully buy from itself or a subsidiary or affiliated corporation owned by the trustee securities owned by it for the trust and the trust instrument in the instant case did not grant to the trustee a right to buy from itself securities which it owned. Perl v First & American Nat'l Bank, 229 M 60, 38 NW(2d) 177.

48.87 DEPOSIT OF SECURITIES

Where lease of safe-deposit box contained provision that "no one shall have access to said safe except the renter . . . or, in case of death, . . . then his legal representatives," lessor of such box could not, without violating such agreement, surrender possession of the contents of the box to one not the legal representative of the deceased renter of such box, who had died testate and whose will had never been admitted to probate. A trustee under a testamentary trust created by the will of the renter's husband, who had predeceased renter, was not the legal representative of deceased renter. Under the decision of this court, the relationship which exists between the lessor and the lessee of a safe-deposit box is defined as that of landlord and tenant. It follows therefrom that the lessor of a safe-deposit box is not in possession of the contents thereof so as to render it liable in an action of replevin to recover the contents of such box brought by one not entitled thereto either under the terms of the lease agreement, by virtue of court order, or otherwise. *Kohlsaas v First National bank*, 226 Minn. 471, 33 NW(2d) 712.

CHAPTER 49

LIQUIDATION, REORGANIZATION, CONSOLIDATION

49.01 DEFINITIONS

HISTORY. 1945 c 128 s 1.

49.013 INSOLVENT FINANCIAL INSTITUTIONS; NO ASSIGNMENT BY

HISTORY. 1895 c 145 s 20; 1897 c 228 s 2; 1945 c 128 s 1.

49.02 ASSESSMENTS ON STOCK

HISTORY. 1895 c 145 s 22, 23; 1897 c 156 s 1; 1945 c 128 s 2-4.

49.03 Repealed, 1945 c 128 s 13.

49.05 LIQUIDATION, POWERS AND DUTIES OF COMMISSIONER

In a bank liquidation, of which the commissioner of banks has charge, there is among the assets a judgment in favor of the bank. During the life of the judgment it has been uncollectible and has about become outlawed. The commissioner may exercise his discretion as to whether or not it is advisable to renew the judgement, and he may do this with or without a court order. OAG Oct. 16, 1947 (29-A-6).

49.08 Renumbered 49.07, Subdivision 2.

49.09 Renumbered 49.07, Subdivision 3.

49.10 Renumbered 49.04, Subdivisions 3, 4.

49.11 Renumbered 49.04, Subdivision 5.

49.12 Renumbered 49.04, Subdivision 6.

49.13-49.15 Repealed, 1945 c 128 s 13.

49.16 Renumbered 49.02, Subdivision 3.