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An act concerning a board of health.

Colorado General Assembly

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AN ACT CONCERNING A BOARD OF HEALTH.

Be it enacted by the General Assembly of the State of Colorado:

85. SECTION 1. The board of health, established by act of the council and house of representatives, approved, February 10, 1876, shall have power to make by-laws and all needful rules and regulations for its own government; and any member failing to obey said by-laws, or to comply with said rules and regulations, shall be subject to removal, upon a vote of a majority of the members of said board, and upon certification of the same to the governor of the state by the secretary of the board, the governor shall declare the office vacant, and immediately fill the vacancy by the appointment of some other person.

Powers of state board of health.

Members may be removed for cause and vacancies filled.

86. SEC. 2. All money received by the board from the state, or otherwise, shall be expended in the manner deemed best by the board for carrying out the objects for which it was created.

How money received from the state shall be expended.

87. SEC. 3. Section eight of an act to establish a territorial board of health, approved February 10, 1876, is hereby repealed.

Repeal.

Approved, March 22, 1877.

CHAPTER IX.

BONDS, BILLS, AND PROMISSORY NOTES.

[Revised Statutes, Chapter X.]

88. SECTION 1. When any foreign bill of exchange, which may be drawn for any sum of money, expressing that the value has been received, shall be duly presented for acceptance or payment, and protested for non-acceptance or non-payment, the drawer or indorser thereof, due notice being given of such non-acceptance or non-payment, shall pay said bill, with legal interest thereon from the time such bill ought to have been paid until paid, and ten per cent. damages in addition, together with the costs and charges of protest.

Liability of drawer or indorser of foreign bill of exchange.

89. SEC. 2. If any bill of exchange, drawn upon any person, or body politic or corporate, out of this state, but

Liability of
drawer or indorser
of bill of ex-
change, payable
out of this state
but within the
United States.

within the United States or her territories, for the payment of money, and expressed to be for value received, shall be duly presented for acceptance or payment, and protested for non-acceptance or non-payment, the drawer or indorser thereof, due notice being given of such non-acceptance or non-payment, shall pay said bill, with legal interest thereon from the time such bill ought to have been paid, and ten per cent. damages in addition, together with all costs and charges of protest.

All promissory
notes, etc., taken
to be due to the
person to whom
made.

90. SEC. 3. All promissory notes, bonds, due-bills, and other instruments in writing made by any person, whereby such person promises or agrees to pay any sum of money, or article of personal property, or any sum of money in personal property, or acknowledges any sum of money, or article of personal property, to be due to any other person or persons, shall be taken to be due and payable to the person or persons to whom the said note, bond, bill, or other instrument in writing is made.

Any such notes,
etc., made pay-
able to any per-
son, shall be as-
signable by in-
dorsement
thereon.

91. SEC. 4. Any such note, bill, bond, or other instrument in writing, made payable to any person or persons, shall be assignable by indorsement thereon, under the hand of such person and of his assignee, in the same manner as bills of exchange are, so as absolutely to transfer and vest the property thereof in each and every assignee successively.

Assignee may
maintain an ac-
tion in his own
name.

92. SEC. 5. Any assignee to whom such sum of money or personal property is by such indorsement made payable, or in case of the death of such assignee, his executors or administrators may, in his own name, institute and maintain the same kind of action for the recovery thereof, against the person who made and executed any such note, bond, bill, or other instrument of writing, or against his heirs, executors, or administrators, as might have been maintained against him by the obligee or payee, in case the same had not been assigned, and in every such action, in which judgment shall be given for the plaintiff or plaintiffs, he shall recover his damages, and costs of suit, as in other cases.

93. SEC. 6. No maker of any such note, bond, bill, or

other instrument in writing, or other person liable thereon, shall be allowed to allege payment to the payee, made after notice of such assignment, as a defence against such assignee or assignees.

Allegation of payment to payee, after notice of assignment, not allowed as defense against action by assignee.

94. SEC. 7. Every assignor or his heirs, executors, or administrators, of every such note, bond, bill, or other instrument in writing, shall be liable to the action of the assignee thereof, or his executors or administrators, if such assignee shall have used due diligence, by the institution and prosecution of a suit against the maker of such assigned note, bond, bill, or other instrument of writing, or against his heirs, executors, or administrators, for the recovery of the money or property due thereon, or damages in lieu thereof; *provided*, that if the institution of such suit would have been unavailing, or if the maker had absconded, or left the state, when such assigned note, bond, bill, or other instrument in writing became due, such assignee, or his executors or administrators, may recover against the assignor, or against his executors or administrators, as if due diligence by suit had been used.

Liability of assignor to assignee.

95. SEC. 8. If any such note, bond, bill, or other instrument in writing, shall be indorsed after the day on which the money or property therein mentioned becomes due and payable, and the indorser shall institute an action thereon against the maker of the same, the defendant, being maker, shall be allowed to set up the same defense that he might have done had the said action been instituted in the name and for the use of the person to whom the said note, bond, bill, or other instrument of writing was originally made due and payable.

If note, etc., is assigned after maturity, the maker allowed the same defense against assignee as against payee.

96. SEC. 9. If any such note, bond, bill, or other instrument of writing shall be indorsed before the day the money or property therein mentioned becomes due and payable, and the indorser shall institute an action thereon, the defendant may give in evidence at the trial any money or property actually paid on said note, bond, bill, or other instrument in writing, before the same was indorsed or assigned to the plaintiff, on proving that the plaintiff had sufficient notice of the said payment before he accepted or received such indorsement.

In case of assignment before maturity, maker may show in defense payments to payee before assignment, of which assignee had notice.

When want or failure of consideration may be pleaded.

97. SEC. 10. In any action commenced, or which may hereafter be commenced in any court of law of this state, upon any note, bond, bill, or other instrument in writing, for the payment of money or property, or the performance of covenants or conditions by the obligor or maker thereof, if such note, bond, bill, or instrument in writing was made or entered into without a good or valuable consideration, or if the consideration upon which such note, bond, bill, or instrument was made or entered into has wholly or in part failed, it shall be lawful for the defendant against whom such action shall have been commenced, by such obligee or payee to plead such want of consideration or that the consideration has wholly or in part failed, and if it shall appear that any such note, bond, bill, or instrument of writing, was made or entered into without a good or valuable consideration, or that the consideration has wholly failed, the verdict shall be for the defendant, and if it shall appear that the consideration has failed in part, the plaintiff shall recover according to the equity of the case; *provided*, that nothing in this section contained shall be construed to affect or impair the right of any *bona fide* assignee of an instrument made assignable by this chapter, when such assignment was made before such instrument became due.

Right of assignee of assignable instrument not to be impaired in case of assignment before instrument becomes due.

Instruments obtained by fraud are rendered void, except when negotiated before due.

98. SEC. 11. If any fraud or circumvention be used in obtaining the making or executing of any of the instruments aforesaid, such fraud or circumvention may be pleaded in bar to any action to be brought on any such instrument so obtained, whether such action be brought by the party committing such fraud or circumvention, or any assignee of such instrument, unless such instrument was negotiated before due.

In case of note payable in personal property, when tender of delivery of such property may be made.

99. SEC. 12. In all cases where any of the before-mentioned instruments of writing are for the payment or delivery of personal property other than money, and no particular place be specified in such instrument of writing for the payment thereof, it shall be lawful for the maker of any such instrument of writing to tender or cause to be tendered, on the day mentioned in any such instrument, the personal property therein mentioned, at the place where the

obligee or payee of any such instrument resided at the time of the execution thereof; *provided, however*, if such personal property be too ponderous to be easily moved, or if the obligee or payee of such instrument have not, at the time of the execution of such instrument of writing, a known place of residence in the county where the maker resides, then it shall be lawful to tender such personal property at the place where the maker of such instrument resided at the time of the execution thereof. Any tender made in pursuance of this section, shall be equally valid and legal in case any such instrument of writing shall have been assigned in pursuance of the fourth section of this chapter, as if no such assignment had been made.

100. SEC. 13. A legal tender of any such personal property shall discharge the maker of any such instrument from all liability thereon, and the property thus tendered is hereby declared to be vested in and belong to the legal holder and owner of any such instrument of writing, and he may maintain an action for the recovery thereof or for damages, if the possession be subsequently illegally withheld from him; *provided, however*, if any such property so tendered shall be of a perishable nature, or shall require feeding or other sustentation, and the person owning and holding such instrument of writing be absent at the time of tendering the same, it shall be lawful for every person making such tender, to preserve, feed and otherwise take care of the same, and he shall have a lien on such tendered property for his reasonable trouble and the expenses of feeding or sustaining such property, until payment be made for such trouble and expense.

101. SEC. 14. Three days of grace shall be deemed and taken to apply to all bills of exchange and promissory notes maturing within this state, so that they shall not be deemed to fall due until the third day from and after the day of maturity expressed therein; but this provision shall not extend to drafts payable at sight, nor to checks for funds deposited in bank or elsewhere, subject to draft at sight.

102. SEC. 15. Bills of exchange and promissory notes maturing on Sunday, the fourth day of July, Christmas, or

Legal tender of such personal property discharges maker of instrument from liability.

Provide as to perishable property.

Days of grace allowed on bills of exchange and promissory notes; not to apply to checks and drafts payable at sight.

Bills and notes maturing on Sunday, etc., deemed to be due the day previous.

any day set apart by the president of the United States or the governor as a day of public fasting or thanksgiving, shall be deemed to fall due the previous day, and may be presented and protested accordingly.

AN ACT RELATING TO BONDS AND INTEREST THEREON, HERETOFORE ISSUED BY COUNTIES, CITIES AND TOWNS.

Be it enacted by the General Assembly of the State of Colorado:

Bonds may be purchased or exchanged for stock, or stock exchanged for bonds.

103. SECTION 1. Any county, city or town that has heretofore subscribed to the capital stock of any organized railroad or wagon road, and issued bonds in payment therefor, in the manner provided in section fifty-two (52) of chapter eighteen (18) of the revised statutes of the territory of Colorado, the same being section one (1) of "an act relating to railroads, wagon roads, and mining companies, subscription to stock, issue of bonds, taxes to pay interest and principal by counties, cities and towns, and for other purposes," approved January 10, 1868, or under an act entitled "an act to amend an act to enable road, ditch, manufacturing and other companies to become bodies corporate," and the several acts amendatory thereto, approved December 27, 1867, or any other act of the legislature of Colorado now in force, may, by the county commissioners of such county, or the mayor, or president of such city or town, purchase said bonds at the market rates, if required to liquidate and redeem them, and said bonds may be exchanged into said stock, or said stock into such bonds, if deemed expedient by said commissioners, mayor, or president; *provided however*, that such exchange shall not be made by any board of county commissioners except after notice by such commissioners of their intention so to do at least thirty (30) days before the time of such proposed exchange; such notice to be given and published in the same manner as hereinafter provided by this act for the sale or transfer of such stock; and if, at the expiration of such time, fifty (50) tax payers of such county, who may feel aggrieved shall, in writing, request of such commissioners

County commissioners shall give notice of intention to exchange and call election, if requested by tax payers.

that an election be held to determine whether such exchange shall be made or not, it shall be the duty of said board to call an election, and such election shall be called, held and conducted, and the votes cast at the same shall be canvassed and the result declared, as hereinafter provided in this act, for the sale and transfer of such stock, and if it shall appear at such election there is a majority of the legal votes in favor of such exchange, then the exchange shall be made; but if it appear that a majority of the legal votes cast at such election is against such exchange, the same shall not be made; but if notice be given, as required in this section, of such proposed exchange, and the request for an election shall not be made, as aforesaid, then such exchange shall be made.

104. SEC. 2. If at any time such exchange shall be made, the said board of county commissioners may assign such stock, and shall, on the receipt of such bonds, in the presence of the clerk of said board, or his deputy, cancel such bonds and the coupons attached thereto, by writing the word "cancelled" on the face thereof; and the clerk of the said board shall make a record of the proceedings, stating what amount of such bonds and coupons were cancelled, and shall enter in the book of registry of such bonds the fact of such cancellation of both bonds and coupons.

Bonds exchanged for stock how to be cancelled.

105. SEC. 3. When any board of county commissioners, mayor or president of any city or town, which has heretofore issued bonds in payment of stock as aforesaid, shall deem it expedient to sell or transfer such stock to liquidate and redeem such bonds, it shall be the duty of said commissioners, mayor or president, to call an election of the legal voters of such county, city or town, to approve and vote for such sale or transfer; public notice of such election shall be given thirty days prior to the day of such election in any newspaper published in such county, city, or town; if no newspaper is published therein, notice shall be posted at least thirty (30) days prior to such election, at the usual places of holding elections in each precinct in such county, city or town; such election shall be held, conducted, and the votes returned and canvassed accord-

Sale or transfer of stock, for liquidation and redemption of bonds, to be submitted to voters.

How election called and held.

If sale or transfer authorized, proceeds to be applied to liquidate and redeem bonds.

ing to the laws then regulating such elections; if upon canvassing the votes cast at any such election it shall be found that a majority of all the votes cast are in favor of such sale or transfer, the commissioners, mayor, or president aforesaid, shall thereupon sell and transfer said stock, and the proceeds of sale of such stock shall be exclusively applied to purchase, liquidate, or redeem such bonds and interest thereon.

Annual tax to be levied and collected for payment of interest.

106. SEC. 4. It shall be the duty of the county commissioners of any county, or the mayor, president, municipal authorities, or assessors of any city or town, that has issued bonds under the acts specified in section one (1) of this act, to duly levy and assess a special tax annually upon the taxable property in such county, city or town, in amount sufficient to pay the interest coupons, when and where due, upon all such bonds, and for the proper expenses of collecting, remitting and disbursing such funds; and after ten (10) years from date and issue of any such

Fund to be provided by taxation for redemption of five per cent. of bonds annually.

bonds, said counties, cities or towns shall provide by taxation to pay at least five per cent. of the principal amount of such bonds annually thereafter, until the full amount of such bonds shall have been paid, purchased or redeemed, and all the interest thereon due; the taxes so levied and assessed shall be collected as other taxes and the proceeds remitted and paid to the treasurer of the state, (except the taxes levied, assessed and collected to pay the principal or interest on bonds issued prior to February first, A. D. one thousand eight hundred and sixty-eight, which shall be retained by the county treasurer, to be by him paid out as hereinafter provided,) as custodian of such funds, but shall only and exclusively be applied to the payment of interest and principal, or purchase of such bonds by him, and for the expenses thereof; the purchase or redemption of such bonds may be done when authorized by said commissioners, mayor or president of the counties, cities, or towns issuing such bonds. The treasurer shall be paid a reasonable compensation for such service in the payments, purchase or redemption, from the proceeds of taxes or otherwise.

State treasurer custodian of fund, and shall purchase and redeem bonds when authorized

107. SEC. 5. The auditor of state, shall when any of

the bonds aforesaid (except bonds issued prior to February first, A. D. one thousand eight hundred and sixty-eight,) are paid by the county commissioners of any county, or the mayor or president of any city or town, receive ten cents each, for cancelling such bonds, and registering the same, to be paid by said commissioners, mayor or president. It shall be the duty of the auditor to include the sums due, or to be paid on such bonds, in his report for taxation in such counties, cities or towns, and the amount received and paid on account of such taxes, and payment of such bonds, as required of him in his duties to the general assembly. In cases of neglect or delay of any county, city or town officers to levy, assess or collect and remit the taxes herein provided for, to the treasurer of the state, in time to meet such interests or payment of principal, and purchase of bonds, any such officer shall be liable to a fine of not less than five hundred dollars for each offense, to be paid to such bond holder as may sue for the same; and the state treasurer and auditor, may appoint proper agents to collect and remit such taxes. Any such bond that may be purchased or fully paid, shall be so recorded and cancelled.

Auditor of state shall cancel and register bonds redeemed, and shall report sums due or to be paid and amount received and paid.

Officers neglecting to levy, collect and remit such tax, liable to penalty, and agents may be appointed.

108. SEC. 6. Whenever there shall be a surplus of funds arising from taxes levied, assessed and collected for the payment of interest on bonds issued prior to February first, A. D. one thousand eight hundred and sixty-eight, after the payment of interest due, such surplus shall be held and applied by the board of county commissioners of the county issuing such bonds, to the purchase of such bonds for cancellation; and when any such bonds shall be so purchased, the same shall be returned to the county clerk of the county, who shall cancel the same and all coupons attached thereto, in the manner hereinabove provided; and all taxes levied, assessed and collected for the payment of principal or interest of such bonds, shall be by the county treasurer of the county paid out, either for the purchase of bonds for cancellation as aforesaid or for the payment of accrued interest or the principal of said bonds as the board of county commissioners shall direct; and it shall be the duty of such county treasurer to remit

Bonds issued prior to Feb. 1, 1868.

Surplus, after payment of interest, to be applied to purchase of bonds.

County clerk shall cancel such bonds.

County treasurer shall remit annually to agent money for payment of interest, etc.

annually to such agent as the said board may direct or may be designated by law, the amount of money collected for the payment of interest of such bonds or such portion thereof as the said board may direct; and such agent shall

Agent to report payment and return coupons and bonds paid.

report the payments made, together with the cancelled coupons or bonds so paid, to the county treasurer, who shall thereupon report to the county commissioners and return to the county clerk all such bonds and coupons for cancellation.

County clerk shall publish report of outstanding bonds, amount of interest, and number of bonds cancelled.

109. SEC. 7. The county commissioners shall annually cause to be published, and it shall be the duty of the county clerk, annually to publish in some newspaper published in said county, a full report of the amount of the bonds outstanding, the amount of interest paid and due thereon, and the amount and number of the bonds that shall have been purchased and cancelled.

County commissioners to cancel bonds and coupons paid.

110. SEC. 8. Whenever any county bonds that have been heretofore issued, or that shall be hereafter issued for any purpose shall be paid, or whenever the interest coupons of said bonds shall be paid, it shall be the duty of the board of county commissioners of the county issuing such bonds, to cancel said bonds and coupons, in the manner provided in section two (2) of this act, for the cancellation of bonds.

Approved March 9, 1877.

CHAPTER X.

BUILDINGS.

AN ACT RELATING TO THE CONSTRUCTION OF BUILDINGS USED FOR PUBLIC ASSEMBLAGES.

Be it enacted by the General Assembly of the State of Colorado :

Width of doorways.

111. SECTION 1. Every room or building intended to be used as a theatre, opera house, music hall, concert hall, public school or church, or other like place of public assemblage hereafter built or constructed, shall be provided with at least one doorway of not less than five feet in width for each two hundred and fifty persons which might be seated