

1944 Supplement  
To  
**Mason's Minnesota Statutes, 1927**  
and  
**Mason's 1940 Supplement**

Containing the text of the acts of the 1941 and 1943 Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

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permit. If the application is granted, the permit shall not be issued until the applicant has filed with the commissioner a continuous surety bond to the state of Minnesota in the penal sum of \$1,000.00, conditioned for the faithful performance of all contracts and agreements with students by the solicitor and the employing private trade school, as disclosed by the application for the permit, and for the compliance by the solicitor with this Act and all rules and regulations prescribed hereunder. Every permit shall expire on the 31st day of December following the date of issuance. (Act Mar. 30, 1943, c. 234, §6.) [141.06]

**5887-86. Commissioner may extend permits or licenses.**—Upon the filing with the board of charges against the holder of a license or permit issued hereunder, the commissioner may suspend such license or permit pending determination thereof. (Act Mar. 30, 1943, c. 234, §7.) [141.07]

**5887-87. Certain designations unlawful.**—It is unlawful for any private trade school operating within the State of Minnesota to apply to itself, either as a part of its name or in any other manner, the designation of "college" or "university", unless certificated by the commissioner that the school meets appropriate standards and is entitled to such designation. (Act Mar. 30, 1943, c. 234, §8.) [141.08]

**5887-88. Violation a misdemeanor.**—Any person who violates any provisions of this Act shall be guilty

of a misdemeanor. (Act Mar. 30, 1943, c. 234, §9.) [141.09]

**5887-89. Fees to be paid into State Treasury.**—All of the fees collected under the provisions of this Act shall be payable to the general revenue fund of the State of Minnesota. (Act Mar. 30, 1943, c. 234, §10.) [141.10]

**5887-90. Effective July 1, 1943.**—This Act shall be effective July 1, 1943, except that applications for a license or permit hereunder may be made at any time prior thereto. (Act Mar. 30, 1943, c. 234, §11.)

**5887-91. Agents and trade representatives of trade schools subject to provisions of trade school act.**—Every solicitor, agent or representative who solicits business for a private trade school as defined by Laws 1943, Chapter 234, engaged in teaching by correspondence any trade, technical, mechanical, or industrial occupation, or who offers to sell or sells any instruction or course of instruction by such a school shall be subject to the provisions for the licensing and regulation of solicitors employed by private trade schools prescribed in Laws 1943, Chapter 234, relating to private trade schools, providing for the licensing and regulation thereof and of solicitors therefor and imposing penalties for violations of that act. (Act Apr. 20, 1943, c. 542, §1.) [141.11]

Those correspondence schools which are not trade schools within the definition of §5887-80 are not subject to this section. Op. Atty. Gen. (1701), Nov. 17, 1943.

## CHAPTER 35A

### Collection Agencies

**5888. To file bond with secretary of state—Conducting agency, etc.**

Evidence held insufficient to sustain conviction of member of partnership operating a collection agency to defraud a debtor by false representations as to amounts due. *State v. Burns*, 215M182, 9NW(2d)518. See Dun. Dig. 1566b.

Collection agencies are not licensed by the state but need only file a bond. Op. Atty. Gen., (828G), April 10, 1940.

A justice of the peace must file a bond before engaging in collection agency business, but need not be licensed under any state law. *Id.*

Applies to all who hold themselves out as a collection agency, even an attorney adopting a trade name, but one as agent may do business for several persons under their respective names without complying with the statute, as where a bookkeeper for several firms makes collections for them, using their letterheads and statements. Op. Atty. Gen. (828), Dec. 12, 1941.

Neither commissioner of banks nor any other board or officer has supervision over collection agency, and persons defrauded are left to their ordinary remedies at law. Op. Atty. Gen. (828C), Mar. 20, 1942.

**5889. Amount and conditions of bond.**—Said bond shall be in the sum of five thousand dollars (\$5,000.00) and shall provide that the person, partnership, association or corporation giving the same shall, upon written demand, pay and turn over to or for the person, partnership, association or corporation for whom any account, bill or other indebtedness is taken for collection the proceeds of such collection in accordance

with the terms of the agreement upon which such amount, bill or other indebtedness was received for collection. Said bond shall also provide that the person, partnership, association or corporation giving the same shall, upon written demand, and within ten (10) days after such demand give the person, partnership, association or corporation for whom any account, note, bill or other indebtedness, or evidence thereof, is taken for collection, a statement verified by affidavit, of all monies or things received or collected thereon, such statement showing also the amounts retained or claimed as collection or service charges on each separate item upon which any collection shall have been made; and if so demanded, shall also within said time return, subject to any lien for expenditures or services, all such accounts or statements thereof, notes, bills or other evidence of indebtedness to the person, partnership, association or corporation from whom any of the same shall have been received for collection. Said bond shall be in such form as the attorney general shall prescribe. (As amended Act Apr. 24, 1941, c. 407, §1.)

Legislature did not intend to permit one collection agency bond to cover three partnership names, even though each is composed of same partners. Op. Atty. Gen. (828B), Jan. 31, 1942.

There is no state board or officer empowered to discipline a bonded collection agency for unlawful practices engaged in by it, but victims are left to their ordinary remedies at law. Op. Atty. Gen. (828C), Feb. 10, 1942.

## CHAPTER 36

### Protection against Fire and Regulation of Hotels and Restaurants

#### HOTELS, THEATERS AND OTHER BUILDINGS

**5903. Definitions.**—Every building or structure or enclosure, or any part thereof, kept, used as, maintained as, or advertised as, or held out to the public

to be an enclosure where sleeping accommodations are furnished to the public whether with or without meals and furnishing accommodations for periods of less than one week shall for the purpose of this act be deemed an hotel.

Every building or other structure or enclosure, or any part thereof and all buildings in connection, kept, used or maintained as, or advertised as, or held out to the public to be an enclosure where meals or lunches are served without sleeping accommodations, and furnishing accommodations for periods of less than one week, shall for the purpose of this act be deemed to be a restaurant, and the person or persons in charge thereof, whether as owner, lessee, manager or agent, for the purpose of this act shall be deemed the proprietor of such restaurant, and whenever the word "restaurant" shall occur in this act, it shall be construed to mean such structure as described in this section.

Every building or structure, or any part thereof, kept, used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public as regular roomers, for periods of one week or more, and having five or more beds to let to the public, shall, for the purpose of this act, be deemed a lodging house.

Every building or structure or enclosure, or any part thereof, used as, maintained as, or advertised as, or held out to be an enclosure where meals or lunches are furnished to five or more regular boarders for periods of one week or more, shall for the purpose of this act, be deemed a boarding house. Every building or structure, or any part thereof, used as, maintained as, or advertised as, or held out to be a place where confectionery, ice cream, or drinks of various kinds are made, sold or served at retail, shall, for the purpose of this act be deemed to be a place of refreshment. Provided, however, that a general merchandise store, grocery store, or drug store not serving meals or lunches but retailing or serving ice cream, confectionery, drinks, if such drinks are sold and delivered to the public in an original container and any such store serving bulk candies from a covered container, or ice cream cones, shall not be deemed a place of refreshment within the meaning of this act. The term "original container", as used in this act shall mean any carton, box, wrapper, package, pail, can, jar, keg, glass, bottle, or other container in which the manufacturer, wholesaler, or distributor has placed and entirely enclosed said ice cream, drinks, or other refreshments, before delivery to the customer and includes any wrapped straw, spoon, fork, or other eating or drinking utensil, placed in the container by the manufacturer, wholesaler, distributor, or retailer at his place of business. This act shall not be construed to apply to any building constructed and primarily used for religious worship, nor to any building used for the housing of college or university students in accordance with regulations promulgated by such college or university. (As amended Act Mar. 5, 1943, c. 104, §1.)

A gasoline filling station selling more than forty different articles for automobile and home use is a "general merchandise store" and need not obtain a license to sell soft drinks. State v. Comer, 207M93, 290NW434.

If there is no consumption of beverages on premises, it is not necessary for off sale licensee to obtain a refreshment license from division of hotel inspection. Op. Atty. Gen., (238f), Oct. 23, 1939.

Factory lunch room primarily used by employees must have restaurant license. Op. Atty. Gen. (238J), Dec. 5, 1940.

An exclusive liquor store keeping bottled soft drink beverages on premises in cooler need not obtain a refreshment license, such soft drinks generally being carried away by customer to his home to be mixed. Op. Atty. Gen., (238g), May 26, 1941.

Filling stations, even though exempt from refreshment license required for selling of soft drinks, provided they have forty or more articles of general merchandise for sale, which sell candy, either wrapped or in bulk or vended from an automatic vending machine, are required to have a refreshment license. Id.

Stores selling candy or confectionery must have a license. Id.

A vending machine in a courthouse containing soft drinks in bottles is not a "place of refreshment". Op. Atty. Gen. (238g), May 6, 1943.

Places of refreshment include pool halls, theaters, office buildings, and filling stations containing vending machines. Op. Atty. Gen. (238g), June 8, 1943. Modified by Op. Atty. Gen. (238g), July 13, 1943.

Selling of wrapped candies or bottled soft drinks from a vending machine, in the original container, would not

by itself render a building or part of a building a place of refreshment. Op. Atty. Gen. (238g), July 13, 1943.

Confectionery stores which only sell candy from a covered container or such as is wrapped in the original container need not have license. Op. Atty. Gen. (238g), July 20, 1943.

**5904. Governor to appoint hotel inspector.**

The hotel inspector, now referred to as director of division of hotel inspection under the department of health, is head of a division established by law and is of the unclassified service. Op. Atty. Gen. (644), Sept. 20, 1940.

State statutes take precedence over municipal ordinances where there is a conflict. Op. Atty. Gen. (83f), Nov. 7, 1940.

**5905. Hotels, restaurants, lodging houses, boarding houses, etc., to be licensed—Fees.**

A state by virtue of its police power can require those selling soft drinks to procure a license. State v. Comer, 207M93, 290NW434. See Dun. Dig. 1608.

Various licenses may be posted in open faced paper display envelopes in a series fastened together at top like sheets of a calendar. Op. Atty. Gen., (829c), July 25, 1941.

A vending machine in a courthouse containing soft drinks in bottles is not a "place of refreshment". Op. Atty. Gen. (238g), May 6, 1943.

**5907. Plumbing, lighting, heating, etc.**

See also notes under §9164, note 14. Evidence that hotelkeeper permitted presence of ice on foot mat in lobby entrance on which guest slipped, held sufficient to show negligence. Green v. E., 209M178, 295NW905. See Dun. Dig. 4513.

Owner and lessor of hotel premises who reserved no right of possession and control of hotel entrance was not liable for negligence of hotelkeeper in permitting presence of ice on foot mat in lobby entrance. Id. See Dun. Dig. 5369.

Fact that lighting of stairway to basement from a bar room of hotel was somewhat inadequate did not benefit one injured by falling who testified that you could see if you paid attention and that he paid no attention and fell because step was slippery. Pangolas v. Calvet, 210M249, 297NW741. See Dun. Dig. 4513, 6987.

One injured by falling on steps to basement from bar room in hotel could not recover because the step was wet in absence of a showing of how long it had been wet or who was responsible for it. Id.

Requirement of two handrails on stairways more than 42 inches wide applies to a hotel building constructed prior to passage of building code, even though no inspector has ordered the construction of a second handrail. Judd v. Landin, 211M465, 1NW(2d)861. See Dun. Dig. 4513.

Complaint in a negligence action which alleged that plaintiff, while seeking a toilet in defendant's building, entered a dark, unfamiliar passageway and from it stepped into an open, totally dark basement doorway, thinking it to be the toilet entrance, and was injured, showed affirmatively that plaintiff was guilty of contributory negligence. Sartori v. Capitol City Lodge No. 48, 212M538, 4NW(2d)339. See Dun. Dig. 7023.

**5911. Revocation of license.**

Unless complaints and violations are covered by provisions of this section, and requirements of hotel inspection acts contained therein by reference, division of hotel inspection has no power to revoke license of a restaurant. Op. Atty. Gen., (238f), Oct. 13, 1949.

Director of division of hotel inspection has no authority to revoke hotel and restaurant licenses for race discrimination. Op. Atty. Gen. (238f), June 3, 1942.

**MOVING PICTURES**

**5920. Cinematograph to be enclosed in booth.**

Distribution of motion picture films. Laws 1941, c. 460.

**5932. Exit for audience room.**

Use of drapes constitutes an obstruction of exit. Op. Atty. Gen. (850f), March 3, 1943.

**5935. Size of aisles and to be free from obstruction.**

Operator of a theatre is bound to exercise ordinary or reasonable care to keep its premises in a safe condition for persons who come upon them by its express or implied invitation, but as to a licensee is not required to guard premises against obvious risks and dangers that exist thereon. Radle v. H., 209M415, 296NW510. See Dun. Dig. 6984, 6985, 9623b.

A woman going on premises of a theatre in response to a letter requesting her to bring her child to try out in a "talent contest," was an invitee and not a licensee. Id.

Use of drapes constitutes an obstruction of exit. Op. Atty. Gen. (850f), March 3, 1943.

**STATE FIRE MARSHAL**

**5950. Duties of such officers and assistants.**

(3). State department of education has all powers conferred upon it by statute with respect to construction of school

houses, except that there is confided by statute to state fire marshal the discretion to determine adequacy under state laws of means of exit and number of exits in school buildings. *Op. Atty. Gen. (197g)*, Jan. 7, 1941.

**5955. Officers to investigate origin of fires.**

It is not the duty of a city or village fire chief to make report to fire marshal on fires occurring outside city or village limits, and they are not entitled to compensation for such reports, even though contract provides for service in adjoining town, clerk of town board of town in which fire occurs being person required to report such fires. *Op. Atty. Gen. (197)*, Dec. 16, 1940.

**5960. May enter any building within reasonable hours.**

Decree that trustees restore leased property and remedy waste afforded complete remedy and relief to owner so far as waste or any other unsafe or unlawful condition was concerned. *S. T. McKnight Co. v. Central Hanover Bank & Trust Co., (CCA8), 120F(2d)310.*

Where member of city bureau of fire prevention entered upon premises in his official capacity and not in discharge of any private duty due from him to occupant of premises but only that which he owed the public, occupant was not liable for an injury sustained as result of an obviously defective condition in an inside stairway not used or maintained for the public. *Mulcrone v. Wagner, 212M478, 4NW(2d)97, 141ALR530.* See *Dun. Dig. 6973(1), 6985, 6985(62).*

**5961. May order certain buildings repaired or torn down.**

Where fire marshal demolishes structure located on state owned property and against which there is an indebtedness owing to a city water department, net proceeds of sale, after deduction of expenses of fire marshal, should be delivered to county treasurer for distribution. *Op. Atty. Gen., (197c)*, Oct. 2, 1939.

State fire marshal has authority to condemn and order the removal of any fire hazards regardless of the fact that taxes on the property involved are delinquent. *Op. Atty. Gen., (197c)*, July 9, 1941.

State fire marshal may condemn buildings on property against which old age assistance lien has been filed. *Op. Atty. Gen. (197c)*, Oct. 27, 1941.

Fire marshal may condemn structure on which taxes are being paid under confession of judgment, but owner may not sell and remove building without an agreement with county auditor and payment of proceeds to county treasurer. *Op. Atty. Gen. (412a-24)*, Oct. 29, 1941.

**5961-1. State Fire Marshal may repair or demolish certain structures.**—The state fire marshal is hereby authorized to petition the district court of any county for an order of condemnation directing the destruction, repair or alteration of any building or structure located on land owned by and/or on land held in trust by the state, which is especially liable to fire and dangerous to life and limb, within the purview of the provisions of Section 5961, Mason's Minnesota Statutes of 1927. In case the petition is for an order requiring repairs the person or persons authorized by law to make such repairs, and upon whom such order is served, shall make such repairs as thereby directed, and the order may direct that the building or structure be closed and not further used or occupied until such repairs are made. Upon the filing of such petition with the district court wherein any such building or structure is located, the court shall make a temporary order directing the state fire marshal to serve a copy of such petition and a copy of the temporary order upon the Minnesota Tax Commission, and the County Board of the County wherein such lands are situated, and if such lands are situated in cities of the first class, then also upon the assessor of such city of the first class within such time as may be fixed by the court in said order. If within twenty days no objections are filed to said petition by the parties so served, the court may require the state fire marshal to present sufficient proof to sustain the allegations set forth in his petition, and thereupon the court may or may not make, as the case may require, an order of condemnation and direct the state fire marshal to proceed with the destruction of the building or structure; but if objections are filed and a copy of such objections have been duly served upon the state fire marshal within twenty days of the service of the copy of the temporary order and copy of the petition hereinbefore referred to, the court, upon application by the state fire marshal, shall make its order fixing the time and place for hearing of the matter, which place may

be at any convenient point, at any general or special term, or out of the term, or in chambers within the judicial district where such lands are situated, and which time shall be within ten days from the date of the filing of the objections, or as soon thereafter as may be. If upon such hearing the petition shall be sustained the court shall issue an order of condemnation and fix the time within which the building or structure shall be destroyed, repaired or altered in compliance with such order, and that upon failure of the proper person or persons to comply with the said order the state fire marshal shall proceed with the destruction thereof. If upon the hearing the petition of the state fire marshal is not sustained the court shall deny the petition.

In all cases where the order of the court has not been complied with and the state fire marshal is authorized to proceed with the demolition of any building or structure, the state fire marshal shall sell and dispose of the salvage materials therefrom at public auction upon three days' posted notice, and all expenses incurred by the state fire marshal shall be paid out of the moneys received from such auction of salvage material and any deficit remaining unpaid thereafter may be paid out of the funds created by and provided for in Section 5973 of Mason's Minnesota Statutes of 1927. Should any surplus remain of the amount received for salvage material after deducting the expenses incurred by the State Fire Marshal such surplus shall be paid to the county treasurer of the county where the property was situated to be distributed by him as provided by law. (As amended Apr. 4, 1941, c. 123, §1.)

Where fire marshal demolishes structure located on state owned property and against which there is an indebtedness owing to a city water department, net proceeds of sale, after deduction of expenses of fire marshal, should be delivered to county treasurer for distribution. *Op. Atty. Gen., (197c)*, Oct. 2, 1939.

State fire marshal has authority to condemn and order the removal of any fire hazards regardless of the fact that taxes on the property involved are delinquent. *Op. Atty. Gen., (197c)*, July 9, 1941.

**5973. Fire insurance companies to pay cost of maintenance.**

Statutory provision that state is in no way liable for salary of fire marshal, his deputies and employees, or for maintenance of office, or for any expenses incident thereto, are impliedly repealed by laws 1941, c. 548, §27(4), §48, an appropriation act. *Op. Atty. Gen., (197)*, May 13, 1941.

**5980. Declaration for public safety.**

State department of education has all powers conferred upon it by statute with respect to construction of school houses, except that there is confided by statute to state fire marshal the discretion to determine adequacy under state laws of means of exit and number of exits in school buildings. *Op. Atty. Gen. (197g)*, Jan. 7, 1941.

**5982. Compensation for fires reported.**

It is not the duty of a city or village fire chief to make report to fire marshal on fires occurring outside city or village limits, and they are not entitled to compensation for such reports, even though contract provides for service in adjoining town, clerk of town board of town in which fire occurs being person required to report such fires. *Op. Atty. Gen. (197)*, Dec. 16, 1940.

**DRY CLEANING AND DRY DYEING BUILDINGS AND ESTABLISHMENTS**

**5985. State fire marshal to approve use of building.**

Fire marshal may exercise his own best judgment with reference to requiring that "synthetic units be properly grounded," and that electrical equipment be satisfactorily installed in compliance with state law, in dry cleaning establishments. *Op. Atty. Gen. (197E)*, Jan. 9, 1941.

**5986. Fee.**

Where dry cleaner obtained a renewal of license and paid \$5 and later an inspector made report that certain individual was now operator and owner, from whom \$10 was collected for a new license, when as a matter of fact there was no new owner but only a change in capital stock structure, it would be permissible to allow credit for the second fee and apply it in payment for subsequent renewal licenses. *Op. Atty. Gen. (197B)*, Jan. 16, 1941.

Practice of allowing 30 days from Jan. 31, to renew for a fee of \$5, and after that period to require payment of a \$10 fee, is correct. *Id.*

Where ownership of plant changes, a \$10 fee is required though plant has been established in same locality for a number of years and has been inspected from time to time. Id.

**5988. Renewal of permit.**

Where dry cleaner obtained a renewal of license and paid \$5 and later an inspector made report that certain individual was now operator and owner, from whom \$10 was collected for a new license, when as a matter of fact there was no new owner but only a change in capital stock structure, it would be permissible to allow credit for the second fee and apply it in payment for subsequent renewal licenses. Op. Atty. Gen. (197B), Jan. 16, 1941.

**5991. Buildings to be fire proof.**

Law does not require use of a cleaning liquid having a flash point of 187 Degrees, but is very specific in prescribing type of building. Op. Atty. Gen. (197B), Jan. 9, 1941.

**6013. Application.**

Amended by Act Apr. 18, 1941, c. 299, §1, to constitute §§6013-1 and 6013-2, post.

**6013-1. Application of act to particular sections.**—The provisions of Mason's Minnesota Statutes of 1927, Sections 5993, 5995, 5997, 5999, 6000, 6002, 6003, 6004, 6005, 6006, 6007, 6008, 6009, 6010 and 6011, and Mason's Supplement, 1940, Sections 5991, 5992, 5994, 5996, 6001 and 6012, shall not apply to any dry cleaning or dry dyeing business exclusively using petroleum solvent having a flash point of 140 degrees Fahrenheit or above, determined in the manner provided in Mason's Supplement, 1940, Section 5984, provided that dry cleaning systems in which such solvents are used shall be dry cleaning systems which conform to the Regulations of the National Board of Fire

Underwriters for Safeguarding Dry Cleaning and Dry Dyeing Plants published in its pamphlet No. 32 dated August 15, 1936, for the class designated therein as Class II and shall be completely equipped plants employing closed containers and circulating piping for washing, extracting and purification of solvent and shall consist of washer or washers, extractor or extractors, drying tumbler or tumblers, cabinet or cabinets, filter or filters, still, pumps, solvent tanks and piping. (§6013, as amended, Act Apr. 18, 1941, c. 299, §1.) [76.259]

**6013-2. Application of act.**—The provisions of this act shall not be held to apply to any building, business or establishment now in use, so as to cause the same to be rebuilt, remodeled or repaired so as to conform to the provisions hereof, but should any building or establishment, or part thereof, be reconstructed, rebuilt or repaired, the same shall be so constructed, built or repaired in conformity to the provisions hereof. Nothing in this act shall be held to in any manner limit the laws which provide against fire hazards in this state. Nothing in this section shall permit any person to operate a business or establishment mentioned in this act without first securing a license as provided herein, for so doing, but the provisions of this section shall be given full consideration by the state fire marshal in issuing licenses to persons now engaged in said business. (§6013, as amended, Act Apr. 18, 1941, c. 299, §1.) [76.26]

CHAPTERS 37-38

Agriculture and Rural Credits

DEPARTMENT OF AGRICULTURE

**6024. Powers and duties.**

Commissioner of agriculture shall fix standards for grading apples. Laws 1941, c. 371.

(c).

Commissioner of Agriculture may enter into a cooperative agreement with United States Department of Agriculture whereby inspectors of state department are licensed by United States department to inspect and grade and issue federal, or federal-state grading certificates, though fees covering grading certificates are collected and paid directly into federal treasury, which in turn refunds state portion of grading fees to state treasury, subject to approval of the attorney general. Op. Atty. Gen. (136), Sept. 5, 1940.

RURAL CREDITS

**6031. Purposes.**—(a) The Department of Rural Credit created \* \* \* \* \*

(b) The Conservator shall be a person well qualified to perform the duties of the office, shall be appointed by the Governor, by and with the advice and consent of the Senate, for a term of six years at an annual salary of \$4,500 payable in semi-monthly installments, and may be removed for cause after notice and hearing on the charges made against him. He shall before entering upon his duties take and subscribe the oath prescribed by law and give a bond to the State in the sum of \$25,000 or such larger sum as the Governor may at any time determine to be necessary to indemnify the State against loss, which bond shall be conditioned, approved and filed as now provided by law. (As amended Apr. 10, 1943, c. 374, §1.)

(c) \* \* \* \* \*

**6033. Powers and duties of conservator.**

Constitutional power of legislature to authorize general obligations of the state, and validity of proposed amendments to rural credit system laws. Op. Atty. Gen. (779b-4), Feb. 26, 1943.

**6033-1. As to acquisition, lease, or sale property—Powers and duties of conservator.**—The Conservator

of Rural Credit may, in the name of the State, acquire, own, hold, lease, sell and convey such property, real, personal or mixed, as may be necessary, convenient and proper for the transaction of the business of the Department; and to effect the sale of such property may, in his discretion, engage the services of brokers or agents to sell real estate and pay a commission for services so rendered of not to exceed 3% of the sale price covering such real estate provided that at least 25% of the purchase price is paid when possession thereof is given to the purchaser under the terms of such sale and of not to exceed 4% of the sale price covering such real estate provided that at least 40% of the purchase price is paid when possession thereof is given to the purchaser under the terms of such sale, and provided further that no commission shall be paid unless a sale is actually effected by said agent. (As amended Act Apr. 17, 1941, c. 287, §1.)

Sec. 2, Act 288, Apr. 17, 1941, provides that the act shall take effect from its passage.

**6038. Assumption of mortgage by purchaser of land—Etc.**

State's title is subject to liens for assessments for drainage improvements theretofore made, proper lien statements having been filed and recorded prior to giving of mortgage by owner to state. State v. Washington County, 207M536, 292NW204. See Dun. Dig. 245d.

The state's title to lands acquired by foreclosure of "rural credits" mortgages is subject to tax liens accruing while the mortgages were in effect, and same rule necessarily follows where state has sold land acquired through foreclosure to a purchaser who covenants to pay taxes assessed against land during continuance of his contractual ownership and whose rights thereto are subsequently canceled by statutory notice of default. Id. See Dun. Dig. 246d.

**6039-1. Compositions with mortgagors—Application to district court—Review.**—Whenever the Conservator upon his own initiative or upon an application by a mortgagor, is of the opinion that real estate held as security by the State of Minnesota is worth less than the amount due on the indebtedness secured