CANAL OR HARBOR COMPANIES
Act 233 of 1875

AN ACT to re-enact and amend chapter 84 of the Compiled Laws of 1871, relative to the formation of corporations to construct canals or harbors and improve the same, by adding 2 sections thereto, and by restricting its operations to the upper peninsula.

History: 1875, Act 233, Imd. Eff. May 4, 1875.

Compiler's note: Chapter 84 of the Compiled Laws of 1871, referred to in this title, derived from Act 137 of 1861. It was subsequently amended by Act 18 of 1862, Act 170 of 1863, Act 34 of 1864, and Act 230 of 1865, and was repealed by Act 43 of 1875.

The People of the State of Michigan enact:

485.1 Canal or harbor company; incorporators, procedure; articles, contents.

Sec. 1. Any number of persons, not less than 3, may be formed into a corporation for the purpose of constructing a canal or harbor, or improving the navigation of any river or stream in the upper peninsula and in Branch and Macomb counties, by dredging out the channel, making a new entrance, and constructing canals to straighten the same, or by any of said methods, by complying with the following requirements. Notice shall be given in at least 1 newspaper printed in each county where the said canal or improvement is proposed to be constructed, at least 2 weeks, of the time and place or places where books for subscribing to the stock of such company will be opened, and of the estimated cost of said canal or improvement, which notice may be signed by any 2 persons proposing to enter upon the construction of said canal or improvement. If there be no newspaper printed in such county, then it shall be printed in some newspaper in an adjoining county, if any, or if none then it shall be printed in some newspaper in the city of Detroit, and in the latter case notices shall be posted in 3 of the most public places in the township, city, or village, where said meeting is to be held during the same time; and when stock, to the amount of 1,000 dollars per mile of such canal or improvement so intended to be built shall be subscribed, and 5 per cent paid thereon, then the said subscribers upon due and proper notice signed by any 2 of said subscribers, may elect directors for the said corporation and thereupon they shall severally subscribe articles of association in which shall be set forth the name of said company, the number of years the same is to be continued, the amount of capital stock, the number of shares of said stock, the number of directors, the names of those elected to hold office for the first year, the nature and extent of said canal or improvement and the length thereof as near as may be.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—Am. 1879, Act 39, Imd. Eff. Apr. 18, 1879;—How. 3820;—Am. 1885, Act 197, Imd. Eff. June 16, 1885;—CL 1897, 6696;—CL 1915, 8797;—CL 1929, 11732;—CL 1948, 485.1.

485.2 Articles; signing, filing; powers of company.

Sec. 2. Each subscriber to such articles of association shall subscribe thereto his name and place of residence, and the number of shares of stock taken by him. The said articles shall be filed in the office of the secretary of state, and thereupon the persons who have so subscribed, and all persons who shall, from time to time, become stockholders in said company, by assignment or otherwise, shall be a body corporate by the name specified in such articles, and as such shall be capable of suing and being sued in all courts, purchasing and acquiring all property necessary to be used in the construction and keeping in repair of said canal, or harbor, or improvement, or any works necessary for the same, and may, by such by-laws as shall be adopted by said company, prescribe the manner of calling and conducting the meetings of the stockholders, and shall possess the power and privileges, and be subject to the provisions contained in chapter 55 of the Revised Statutes of 1846, so far as the same shall be applicable, and not inconsistent with the provisions of this act, and shall also have power to issue bonds to the amount of 1/2 the capital paid in, bearing such rates of interest as shall be directed by the board of directors: Provided, That no such bond shall be issued for a less sum than 100 dollars, nor sold at less than the face thereof, without a vote of the stockholders authorizing the same.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—How. 3821;—CL 1897, 6697;—CL 1915, 8798;—CL 1929, 11733;—CL 1948, 485.2.

Compiler's note: For provisions of chapter 55 of the Revised Statutes of 1846, referred to in this section, see MCL 450.504 et seq.

485.3 Articles; filing, prerequisites; vote of stockholder.

Sec. 3. Such articles of agreement shall not be filed in the office of the secretary of state until 5 per cent of the capital subscribed shall have been paid to the directors named in the articles, nor until there is endorsed on said articles, or annexed thereto, an affidavit of 2 of the directors that the amount of capital stock required by the section has been subscribed, and 5 per cent paid; and no stockholder shall be entitled to vote on any question which shall come before a meeting of the stockholders unless all assessments due on stock standing

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in his name shall have been paid.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—How. 3822;—CL 1897, 6698;—CL 1915, 8799;—CL 1929, 11734;—CL 1948, 485.3.

485.4 Articles; certified copy as evidence.

Sec. 4. A copy of said articles, filed in pursuance of this act, certified by the secretary of state to be a true copy, and of the whole thereof, shall be in all courts and places presumptive evidence of the incorporation of such company and of the facts therein stated.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—How. 3823;—CL 1897, 6699;—CL 1915, 8800;—CL 1929, 11735;—CL 1948, 485.4.

485.5 Directors; number, election, term, vacancy.

Sec. 5. The business and property of such company shall be managed by a board of not less than 3, nor more than 7 directors, who after the first year shall be elected annually, at such time and place as the by-laws direct, and public notice shall be given of such election not less than 20 days previous thereto, in such manner as shall be prescribed by the by-laws. The election shall be made by such stockholders as shall attend for that purpose in person or by proxy. Each share shall be entitled to 1 vote, and the person receiving the greatest number of votes shall be declared elected. All vacancies in the board shall be filled by the remaining directors until another election. In case the election of directors is not held on the day fixed by the by-laws, it may be held on any day thereafter fixed by the board, on giving the same notice of the time and place as in case of an annual election.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—How. 3824;—CL 1897, 6700;—CL 1915, 8801;—CL 1929, 11736;—CL 1948, 485.5.

485.6 Directors; quorum; selection of officers.

Sec. 6. A majority of the directors shall be a board for the transaction of business. At the first meeting after their election, they may elect 1 of their number president, and appoint such other officers as the articles of association or by-laws require.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—How. 3825;—CL 1897, 6701;—CL 1915, 8802;—CL 1929, 11737;—CL 1948, 485.6.

485.7 President and directors; powers; annual report, contents.

Sec. 7. The president and directors shall have power to make and prescribe such rules and regulations respecting the transfer of the stock, either before its full payment or thereafter, and for the general management of the affairs of said association, as they may deem proper, not inconsistent with the laws of this state, and shall have power to appoint and employ officers, clerks, agents, and servants, for conducting and carrying on the business of said corporation, and fix the salaries or compensation to be paid to them. It shall be the duty of the said president and directors to make, verified by the oath of some one of them, an annual report to the secretary of state on the first day of January in each year, showing: First, the capital stock and the amount actually paid in; second, the amount expended, and for what purpose; third, the amount received from tolls, and from all other sources, distinguishing from what sources; fourth, the number and amount of dividends, and how paid; fifth, the number of men employed and their occupation.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—How. 3826;—CL 1897, 6702;—CL 1915, 8803;—CL 1929, 11738;—CL 1948, 485.7.

485.8 Construction of route; restrictions.

Sec. 8. It shall be lawful for such company, their officers, engineers, and agents, to enter upon any lands for the purpose of exploring, surveying, and locating the route of any such canal, harbor, or the improvement of any such river or stream, doing thereto no unnecessary damage, and paying any damage which may accrue; but said company shall not locate any such canal through any orchard over 1 year old, or garden, without the consent of the owner, or through any building or fixtures, or any yard or enclosure necessary for the use and enjoyment thereof, without the like consent, and when the said route or improvement shall be established by the said company, it shall be lawful for them, their officers and servants to enter upon, take possession of, and use such lands, to the width of 200 feet, as said company shall have purchased or obtained from the owners or occupants the right to use, and also to take and use any other lands which may be necessary for the construction of said canal, or the improvement of the navigation of such river, or the erection of any locks, gates, toll-houses, or other fixtures, or the construction of any dam that may be necessary to raise the water for the purposes of washing out any channel or harbor: Provided, If such dam shall obstruct any channel navigable for vessels, it shall be made during the winter months and removed before the opening of

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navigation, the necessity for such taking, and the damages to be paid therefor being first ascertained, and such damages paid as hereinafter provided.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—How. 3827;—CL 1897, 6703;—CL 1915, 8804;—CL 1929, 11739;—CL 1948, 485.8.

485.9 Real estate; power to hold.

Sec. 9. Said corporation shall not, in their corporate capacity, hold, purchase, or deal in any lands other than lands donated to said corporations to aid in constructing said improvements, or the lands in which their canals shall run, to the width of 300 feet on each side of said canals, or which are donated to or purchased by said corporation for wharves or docking purposes, or which may actually be necessary for the construction and maintenance of the canals or improvements, or the fixtures connected therewith.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—How. 3828;—CL 1897, 6704;—CL 1915, 8805;—CL 1929, 11740;—CL 1948, 485.9.

485.10 Condemnation; procedure; use of property.

Sec. 10. Whenever said company shall desire to enter upon, use, or occupy any lands, or condemn any franchises or right to the use of running water, when no agreement can be made with the owners thereof, the like proceedings shall be had and taken as is provided in "An act to provide for the incorporation of railroad companies," and the acts amendatory thereto; and after the payment or tender of such damages as shall be then ascertained, may enter upon and take the lands so appraised, for the purposes of constructing said canal, harbors, or making the improvement in such river, its fixtures and appurtenances.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—How. 3829;—CL 1897, 6705;—CL 1915, 8806;—CL 1929, 11741;—CL 1948, 485.10.

Compiler's note: Act 82 of 1855, referred to in this section, was repealed by Act 198 of 1873.

485.11 Tolls and charges; establishment, lien, evidence.

Sec. 11. Any such company shall be authorized to charge, demand, and receive such rates of toll for the use of said canal or harbor, or for the use of any river or stream of this state, improved by said company, or for any dock, wharf, or other improvements, as may be established by 3 commissioners, who shall be appointed by the board of supervisors of the county where the tolls are collected, or in which the greater part of such improvements shall be constructed. Said commissioners, after making a personal examination of such canal or improvement, shall fix and establish the rate of tolls and charges for each boat, vessel, raft, or craft of any description using such canal, or passing through said improved river, or any of the works of said company, and upon the goods, merchandise, or other cargo, on said boat or vessel, which said tolls or charges shall be a lien upon the boat or vessel using any of the improvements of said company, or having such goods or merchandise on board, and may be collected under the provisions of an act entitled "An act to repeal chapter 122 of the Revised Statutes of 1846, and the amendments thereto, and provide for the collection of demands against water-craft," approved February 5, in the year of our Lord 1864, and shall be collected in the distribution of funds, as provided by section 33 of said act, under the fourth specification of said section; and it shall be the duty of the master or clerk of any such boat or vessel, on demand of the collector, or any other person authorized by said company to receive or collect such tolls or charges, to give such collector, or other person so authorized, a true and correct statement of all goods, merchandise, or other cargo, on said boat or vessel, and subject to pay any toll, or charges, which statement shall be verified by the oath of the master, or clerk of such vessel or boat. Said board of commissioners shall deliver a certified copy of such rates of tolls or charges to said company, a printed copy of which shall always be posted up at such place where toll is demanded, and the board shall file another copy with the secretary of state, which shall be duly recorded in his office. A certified copy of such record may be read in evidence in any court of this state, and shall be sufficient proof of the rates of tolls and charges due on any boat or vessel, or any goods, merchandise, or other cargo: Provided, however, That no charge whatever shall be made for the use of any river where such improvement has been made, for any boat, vessel, raft, or craft of any description, which might or could have used said river before said improvements had been made: Provided further, That the said board shall, in determining the rates of toll or charges, declare what boats, or vessels, or rafts are entitled to use said river free of charge.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—How. 3830;—CL 1897, 6706;—CL 1915, 8807;—CL 1929, 11742;—CL 1948, 485.11.

Compiler's note: For provisions of Act 59 of 1864 (Ex. Sess.), referred to in this section, see MCL 570.401 et seq.

485.12 Injury to property; violation of regulation; liability for damages, lien.

Sec. 12. If any person shall willfully obstruct, or in anywise injure any such canal, harbor, or

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improvements, or any dock, wharf, or other fixture connected therewith, or shall violate any rule or regulation established by said company, such person, or [such] boat or vessel, or other craft, as the said company may elect, shall be liable for all damages done or committed; and said damages, if against the person, may be recovered in an action of trespass, and if proved to have been done willfully, treble damages may be recovered. Any such claim for damages, if the company shall so elect, shall be a lien on any such boat or vessel, or other craft, and such lien may be enforced under the existing provisions of the law therefor.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—How. 3831;—CL 1897, 6707;—CL 1915, 8808;—CL 1929, 11743;—CL 1948, 485.12.

485.13 Repair of bridges.

Sec. 13. Whenever any canal shall cross any highway, the company shall make and keep in good repair such bridges as the board of supervisors of the county in which such canal is located shall direct.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—How. 3832;—CL 1897, 6708;—CL 1915, 8809;—CL 1929, 11744;—CL 1948, 485.13.

485.14 Stockholder's liability; recovery prerequisites; subrogation; contribution.

Sec. 14. The stockholders of said companies incorporated under this act, shall be jointly and severally liable for all labor performed for such company; but no suit shall be brought against any individual stockholder for any debt of said company until judgment on the demand shall have been obtained against the company and execution thereon returned unsatisfied in whole or in part; and any stockholder who has paid any debt of such company, either voluntarily or otherwise, shall have the right to sue and recover of such company the full amount thereof, with interest, costs, and expenses; and in case of failure to recover the amount from said company, may sue the said stockholders, or any 1 of them, for their due proportion thereof, which such stockholders ought to pay, and if such action for contribution shall be brought against more than 1, the judgment shall specify the sum due and to be recovered from each of the defendants named.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—How. 3833;—CL 1897, 6709;—CL 1915, 8810;—CL 1929, 11745;—CL 1948, 485.14.

485.15 Avoidance of payment of toll; penalty.

Sec. 15. Any boat, vessel, raft, or craft which shall willfully pass through said canal or said improvement without paying the toll required, shall be liable to pay to said company the sum of 100 dollars, to be collected by proceeding against said boat or against the owners thereof, by attachment or otherwise.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—How. 3834;—CL 1897, 6710;—CL 1915, 8811;—CL 1929, 11746;—CL 1948, 485.15.

485.16 Amendment or repeal.

Sec. 16. The legislature shall, at all times hereafter, have the free right to alter, amend or repeal this act.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—How. 3835;—CL 1897, 6711;—CL 1915, 8812;—CL 1929, 11747;—CL 1948, 485.16.

485.17 Taxation.

Sec. 17. All corporations formed or existing under this act shall be liable to be assessed for all real and personal estate held by them in this state, as provided by law for the assessment of other real and personal estate, and shall pay thereon a tax for township, village, city, county, state and other purposes, the same as other real and personal estate; and such tax shall be assessed, collected and paid in the same manner as other taxes on real and personal estate are required to be assessed, collected, and paid: Provided, That the capital stock of such corporations shall not be taxed as capital stock: And provided further, That if any of the property of any such corporation is now exempt from taxation, nothing herein contained shall impair or effect [affect] such exemption during the continuance thereof.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—Am. 1879, Act 66, Imd. Eff. May 7, 1879;—How. 3836;—CL 1897, 6712;—CL 1915, 8813;—CL 1929, 11748;—CL 1948, 485.17.

485.18 Existing corporation; organization under act, preference in subscription.

Sec. 18. Any person or private association or corporation in the upper peninsula and Branch and Macomb counties, who have previous to the passage of this re-enacted and amended act, constructed any canal or harbor, or have improved the navigation of any river or stream in the state of Michigan within the meaning of section 1 of this act, when the amount of money actually expended by them in the construction of any such canal or improvement exceeds the sum of 10,000 dollars, may organize under this act, and like notice shall be given by section 1 of this act: Provided, That such persons, associations, or corporations shall have the

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preference in the subscriptions to the stock of such company to the amount so expended by them.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—Am. 1879, Act 39, Imd. Eff. Apr. 18, 1879;—How. 3837;—Am. 1885, Act 197, Imd. Eff. June 16, 1885;—CL 1897, 6713;—CL 1915, 8814;—CL 1929, 11749;—CL 1948, 485.18.

485.19 Failure to furnish cargo statement; penalty.

Sec. 19. In case the master or clerk of any boat or vessel shall neglect or refuse to furnish the statement as required by section 11 of this re-enacted and amended act, he shall be liable to a fine not exceeding 100 dollars, to be sued for and be recovered by said company.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—How. 3838;—CL 1897, 6714;—CL 1915, 8815;—CL 1929, 11750;—CL 1948, 485.19.

485.20 Bonds; issuance, restrictions.

Sec. 20. Any company organized under this act may borrow money, and issue bonds for the payment of the same, for the purpose of providing means for repairing, altering, or enlarging said improvements: Provided, however, That the amount so raised shall not at any one time exceed in amount 50 per cent of the amount of the capital stock of said company.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—How. 3839;—CL 1897, 6715;—CL 1915, 8816;—CL 1929, 11751;—CL 1948, 485.20.

485.21 Canal or improvement, purchase by county; procedure; operation; sale to United States.

Sec. 21. Any county through which any such improved river or stream shall pass, or in which the greater part of any such improvements have been constructed, or which any canal shall have been constructed, within the provisions of this act, shall have the right to purchase any such canal or improvement by paying to any such company the amount of their capital stock and the amount of all subsequent expenditure in repairing, altering or enlarging any such canal or improvements, and interest, at the rate of 10 per cent per annum, on said amounts, deducting from the amount of interest the net proceeds of any such company; and the board of supervisors of any such county to take the management of any such canal or improvement so purchased; to receive and collect tolls the same as provided for in this act; to appoint proper officers for the management of the same, with proper salaries for their services, and shall be entitled to the privileges and remedies provided in this act. Any corporation organized under this act may convey its property and franchises to the United States, and such conveyance shall extinguish the power of the county to purchase the same.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—Am. 1879, Act 216, Eff. Aug. 30, 1879;—How. 3840;—CL 1897, 6716;—CL 1915, 8817;—CL 1929, 11752;—CL 1948, 485.21.

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485.22 Canal or improvement, purchase by county; procedure; submission to electors; bonds, issuance.

Sec. 22. The board of supervisors of any such county may at any time, by a majority vote, submit the question of purchasing any such canal, harbor or improvement, to the electors of said county; and if a majority of the electors shall decide to purchase any such canal, harbor or improvement, then the board of supervisors shall be authorized to purchase the same, and may, for that purpose, issue the bonds of said county to an amount sufficient to make such purchase: Provided, That if the property and franchises of any corporation, organized under the provisions of this act, shall be conveyed to the United States, as provided in section 21 of this act, then in such case the provisions of section shall not be operative.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—Am. 1879, Act 216, Eff. Aug. 30, 1879;—How. 3841;—CL 1897, 6717;—CL 1915, 8818;—CL 1929, 11753;—CL 1948, 485.22.

485.23 Re-instated corporations.

Sec. 23. The corporations heretofore formed under said chapter 84 in the upper peninsula and in Branch and Macomb counties, are herein re-instated in all their rights, privileges, franchise, and property.

History: 1875, Act 233, Imd. Eff. May 4, 1875;—Am. 1879, Act 39, Imd. Eff. Apr. 18, 1879;—How. 3842;—Am. 1885, Act 197, Imd. Eff. June 16, 1885;—CL 1897, 6718;—CL 1915, 8819;—CL 1929, 11754;—CL 1948, 485.23.

Compiler's note: Chapter 84, referred to in this section, was repealed by Act 43 of 1875.

485.24 Re-instated corporations; formation of companies to purchase and operate.

Sec. 24. Corporations may be formed under this act in the upper peninsula and Branch and Macomb counties for the purpose of operating and further improving any canal or improvement in the upper peninsula and Branch and Macomb counties, of any corporation formed under the act hereby re-instated, and may purchase the canal or other improvements, lands, or other property of such corporations.

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History: 1875, Act 233, Imd. Eff. May 4, 1875;—Am. 1879, Act 39, Imd. Eff. Apr. 18, 1879;—How. 3843;—Am. 1885, Act 197, Imd. Eff. June 16, 1885;—CL 1897, 6719;—CL 1915, 8820;—CL 1929, 11755;—CL 1948, 485.24.

485.25 Purchasing corporation; powers and duties; log interest; public rights.

Sec. 25. When any such corporation shall have purchased any canal or other improvements, lands, or other property of any such other corporation under the provisions of section 24 of this act, the rate of tolls shall not thereafter be increased, but the corporation purchasing shall be entitled to collect the tolls established and existing at the time of such purchase, and no other additional charges shall be imposed. And when any corporation formed under the provisions of this act shall have made improvements on or at the mouth of any navigable stream, said corporation is hereby required to furnish reasonable facilities in said harbor, in, at, or near the mouth of said stream for the making up of rafts at such place and in such manner that it will be practicable to float such rafts to the lake. They shall also be required to furnish reasonable facilities for operating, tying up, or anchoring, as the case may be, such rafts, or any tugs or boats necessary to be used in making up or removing such rafts: Provided, That nothing in this act shall be construed as conferring upon the log interest any paramount rights, nor as authorizing any unnecessary interference with the rights of the public in any navigable waters, nor any unnecessary interference with the rights or privilege of the owners of the adjacent banks or shore, except as hereinbefore provided.

History: Add. 1881, Act 171, Imd. Eff. May 31, 1881;—How. 3844;—CL 1897, 6720;—CL 1915, 8821;—CL 1929, 11756;—CL 1948, 485.25.

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