

## Chapter 485

### CANAL, HARBOR, AND RIVER IMPROVEMENT COMPANIES

#### 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 Notes:** 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 It was subsequently amended by Act 18 of 1862, Act 170 of 1863, Act 34 of 1864, and Act 230 of 1865, and was repealed by Act 43 of 1875.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 Notes:** 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 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 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 Notes:** 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 Notes:** 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 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 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

**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 Notes:** 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.

**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

### **RIVER IMPROVEMENT COMPANIES**



## Act 149 of 1869

AN ACT to authorize the formation of corporations for the purpose of improving the navigation of rivers.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869

*The People of the State of Michigan enact:*

### **485.101 Corporations to improve on rivers; formation; tolls.**

#### Sec. 1.

That any number of persons may associate for the purpose of improving the navigation of any river in this state, by deepening the channel thereof and the construction of dams therein, and canals to connect therewith, upon such terms and conditions and subject to such liabilities as are prescribed in this act, and to take and receive such amounts of toll for the passage of vessels, boats, rafts, timber, logs and lumber, through such river, when the navigation shall be thus improved, as the board of control of the St. Mary's Falls ship canal may prescribe, as herein provided.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2716 ;-- How. 3845 ;-- CL 1897, 6721 ;-- CL 1915, 8822 ;-- CL 1929, 11757 ;-- CL 1948, 485.101

### **485.102 Corporations to improve on rivers; certificate, contents, acknowledgment, recording, filing.**

#### Sec. 2.

Such persons, under their hands and seals, shall make a certificate which shall specify:

1. The name of the corporation;
2. The stream and section of the stream the navigation of which it is proposed to improve;
3. A statement of the amount of capital stock of such company, and the number of shares into which the capital stock shall be divided;
4. The names and places of residence of the stockholders, and the number of shares held by each of them respectively;
5. The names of the first directors, being not less than 3 or more than 7;
6. The place in this state where their office for the transaction of business is located;
7. The term of existence of such corporation, which shall not exceed 30 years; which certificate shall be acknowledged as deeds are required to be acknowledged, and recorded in the office of the clerk of the county in which the office of said company for the transaction of business is located, and a copy thereof filed in the office of the secretary of state.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2717 ;-- How. 3846 ;-- CL 1897, 6722 ;-- CL 1915, 8823 ;-- CL 1929, 11758 ;-- CL 1948, 485.102

### **485.103 Body corporate; powers; governing law.**

#### Sec. 3.

Upon complying with the provisions of the last preceding section, such company shall be a body corporate, by the name designated in said certificate, and as such shall be capable of suing and being sued in all courts and in all manner of actions, and may have a common seal, and may by by-laws prescribe the manner of calling and

conducting the meetings of the stockholders, and shall possess the powers and privileges, and be subject to the provisions contained in chapter 55, of title 10, of the Revised Statutes of A.D. 1846, entitled "General provisions relating to corporations," as far as the same shall be applicable, and not inconsistent with the provisions of this act.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2718 ;-- How. 3847 ;-- CL 1897, 6723 ;-- CL 1915, 8824 ;-- CL 1929, 11759 ;-- CL 1948, 485.103

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

#### **485.104 Improvement of streams; consent of governor and attorney general.**

##### **Sec. 4.**

No company formed or created under this act shall be authorized to improve the navigation of any stream under the provisions of this act, until they shall have obtained the assent in writing of the governor and attorney general of this state.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2719 ;-- How. 3848 ;-- CL 1897, 6724 ;-- CL 1915, 8825 ;-- CL 1929, 11760 ;-- CL 1948, 485.104

#### **485.105 Map or plan; application for approval; hearing, procedure, approval; alteration of plan.**

##### **Sec. 5.**

After the organization of any such company as aforesaid, they may prepare a map or plan of the section or sections of the stream or streams, the navigation of which they propose to improve, and a plan for the improvement of the same, which shall show and set forth the several points in such stream where improvements are proposed to be made and the nature and character of such improvements, and may submit the same to the board of control, and make application to said board for their approval thereof and their assent to the proposed improvements, whereupon the said board shall designate some regular meeting of their body at which said application shall be had. The company shall cause notice of said application and the meeting of the board fixed for the hearing thereof to be published once in each week for [the] 6 successive weeks next preceding the first day of said regular meeting in some newspaper published in Detroit, in some newspaper published in Grand Rapids and East Saginaw, and also in some newspaper published in the town where said corporation has its office, if there be one, and if not then in some newspaper of the same or an adjoining county, and also in some newspaper published nearest the place where said improvements are to be made, and shall cause proper proofs of said publication to be filed with the board of control. At the meeting designated therefor, or at such subsequent meeting as the hearing shall be adjourned to, the board of control shall proceed to hear and determine the matter of said application, on which hearing all parties interested therein may appear and be heard. If upon such hearing, the board shall be of opinion that the construction of the proposed improvement will be a public benefit, and that the company is a proper one to make the same, they shall endorse upon such map or plan their approval thereof, and their assent to the construction of the improvement proposed, and shall also fix the time within which the same shall be completed by the company. Said board of control may, in their discretion, alter or amend such plan or plans before approving the same, or may, at any time after such approval consent to the alteration of such plans, upon the petition of the company which shall have presented the same after the publication of a notice of the hearing of said petition in the same manner required in this section upon the hearing of the original application.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- Am. 1871, Act 194, Eff. July 18, 1871 ;-- CL 1871, 2720 ;-- Am. 1879, Act 197, Eff. Aug. 30, 1879 ;-- How. 3849 ;-- CL 1897, 6725 ;-- CL 1915, 8826 ;-- CL 1929, 11761 ;-- CL 1948, 485.105

**Compiler's Notes:** The board of control, referred to in this section, is the St. Mary's Falls ship canal board of control, also referred to in MCL 485.101.

#### **485.106 Directors; powers, election, term, vacancy, qualification.**

##### **Sec. 6.**

The business and property of such company shall be managed and directed by a board of not less than 3 nor more than 7 directors, who, after the first year, shall be elected annually, or once in 2 years, as the by-laws of said company shall direct, and at such time and place as said by-laws may direct; and public notice shall be given of the time and place of holding such election not less than 20 days previous thereto, in such a manner as the by-laws of such company may direct; the election shall be made by such of the stockholders as shall attend for that purpose, either in person or by proxy. All elections shall be by ballot, and each stockholder shall be entitled to as many votes as he shall own shares of stock, and the persons having the greatest number of votes shall be directors. Whenever any vacancy shall happen in the board of directors, such vacancy shall be filled for the remainder of the term, by the remaining directors. The directors shall hold their offices for 1 or 2 years, as said by-laws may direct, and until others are elected in their places, and no person shall be a director unless he is a stockholder in said company.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2721 ;-- How. 3850 ;-- CL 1897, 6726 ;-- CL 1915, 8827 ;-- CL 1929, 11762 ;-- CL 1948, 485.106

#### **485.107 Directors; calling of election.**

##### **Sec. 7.**

In case it shall happen that an election for directors shall not be held as provided, the said corporation shall not be for that reason dissolved, but such election shall be held on some future day, to be fixed by the directors holding over, upon giving the notice therefor as in this act provided.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2722 ;-- How. 3851 ;-- CL 1897, 6727 ;-- CL 1915, 8828 ;-- CL 1929, 11763 ;-- CL 1948, 485.107

#### **485.108 Directors; majority control.**

##### **Sec. 8.**

A majority of the directors shall be a board for the transaction of business, and the acts of a majority of the board shall bind the corporation.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2723 ;-- How. 3852 ;-- CL 1897, 6728 ;-- CL 1915, 8829 ;-- CL 1929, 11764 ;-- CL 1948, 485.108

#### **485.109 Directors; president; treasurer; selection, vacancy.**

##### **Sec. 9.**

The directors at their first meeting after their election, shall choose, by ballot, 1 of their number as president, and 1 as treasurer, and they shall supply any vacancy in the office of president or treasurer, whenever the same shall occur.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2724 ;-- How. 3853 ;-- CL 1897, 6729 ;-- CL 1915, 8830 ;-- CL 1929, 11765 ;-- CL 1948, 485.109

#### **485.110 President and directors; powers.**

Sec. 10.

The president and directors shall have power to make and prescribe such by-laws, rules and regulations respecting the transfer of stocks, and the management and control of the affairs and property of such corporation, as they may deem best, not inconsistent with the laws of the United States or of this state, and shall have power to appoint and employ officers, clerks, agents, and servants for conducting and carrying on the business of such incorporation, and determine their duties and salaries, and wages to be paid to them.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2725 ;-- How. 3854 ;-- CL 1897, 6730 ;-- CL 1915, 8831 ;-- CL 1929, 11766 ;-- CL 1948, 485.110

#### **485.111 Subscriptions; increase in capital stock, certificate, filing.**

Sec. 11.

The directors of any such company may at any time receive subscriptions to stock in said company until the whole amount of the stock mentioned in their articles of association shall be subscribed; and whenever, in the judgment of the directors, it shall be necessary to increase the capital stock of any such company for the extension or more perfect completion of such proposed work, or to provide lands and buildings needful for its use, it shall be competent for such directors, with the approval or ratification of the holders of a majority of the capital stock, at any lawful meeting of stockholders, to provide for such increase; and in all cases where such capital stock is increased, a certificate thereof shall be signed, certified, and filed as hereinbefore required in case of the original articles of association.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2726 ;-- How. 3855 ;-- CL 1897, 6731 ;-- CL 1915, 8832 ;-- CL 1929, 11767 ;-- CL 1948, 485.111

#### **485.112 Subscriptions; calling in; sale, procedure, purchaser's rights.**

Sec. 12.

The directors may call in subscriptions to the capital stock of such corporation by installments, in such portions, and at such times and places as they shall think proper, by giving notice thereof as the by-laws shall prescribe; and in case any stockholder shall neglect or refuse payment of any such installment for the space of 60 days after the same shall become due and payable, and after he shall have been notified thereof, the stock of such delinquent stockholder may be sold by the directors at public auction, at the office of the secretary of the corporation, giving at least 30 days' notice in some newspaper published in the county: Provided, That if said stockholder shall reside in this state, the stock shall be sold at the business office of said corporation, in the county in which they are doing business, giving at least 30 days' notice thereof in some newspaper published in the county; if no newspaper be published in the county in which such corporation transacts their business, then it shall be published in the newspaper in the city of Detroit which shall have at the time the largest circulation; and the proceeds of such sale shall be first applied in payment of the installment called for, and the expenses on the same, and the residue shall be refunded to the owner thereof; and such sale shall entitle the purchaser to all the rights of a stockholder, to the extent of the shares so bought.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2727 ;-- How. 3856 ;-- CL 1897, 6732 ;-- CL 1915, 8833 ;-- CL 1929, 11768 ;-- CL 1948, 485.112

#### **485.113 Corporate powers.**

##### **Sec. 13.**

Every such corporation organized, as hereinbefore prescribed, may make the improvements thus set forth in said plans after the same shall have been approved by said board of control, and shall have the following powers and be subject to the liabilities and restrictions following, that is to say:

First, To cause such examinations and surveys of [for] the proposed improvements whether of dams or canals, or deepening of the channels to be made along the stream, the navigation of which it is proposed to improve, as may be necessary to prepare for the work to be done, and by their officers and agents and servants to enter upon the lands or waters of any person or company, but subject to liability for all damages which they shall do thereto;

Second, To purchase, and by voluntary grants and donations to receive, enter upon, take, hold, and use all such lands and real estate and other property as may be necessary for the construction and maintenance of the work proposed in the approved plans of such company;

Third, To divert into such stream to be improved, waters from any lake or lakes in the vicinity thereof by canals to be constructed for that purpose; to divert the water from the present channel of the stream to be improved, by cutting across bends in said river; to flood lands by constructing the necessary dams according to plans approved as aforesaid, and to enter upon, take and use any lands which may be necessary for the purpose of constructing and maintaining such works and improvements: Provided, That the necessity for such diversion of the water, flooding of lands, and of taking such lands for such purposes, and the damages to be paid therefor, in each case of diversion of water, flooding of land, or taking of the same shall be ascertained, and such damages paid as provided for in sections 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25 of an act entitled "An act to provide for the formation of companies to construct plank roads," approved April 8th, 1851, being sections 1894 to 1905, inclusive of the Compiled Laws and the amendments thereto;

Fourth, To have power to drive the logs put into such stream, and for that purpose to make and enforce all necessary contracts with the owners of the logs and other floatables to be driven in such stream, and may also make contracts relative to tolls to be paid by any person for the use for any number of years of any portion of any stream improved by such corporation, and when any such contract is in writing, the same shall be executed on the part of such corporation by its president and secretary under the seal of such corporation.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2728 ;-- How. 3857 ;-- Am. 1883, Act 62, Imd. Eff. May 2, 1883 ;-- CL 1897, 6733 ;-- CL 1915, 8834 ;-- CL 1929, 11769 ;-- CL 1948, 485.113

**Compiler's Notes:** Sections 13 to 25 of Act 155 of 1851, referred to in this section, were repealed by Act 84 of 1921.

#### **485.114 Tolls; forfeiture of right to collect.**

##### **Sec. 14.**

It shall be the duty of such company to complete the improvements contemplated by the plans approved as aforesaid within the time which shall be prescribed by the said board of control, at the time said plans shall be approved by said board of control, and in case of failure so to do said company shall forfeit all right to collect tolls of any person or persons whatever, who shall use for the purposes of navigation the improvements made by such company, unless the time for completing the same shall have been previously extended by said board of control, upon good cause shown and after publication of a notice of said application as required by section 5 of this act.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2729 ;-- Am. 1879, Act 197, Eff. Aug. 30, 1879 ;-- How. 3858 ;-- CL 1897, 6734 ;-- CL 1915, 8835 ;-- CL 1929, 11770 ;-- CL 1948, 485.114

#### **485.115 Tolls; power of board to fix; jurisdiction of corporation; annual statement, contents.**

##### **Sec. 15.**

Whenever any portion of said work shall be completed to the satisfaction of said board of control, and it is so far useful that in the opinion of said board of control tolls should be paid for the use thereof, said board may fix the tolls to be paid for the use of such portion until the whole of said work is completed; and whenever said improvements have been completed and accepted by said board of control, the rates of toll which any company organized under this act may charge for running rafts, timbers, logs or lumber through said improved stream shall be fixed by said board of control, and may be graduated with reference to the distance run upon the portion of said stream improved by said company, and shall not be increased without the consent of said board, but may be changed from time to time by said board; but such toll shall not at any time be increased so that the sum shall amount to more than 15 per cent a year upon the actual cost of such improvements after deducting the necessary expenses and repairs; and the said board shall, as far as may be practicable, so fix the rates of toll on timber, logs, and lumber, that the same shall not at any time exceed the sum of 25 cents per 1,000 feet, board measure, on any stream where 10,000,000 of feet or less are run in any 1 year; 20 cents per 1,000 feet, board measure, on any stream where 30,000,000 of feet or less are run in any 1 year; nor more than 15 cents per 1,000 feet, board measure, on any stream where from 30,000,000 to 50,000,000 of feet are run in any 1 year; nor more than 10 cents per 1,000 feet, board measure, on any stream where from 50,000,000 to 100,000,000 of feet are run in any 1 year; nor more than 5 cents per 1,000 feet, board measure, on any stream where from 100,000,000 to 200,000,000 of feet or more are run in any 1 year; and the collection of such tolls shall be confined strictly to that part or portion of a river or stream so improved, and to that class of floatables benefited by the improvement; and nothing in this act shall be construed to give jurisdiction to any corporation over any portion of a river or stream other than the portion specifically improved by such corporation. Such corporation shall cause to be made out and filed with said board of control, at or before its meeting on the last Wednesday in March, each year, the affidavit of its president or 1 of its directors, setting forth in detail, upon his best information and belief, what amount of timber, logs, and lumber will be run through any section or sections of the river improved by the company during that year, and that the official has made due and reasonable inquiry on the subject from persons lumbering on the river, and otherwise.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- Am. 1871, Act 194, Eff. July 18, 1871 ;-- CL 1871, 2730 ;-- How. 3859 ;-- CL 1897, 6735 ;-- CL 1915, 8836 ;-- CL 1929, 11771 ;-- CL 1948, 485.115

#### **485.116 Tolls; improved streams open to all.**

##### **Sec. 16.**

Any stream improved under this act shall be open to all persons for use, upon the payment of tolls, prescribed as aforesaid for the passage of vessels, boats, logs, rafts, timber and lumber through such improved stream or waters, and uniform rates of toll shall be charged to all persons, whether stockholders in such company or not.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2731 ;-- How. 3860 ;-- CL 1897, 6736 ;-- CL 1915, 8837 ;-- CL 1929, 11772 ;-- CL 1948, 485.116

#### **485.117 Tolls; collection.**

##### **Sec. 17.**

Whenever said tolls are prescribed as aforesaid, the directors of the corporation may collect the same by action of assumpsit from persons using such improved portions of such stream. The proceedings in such action shall be in accordance with the practice of the courts in which such action is commenced in actions of assumpsit.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2732 ;-- Am. 1881, Act 87, Imd. Eff. Apr. 15, 1881 ;-- How. 3861 ;-- CL 1897, 6737 ;-- CL 1915, 8838 ;-- CL 1929, 11773 ;-- CL 1948, 485.117

#### **485.118 Lien on floatables; sale, procedure.**

Sec. 18.

Such company shall have a lien upon all logs, rafts, timber or lumber or other floatables driven, rafted or run through such stream or waters upon which toll shall be due, for such toll, and may sell a sufficient quantity of such logs, timber or lumber, or other floatables to satisfy said claim or demand, with the expense of such sale, at public auction on not less than 10 days' notice, either personally served upon such owner, or posted in 3 or more conspicuous places in the township where such logs are held, and in either case, by posting a like notice, also, in the office of such company, of the mark, description and supposed owner of such logs, timber or lumber, and the charges for which the same is to be sold.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2733 ;-- How. 3862 ;-- CL 1897, 6738 ;-- CL 1915, 8839 ;-- CL 1929, 11774 ;-- CL 1948, 485.118

#### **485.119 Stream to be kept in repair; forfeiture.**

Sec. 19.

The board of directors of any such company shall, at all times after commencing the collection of any tolls from persons using said improved stream or waters, keep such portions of the stream or waters clear of all unnecessary obstructions, and in good condition for the passage of rafts, timber, logs, lumber, vessels or boats for which toll is charged, and in case of any dilapidation or obstruction which is calculated to endanger or delay the passage of rafts, timber, logs or lumber, boats or vessels, as aforesaid, it shall be the duty of the board of directors, without unnecessary delay, to make such repairs as shall restore such stream or waters to their proper condition; and in case said board of directors shall fail to comply with the provisions of this section, the corporation shall, for every such neglect or refusal, be liable to a forfeiture of 100 dollars, to be recovered in an action of debt, by any person aggrieved or injured thereby: Provided, That in all cases 1 of said board of directors shall first have been notified of such defect, and the necessary time for its repair shall have elapsed after such notice and before the commencement of such suit.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2734 ;-- How. 3863 ;-- CL 1897, 6739 ;-- CL 1915, 8840 ;-- CL 1929, 11775 ;-- CL 1948, 485.119

#### **485.120 Injury to stream or property; penalty.**

Sec. 20.

If any person shall wilfully obstruct any stream or waters improved under the provisions of this act, or any part thereof, or shall wilfully destroy or injure any buildings, piers, dams, fixtures, banks or other constructions in use upon the same belonging to said company, such person or persons so offending shall, for every offense, be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding 500 dollars, or by imprisonment in the county jail not more than 1 year, in the discretion of the court.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2735 ;-- How. 3864 ;-- CL 1897, 6740 ;-- CL 1915, 8841 ;-- CL 1929, 11776 ;-- CL 1948, 485.120

#### **485.121 Log jam; power to break, lien for cost.**

Sec. 21.



If any person or persons shall put, or cause to be put, into said stream or waters, any logs, timber, or lumber, and shall not make adequate provisions and put on sufficient force for breaking jams of such logs, timber or lumber in or upon such stream or waters, or for running, rafting or driving the same, and thereby obstruct the floatage, or navigation, it shall be lawful for such company, to cause such jams to be broken, and such logs, lumber or timbers to be run, driven, boomed, rafted or secured, at the charge and expense of the person or persons owning said logs, timber or lumber; and said company shall have a lien upon such logs, timber or lumber, as shall be sufficient to pay and satisfy all just and reasonable charges therefor, and expense and cost thereof, and shall be entitled to take and retain possession of such logs, timber or lumber, or so much thereof as may be necessary to satisfy the amount of such charges, for breaking such jams, and for driving, booming, rafting, and running of said logs, timber or lumber, and expenses and costs thereon, until the same be satisfied and paid; and such corporation shall proceed to collect such charges, costs and expenses, in the manner hereinafter prescribed.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2736 ;-- How. 3865 ;-- CL 1897, 6741 ;-- CL 1915, 8842 ;-- CL 1929, 11777 ;-- CL 1948, 485.121

#### **485.122 Lien; enforcement.**

##### **Sec. 22.**

Any such corporation claiming any lien may bring an action of assumpsit against the owner of such property to determine and satisfy the amount of such lien or such corporation may waive its claim of lien and bring such action against such owner for the amount thereof. The proceedings in such actions shall be in accordance with the practice of the courts in which such action is commenced in actions of assumpsit. The property held under a claim of lien may be levied upon and sold to satisfy any judgment which may be rendered against such owner in such action, and the taxable costs in such case shall include the cost and expense of providing for the care and safety of such property. In cases where the claim of lien is waived under the provisions of this section the plaintiff shall have judgment if he shall establish on the trial such a state of facts as would have entitled him to a lien, and the judgment shall be collected as in ordinary cases in assumpsit: Provided, That such action shall be commenced within 60 days after such tolls shall become due.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2737 ;-- Am. 1883, Act 132, Imd. Eff. May 31, 1883 ;-- How. 3866 ;-- CL 1897, 6742 ;-- CL 1915, 8843 ;-- CL 1929, 11778 ;-- CL 1948, 485.122

#### **485.123 Lien on floatables; owner unknown or without jurisdiction of court.**

##### **Sec. 23.**

If the owner of such logs, timber or other floatables, cannot be ascertained, or is without the jurisdiction of the court, the proceeding to ascertain and determine the amount of such lien may be against the property, and commenced by filing the petition of said corporation, claiming such lien, in the proper court, which shall contain a statement of the nature and amount of the claim, and a description of the property seized, and that the owner of such property is unknown, or is without the jurisdiction of the court, and praying for a judgment against such property for the amount of such claim, which petition shall be verified by the oath of the president of such corporation filing the same, or its agent or attorney. The plaintiff shall thereupon, and before any trial shall be had, or judgment rendered, in such proceeding, cause a notice to be published for 4 successive weeks, at least once in each week, in some newspaper printed and circulated in such county, or if none is printed and circulated in such county, then in such other newspaper published in this state as such court shall direct, which notice shall state the title of the court, the name of the plaintiff, the name of the owner of the property taken, if known, the nature and amount of the claim, and the description of the property upon which the lien is sought to be enforced. The owner of such property shall have a right to appear and defend in such proceedings, at any time before judgment, upon such terms as the court shall direct; and in case of his appearance, an issue shall thereupon be formed as in actions of assumpsit, and all subsequent proceedings in such case shall be in accordance with the practice of such court in actions of assumpsit. If the owner shall fail to appear in such proceeding, the court may proceed ex parte, to hear, try and determine the facts alleged in such petition, and render such judgment thereon as justice may require. If



judgment shall be rendered in favor of such plaintiff, the court shall thereupon order that the property covered by such lien, or as much thereof as may be necessary, be sold to satisfy the amount of such judgment, with costs.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2738 ;-- How. 3867 ;-- CL 1897, 6743 ;-- CL 1915, 8844 ;-- CL 1929, 11779 ;-- CL 1948, 485.123

#### **485.124 Annual report; contents.**

##### **Sec. 24.**

On or before the first Monday in January in each year it shall be the duty of the directors of every company formed under this act, to report to the secretary of state, under the oath of the secretary and 1 or more of the directors, the length of the stream or waters so improved; the cost of such improvements; the amount of money expended; the amount of their capital; how much of the same is paid in and how much is expended; the whole amount of tolls or earnings expended on such improvement; the amount received during the previous years for tolls and from all other sources, stating each separately; the amount set apart for repairs; the amount of dividends made and the amount of indebtedness of such company, specifying the object for which such indebtedness accrued.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2739 ;-- Am. 1883, Act 3, Eff. Sept. 8, 1883 ;-- How. 3868 ;-- CL 1897, 6744 ;-- CL 1915, 8845 ;-- CL 1929, 11780 ;-- CL 1948, 485.124

#### **485.125 Taxation.**

##### **Sec. 25.**

Each and every company formed under this act, shall pay to the treasurer of the state of Michigan an annual tax at the rate of 1 per cent on the whole amount of capital paid in upon the capital stock of said company, which tax shall be estimated upon the last preceding report of said company, and shall be paid to the said treasurer on the first Monday in July of each year, and shall be in lieu of all other taxes upon all the property of said company.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2740 ;-- How. 3869 ;-- CL 1897, 6745 ;-- CL 1915, 8846 ;-- CL 1929, 11781 ;-- CL 1948, 485.125

#### **485.126 Stockholder's liability; recovery prerequisites.**

##### **Sec. 26.**

The stockholders of every company organized in pursuance of this act, shall be jointly and severally personally liable for the payment of all debts and demands against such association, which shall be contracted, or which shall be, or shall become due during the time of their holding such stocks, for any labor or services done or performed for such company; but no stockholder shall be proceeded against for the collection of any debt or demand against such company, until judgment thereon shall have been obtained against the association, and an execution on such judgment shall have been returned unsatisfied, in whole or in part, or unless such association shall be dissolved.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2741 ;-- How. 3870 ;-- CL 1897, 6746 ;-- CL 1915, 8847 ;-- CL 1929, 11782 ;-- CL 1948, 485.126

#### **485.127 Shares deemed personalty; transfer.**

Sec. 27.

The shares of any company formed under this act shall be deemed personal property, and may be transferred as shall be prescribed by the by-laws of such company.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2742 ;-- How. 3871 ;-- CL 1897, 6747 ;-- CL 1915, 8848 ;-- CL 1929, 11783 ;-- CL 1948, 485.127

#### **485.129 Governing laws.**

Sec. 29.

All companies formed under this act shall at all times be subject to all general laws in force relative to corporations.

**History:** 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2744 ;-- How. 3873 ;-- CL 1897, 6749 ;-- CL 1915, 8849 ;-- CL 1929, 11784 ;-- CL 1948, 485.129

### **IMPROVEMENT OF STATE BOUNDARY RIVERS**

#### **Act 91 of 1887**

AN ACT to authorize the formation of corporations for the purpose of improving rivers which form, in whole or part, the boundary between this and any adjoining state, and their tributaries, and for driving, sorting, holding and delivering logs thereon.

**History:** 1887, Act 91, Imd. Eff. Apr. 26, 1887

*The People of the State of Michigan enact:*

#### **485.201 Corporations to improve state boundary rivers; incorporators.**

Sec. 1.

That any number of persons, not less than 5, may be formed into a corporation to improve any river and its tributaries which form, in whole or part, the boundary between this and any adjoining state, for the purpose of driving, sorting, holding and delivering logs thereon, and for such purpose only.

**History:** 1887, Act 91, Imd. Eff. Apr. 26, 1887 ;-- How. 3873a ;-- CL 1897, 6750 ;-- CL 1915, 8850 ;-- CL 1929, 11785 ;-- CL 1948, 485.201

#### **485.202 Corporations to improve state boundary rivers; certificate, acknowledgment, contents, recording, filing.**

Sec. 2.

Such persons, under their hands and seals, shall make a certificate, which shall specify:

First, The purpose for which the corporation is formed and the name of the rivers proposed to be improved;

Second, A statement of the amount of capital stock of such company and the number of shares into which the capital stock shall be divided;

Third, The names and residences of the stockholders and the number of shares held by each of them respectively;

Fourth, The amount of capital stock actually paid in;

Fifth, The names of the first directors, being not less than 3 nor more than 9;

Sixth, The place in this state where their office for the transaction of business is located;

Seventh, The term of existence of such corporation, which shall not exceed 30 years, which certificate shall be acknowledged as deeds are required to be acknowledged and recorded in the office of the clerk of the county in which the office of said company for the transaction of business is located, and a duplicate thereof filed in the office of the secretary of state.

**History:** 1887, Act 91, Imd. Eff. Apr. 26, 1887 ;-- How. 3873b ;-- CL 1897, 6751 ;-- CL 1915, 8851 ;-- CL 1929, 11786 ;-- CL 1948, 485.202

#### **485.203 Corporations to improve state boundary rivers; body corporate, powers.**

##### **Sec. 3.**

Upon complying with the provisions of the last preceding section, such company shall be a body corporate by the name designated in said certificate, and as such shall be capable of suing and being sued in all courts, and may have a common seal, may elect in such manner as hereinafter provided all necessary officers, and determine their duties and make, from time to time, such by-laws, not inconsistent with the constitution and laws of this state, as a majority of the stockholders shall direct.

**History:** 1887, Act 91, Imd. Eff. Apr. 26, 1887 ;-- How. 3873c ;-- CL 1897, 6752 ;-- CL 1915, 8852 ;-- CL 1929, 11787 ;-- CL 1948, 485.203

#### **485.204 Annual report; contents, filing, inspection by stockholders.**

##### **Sec. 4.**

Every such corporation shall annually, in the month of January, make a report, signed by its president and secretary, containing:

First, The amount of capital stock actually paid in;

Second, The amount invested in real and personal estate;

Third, The amount of their debts and credits, as near as may be;

Fourth, The name of each stockholder and the number of shares held by him at the date of such report; and every such report shall be verified by the oath of the officers signing the same, and shall be filed with the secretary of the association, and also in the office of the county clerk of the county in which the office of said association shall be located, and open at all reasonable times for the examination of any and all stockholders.

**History:** 1887, Act 91, Imd. Eff. Apr. 26, 1887 ;-- How. 3873d ;-- CL 1897, 6753 ;-- CL 1915, 8853 ;-- CL 1929, 11788 ;-- CL 1948, 485.204

#### **485.205 Stock divided into shares; increase.**

##### **Sec. 5.**

The amount of the capital stock of every such corporation shall be fixed and limited by the stockholders in their articles of association, and shall be divided into shares of 100 dollars each, 10 per cent of which shall be paid in. The capital stock and the number of shares may be increased at any meeting of the stockholders called for that purpose.

**History:** 1887, Act 91, Imd. Eff. Apr. 26, 1887 ;-- How. 3873e ;-- CL 1897, 6754 ;-- CL 1915, 8854 ;-- CL 1929, 11789 ;-- CL 1948, 485.205

#### **485.206 First meeting; calling.**

Sec. 6.

When any corporation shall be formed under this act, any 2 of those associated may call the first meeting of the corporation at such time and place as they may appoint, by giving notice thereof by publishing the same in some newspaper published in the county where the office of such corporation is located, at least 15 days before the time appointed for such meeting, or by personal service of like notice upon each of the stockholders 10 days before the time fixed for said meeting.

**History:** 1887, Act 91, Imd. Eff. Apr. 26, 1887 ;-- How. 3873f ;-- CL 1897, 6755 ;-- CL 1915, 8855 ;-- CL 1929, 11790 ;-- CL 1948, 485.206

#### **485.207 Directors; powers, election, term, officers, selection, term.**

Sec. 7.

The business and property of said company shall be managed by a board of directors of not less than 3 nor more than 9 directors, who, after the first year, shall be elected annually as the by-laws of said company shall direct; and public notice shall be given of the time and place of holding such election as the by-laws of said company may direct. Such board of directors, when elected, shall choose from their number a president, secretary and treasurer, who shall hold their respective offices for the term of 1 year, and such board of directors may appoint such other officers and agents as their articles of association or their by-laws may require, who shall hold their respective offices during the pleasure of the directors.

**History:** 1887, Act 91, Imd. Eff. Apr. 26, 1887 ;-- How. 3873g ;-- CL 1897, 6756 ;-- CL 1915, 8856 ;-- CL 1929, 11791 ;-- CL 1948, 485.207

#### **485.208 Directors; stockholders; quorum; voting.**

Sec. 8.

A majority of the directors of every such corporation convened according to the by-laws, shall constitute a quorum for the transaction of business, and those holding a majority of stock at any meeting of the stockholders shall be capable of transacting the business of the meeting, and at each meeting of the stockholders each share of stock shall be entitled to 1 vote. Stockholders may appear and vote in person or by proxy.

**History:** 1887, Act 91, Imd. Eff. Apr. 26, 1887 ;-- How. 3873h ;-- CL 1897, 6757 ;-- CL 1915, 8857 ;-- CL 1929, 11792 ;-- CL 1948, 485.208

#### **485.209 Property; holding.**

##### **Sec. 9.**

Every such corporation shall, by their corporate name, have powers to acquire, use and hold all such works and improvements, and all such real and personal property as may be necessary or suitable for the purposes of such corporation, and to take or flow lands or property in the construction of the works or improvements hereby authorized.

**History:** 1887, Act 91, Imd. Eff. Apr. 26, 1887 ;-- How. 3873i ;-- CL 1897, 6758 ;-- CL 1915, 8858 ;-- CL 1929, 11793 ;-- CL 1948, 485.209

#### **485.210 Condemnation.**

##### **Sec. 10.**

Whenever any such corporation shall desire to take or flow any lands or property in the construction of the works or improvements authorized by this act, when no agreement can be made with the owners thereof, the like proceedings shall be had and taken as is provided in an act entitled, "An act to provide for the formation of companies to construct plank roads, approved April 8, 1851, and the acts amendatory thereto."

**History:** 1887, Act 91, Imd. Eff. Apr. 26, 1887 ;-- How. 3873j ;-- CL 1897, 6759 ;-- CL 1915, 8859 ;-- CL 1929, 11794 ;-- CL 1948, 485.210

**Compiler's Notes:** Act 155 of 1851, referred to in this section, was repealed by Act 84 of 1921.

#### **485.211 Improvement powers; repair duty; driving of logs; tolls and expenses, lien.**

##### **Sec. 11.**

Any such corporation formed for the improvement of any boundary river in whole or part and any of its tributaries, and for driving, sorting, holding and delivering logs thereon, which shall have taken prior possession of such boundary river for that purpose, shall have power to improve such river and its tributaries by clearing and straightening the channels thereof, closing sloughs, erecting sluiceways, booms of all kinds, side rolling and flooding dams, driving piles and erecting piers or otherwise, as may be necessary or suitable for the purpose aforesaid: Provided, That such sluiceways, booms, dams, piles and piers shall, so far as practicable, be so constructed and used as to allow of the free passage of logs, timber and other floatables along such waters. Every corporation which shall so improve a boundary river or any of its tributaries for the purpose of driving logs thereon, and keep in repair and operate its works, may charge and collect reasonable and uniform tolls upon all logs, lumber and timber driven or floated on the same, and may take possession of all logs put into said stream, or upon rollways so as to impede the drive, when the owners thereof or their agents shall not have come upon the stream adequately provided with men, teams and tools for breaking rollways and driving such logs in season for making a through drive down such stream without hindering the main drive, and shall also, at the request of the owner of any logs and timber put into said stream, take charge of the same and drive the same down and out of such stream, and charge and collect therefor of the owner or party controlling said logs and timber reasonable charges and expenses for such services, (and all charges for running, driving, booming, towing, rafting, sorting and delivering of logs, timber or lumber by such corporation shall be by the scale of such logs, timber or lumber per 1,000 feet board measure); and such corporation shall for all such tolls, costs and expenses, have a lien on the logs for which the same were incurred, and shall be entitled to maintain possession of such logs or timber, or so much thereof as may be necessary to satisfy the amount of such tolls, costs and all expenses for taking care of the same until the same shall be determined, satisfied and paid in the manner hereinafter prescribed.

**History:** 1887, Act 91, Imd. Eff. Apr. 26, 1887 ;-- How. 3873k ;-- Am. 1889, Act 42, Eff. Oct. 2, 1889 ;-- CL 1897, 6760 ;-- CL 1915, 8860 ;-- CL 1929, 11795 ;-- CL 1948, 485.211

#### **485.212 Lien; enforcement.**

##### **Sec. 12.**

Any such corporation claiming any lien as provided for in the preceding section, may recover the amount of such lien in the manner provided in sections 17 and 18 of an act entitled "An act to authorize the formation of corporations for the running, booming and rafting of logs," approved February 4, 1864.

**History:** 1887, Act 91, Imd. Eff. Apr. 26, 1887 ;-- How. 3873-1 ;-- CL 1897, 6761 ;-- CL 1915, 8861 ;-- CL 1929, 11796 ;-- CL 1948, 485.212

**Compiler's Notes:** Sections 17 and 18 of Act 16 of 1864, referred to in this section, were repealed by Act 84 of 1921.

#### **485.213 Consolidation; procedure; powers of new corporation; articles or certified copy as evidence.**

##### **Sec. 13.**

Any corporation formed under this act and any corporation of an adjoining state created for any similar or kindred purpose upon the same river may consolidate their stock, property and franchises in the manner and upon the terms agreed upon by the respective corporations, and such consolidated corporations shall possess and have authority to exercise all the rights, privileges and franchises granted by this act: Provided, That no such consolidation shall be made without the assent of the holders of 3/4 of the capital stock of the consolidating companies: And provided further, That in case of any consolidation of corporations under this act, such consolidated corporations shall have power to assume a name, fix their capital stock, which shall in no case exceed the joint capital of the corporations so consolidated, to fix the number of its directors, which shall be not less than 3 nor more than 9, to adopt a common seal and to fix its term of existence, which shall not exceed 30 years from the date of such consolidation, and such articles of consolidation, when duly executed and filed in the office of the secretary of state, or a certified copy thereof, shall be prima facie evidence in all courts of the existence of such consolidated company.

**History:** 1887, Act 91, Imd. Eff. Apr. 26, 1887 ;-- How. 3873m ;-- CL 1897, 6762 ;-- CL 1915, 8862 ;-- CL 1929, 11797 ;-- CL 1948, 485.213

#### **485.214 Delivery duties; liability for damages.**

##### **Sec. 14.**

It shall be the duty of said corporation to provide for the delivery of and to deliver to the respective owners and parties entitled to receive the same the logs and timber driven, boomed, or sorted by such corporation, with prompt and impartial diligence, and no owners and parties ready to receive their logs and timber shall be delayed in the sorting and delivery thereof because other owners or parties are not ready to receive the delivery of their logs and timber. And such corporation shall be liable to any owners of logs and timber and to any parties entitled to receive from such corporation any logs and timber, for all damages which they may suffer by reason of the failure of such corporation to comply with the provisions of this section.

**History:** Add. 1889, Act 42, Eff. Oct. 2, 1889 ;-- How. 3873n ;-- CL 1897, 6763 ;-- CL 1915, 8863 ;-- CL 1929, 11798 ;-- CL 1948, 485.214

### **IMPROVEMENT OF RIVERS FOR LOGGING**

## **Act 188 of 1889**

AN ACT to provide for the organization and incorporation of companies for clearing out and improving rivers and streams in this state, for the purpose of driving, sorting, holding and delivering logs thereon.

**History:** 1889, Act 188, Imd. Eff. June 26, 1889

*The People of the State of Michigan enact:*

### **485.301 Corporations to improve rivers for logging; incorporation, control of stream.**

#### **Sec. 1.**

That any corporation now in existence, or which may hereafter be organized under any law of this state, having as its object the clearing out and improving of any river or stream navigable only for the purpose of driving logs and floating timber within the state, for the purpose of driving, sorting, holding and delivering logs thereon, which has taken possession of such stream, and made permanent and valuable improvements thereon by clearing and straightening the channels thereof, closing sloughs, erecting sluiceways or building dams, as may be required; or where individuals have made such improvements, with the intention of subsequently incorporating, such corporation or individuals shall have the right to control such stream, under such restrictions and in the manner following: Provided, That in all cases where individuals have already made improvements upon any stream or streams they shall proceed to incorporate under the laws of this state, within 4 months from the passage of this act.

**History:** 1889, Act 188, Imd. Eff. June 26, 1889 ;-- How. 3873o ;-- CL 1897, 6764 ;-- CL 1915, 8864 ;-- CL 1929, 11799 ;-- CL 1948, 485.301

### **485.302 Procedure to come under act; forfeiture of rights.**

#### **Sec. 2.**

Every corporation and all individuals desiring to avail themselves of the provisions of this act, shall file with the board of control of the St. Mary's Falls ship canal company a map or plan of the section or sections of the stream or streams which have been so improved, accompanied by the affidavit of the secretary of any such corporation, or any 2 individuals intending to thus incorporate, setting forth fully the nature and value of said improvements, and also generally what further improvements, if any, are contemplated, and the estimated cost of the same, whereupon such corporation or individuals shall have the right to control said stream and collect tolls for running, rafting and driving logs, as hereinafter provided: Provided, however, That where individuals have improved any stream, upon failure to incorporate and file due proof of the same with the said board of control of the St. Mary's Falls ship canal company, within said period of 4 months, all their rights under this act shall be forfeited by mere operation of law without notice.

**History:** 1889, Act 188, Imd. Eff. June 26, 1889 ;-- How. 3873p ;-- CL 1897, 6765 ;-- CL 1915, 8865 ;-- CL 1929, 11800 ;-- CL 1948, 485.302

### **485.303 Corporation; vested rights, restrictions.**

#### **Sec. 3.**

Upon complying with the foregoing provisions of this act, such corporation shall be vested with all the rights,

powers and franchises now conferred upon corporations organized under chapter 111 of Howell's annotated statutes, and shall in every particular be governed thereafter by the provisions and restrictions of said chapter.

**History:** 1889, Act 188, Imd. Eff. June 26, 1889 ;-- How. 3873q ;-- CL 1897, 6766 ;-- CL 1915, 8866 ;-- CL 1929, 11801 ;-- CL 1948, 485.303

**Compiler's Notes:** For provisions of chapter 111, referred to in this section, see MCL 485.101 et seq.