

### CHAPTER 574

#### BONDS, FINES, FORFEITURES

##### 574.02 STATE MAY TAKE FIDELITY INSURANCE

HISTORY. 1929 c 263 s 1; 1931 c 233 s 1; 1943 c 588 s 1.

##### 574.09 ADDITIONAL SECURITY

All county officials other than the county treasurer, his deputy and employees may be covered by a blanket form bond. OAG Nov. 21, 1950 (450-B).

##### 574.13 STATE AND COUNTY OFFICERS, UNIFORM BOND

All state and county official bonds must be in statutory form and run to the State of Minnesota. Acknowledgment of the surety must not proceed the acknowledgment of the principal, and must run for the term of the principal, elective or appointive office. When the appointment is indefinite, the bond must be renewed every two years. OAG Jan. 19, 1944 (45-A).

It is the duty of the county board to approve or disapprove a bond submitted by an officer or employee. OAG Dec. 5, 1950 (45-D).

##### 574.14 BONDS EXECUTED UNDER OTHER PROVISIONS

A continuing bond furnished by the executive secretary of the county welfare board is valid and remains in full force and effect even though the original year for which he was appointed has expired. It would be better practice for the county welfare board to require a new bond for each new appointment of an executive secretary. OAG Sept. 26, 1950 (104-A-2).

##### 574.16 WHEN SURETY TO BE SUBROGATED

Suretyship and the statute of frauds. 31 MLR 633.

Right of subrogated insurer to recover under the Federal Tort Claims Act. 32 MLR 846.

##### 574.19 COST OF SURETY BONDS, PROPER EXPENSE ITEMS

Section 574.19 pertains to surety bonds only and does not apply to supersedeas bonds on appeal. *Henderson v Northwest Airlines*, 231 M 503, 43 NW(2d) 786.

The county board may designate the surety on the county treasurer's bond; but other county officers have the right to select their own sureties. OAG Nov. 1, 1950 (104-A-2).

A county board may enter into an agreement with one bonding company to write all bonds for its officers and employees if such officers and employees (treasurer excepted) consent; and the county need not advertise for competitive bids on furnishing such bond. OAG Dec. 5, 1950 (45-D).

##### 574.20 BONDS, BY WHOM APPROVED

Bonds of town justices must be approved by the town board; bonds of village and city justices must be approved by the council; all bonds of justices of the peace must be filed with the clerk of the district court; and village and city justices must file duplicates of their bonds with the secretary of state. OAG March 21, 1949 (266-A-2).

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The bond of a city justice of the peace should be filed with the city clerk. OAG Dec. 5, 1952 (266-A-2).

## **574.25 LEAVE TO BRING ACTION; ENDORSEMENT ON EXECUTION**

HISTORY. RS 1851 c 79 s 3, 5; PS 1858 c 69 s 3, 5; GS 1866 c 78 s 3, 5; GS 1878 c 78 s 3, 5; GS 1894 s 5953, 5955; RL 1905 s 4534; GS 1913 s 8244.

## **574.26 CONTRACTORS' BONDS**

Attorney's fees on appeal in an action to foreclose a mechanic's lien are not allowed in the absence of express litigation. *Barrett v Hampe*, 237 M 80, 53 NW(2d) 803.

Where under section 386.06 the county board entered into a contract for the preparation of a tract index, the contract must conform to this section. OAG Sept. 12, 1951 (373-B-23).

In case of the repair of an existing ditch under the procedure designated in section 106.471, bond is required as stated in section 574.26. The minimum penalty of the bond is the sum equal to the contract price. The fact that the estimated cost involves an expenditure of less than \$1,000 is immaterial. OAG June 11, 1949, June 16, 1949 (602-J).

The school district accepted the bid of the lowest bidder and awarded the contract at \$134,650. A bidder's bond had been furnished. Under the terms of the bid the successful bidder must, within ten days after the award, furnish a performance bond. This was not furnished and the school board was obliged to award the contract to the next lowest bidder for \$148,500. The school board has a claim for damages against the initial bidder which is the duty of the school board to enforce by legal process under the terms of section 574.26. OAG March 2, 1951 (707-A-12).

## **574.31 LIMIT OF TIME TO BRING ACTION**

Rights of the federal government for taxes owed by a contractor holding a public works contract; relating to rights as against the surety; and against funds held by the state. 32 MLR 645.

Where pursuant to section 386.06 the county board entered into a contract for preparation of a tract index of the records in the office of the register of deeds, section 574.26 applied to the contract. OAG Sept. 12, 1951 (373-B-23).

## **574.34 FINES, HOW DISPOSED OF**

The city council of a city having a municipal court organized under Laws 1895, Chapter 229, may provide a salary to the municipal judge in lieu of compensation from fees. The county board properly resolved that the county pay one-half of the cost of maintaining said municipal court. As to the fees collected involving a violation of the statutes, they should be paid to the county treasurer, under section 574.34, except where the law requires a special disposition as, for example, section 161.03. Where the offense charged is created by ordinance, the fees are payable into the city treasury. OAG Jan. 6, 1948 (307-I).

Fines imposed under section 297.12 for criminal offenses under the cigarette tax law should be paid to the county treasurer. OAG Aug. 20, 1948 (199-B-4).

A fine paid for a violation of a state law where the arrest was not made by a highway partolman should be paid into the county treasury. OAG Sept. 28, 1949 (199-B-4).

Fines collected under section 32.491 should be paid to the county treasurer of the county where incurred and not to the state treasurer. OAG Aug. 15, 1950 (199-B-4).

Fines collected under section 32.21 are payable to the county treasurer and not to the state treasurer. OAG May 10, 1951 (135-A-4).

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Under its charter, fines and costs payable to the city of West St. Paul do not belong to the municipal court fund but should be paid into the city's general fund. OAG Dec. 6, 1951 (199-B-4).

## 574.35 PROSECUTION FOR FINES; COURT; COMMITMENT

HISTORY. RS 1851 c 109 s 12; 1852 Amend p 25 s 121; PS 1858 c 98 s 12; GS 1866 c 78 s 10; GS 1878 c 78 s 10; GS 1894 s 5960; RL 1905 s 4542; GS 1913 s 8252.

Concurrent state power. 34 MLR 338.

574.36 Renumbered 511.195.

## CHAPTER 575

### PROCEEDINGS SUPPLEMENTARY TO EXECUTION

#### 575.01 PERSON INDEBTED MAY PAY SHERIFF

Where creditors of assignor of account receivable levied upon the account, and debtors gave sheriff check therefor, and thereafter the assignee brought action on the account alleging that it was due and payable, debtors could question title of assignee since presented with conflicting claims of ownership of the debt. Generally a debtor has no standing to question the validity of an assignment which is accepted as valid between the creditor and his assignee, but that rule is inapplicable where the debtor is faced with conflicting claims of ownership. General Underwriters, Inc. v Kline, 233 M 245, 46 NW(2d) 794.

#### 575.04 EXAMINATION

Privilege against self-incrimination. 34 MLR 1.

#### 575.05 PROPERTY APPLIED TO JUDGMENT, RECEIVER

In proceedings supplementary to execution, the evidence must be clear, direct and convincing that the judgment debtor has property in the hands of himself, or any other person, or due him, not exempt from execution at the time of disclosure. Johnson v Brajkovich, 229 M 529, 40 NW(2d) 273.

## CHAPTER 576

### RECEIVERS; PROPERTY OF ABSENTEES

#### 576.01 RECEIVERS, WHEN AUTHORIZED

Where husbands and wives were made partners and a receiver was appointed to administer the non-exempt assets of the husbands, the wives could not attack the appointment after four years delay. London and Lancashire Co. v Nelson, 230 M 423, 41 NW(2d) 826.

576.02 Superseded, Rules of Civil Procedure, Rule 67.03.

#### 576.04 ABSENTEES; POSSESSION, MANAGEMENT, AND DISPOSITION OF PROPERTY

Receivers; property of absentees. 33 MLR 36.