

in the same manner as provided for the sale of other State trust fund lands.

Approved March 24, 1947.

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CHAPTER 133—H. F. No. 769  
[Coded as Sections 193.141 to 193.149]

*An act relating to armories; providing for their construction and maintenance, and repealing Minnesota Statutes 1945, Sections 193.01 to 193.14 inclusive.*

Be it enacted by the Legislature of the State of Minnesota:

[193.141] Section 1. **Armory construction authorized.** Subdivision 1. **Municipality may construct armory; municipality defined.** In any municipality of this state in which there shall at the time be stationed one or more units of the National Guard or Naval Militia, and in which the adjutant general shall deem it necessary or expedient to construct an armory, an armory may be constructed and the cost thereof paid as hereinafter provided. The term "municipality" as used herein includes cities of every class, villages and boroughs.

Subd. 2. **Armory on state military camping grounds.** Whenever the adjutant general shall deem it necessary or expedient that an armory be constructed upon a State military camping ground, to be used principally by any unit or units of the National Guard stationed at a municipality in the vicinity thereof, such armory may be constructed and the cost thereof paid in the manner hereinafter provided for the construction of armories in municipalities, and the annual payments thereafter to be made by the State for the maintenance and equipment of such armory, as authorized by Section 193.35 shall be payable to the Minnesota State Armory Building Commission without the necessity of like appropriations by such municipality or any other party, so long as any bonds issued for the construction of such armory shall be outstanding.

[193.142] Sec. 2. **"Minnesota state armory building commission."** Subdivision 1. **Corporation created; officers.** For the purpose of constructing armories as provided by section 1, there shall be created a corporation to be known as the "Minnesota State Armory Building Commission". The members and governing body of such corporation shall be

the adjutant general and not less than two officers of the line of the National Guard or Naval Militia of the State above the grade of Lieutenant Colonel, to be selected and appointed by the adjutant general. The adjutant general shall be chairman of such commission. Such commission shall elect a secretary and a treasurer from the members thereof other than the adjutant general. The treasurer of the corporation shall give a security bond to the corporation in such sum as the corporation may determine, conditioned in like manner to the bonds of treasurers of public bodies, to be approved and filed as the corporation may determine.

**Subd. 2. Filing; officers; members; vacancy.** Upon the filing with the Secretary of State of a certificate by the adjutant general naming the persons authorized to compose such commission and corporation, and declaring them to be constituted a commission and corporation hereunder, such persons shall forthwith become and be such commission and corporation without further proceeding. In case of a vacancy in the membership of such commission and corporation, the remaining members, provided there are not less than two, shall have power to act and to elect such temporary officers of the commission as may be necessary during the existence of the vacancy. In case at any time there shall not be at least two qualified officers of the National Guard or Naval Militia in addition to the adjutant general eligible to serve as members of such commission, the adjutant general may appoint a member or members of such commission from the Lieutenant Colonels of the line of the National Guard or Naval Militia of the State, so as to provide not more than two members of such commission in addition to himself. The membership of the members last so appointed shall automatically terminate upon the appointment and qualification of an officer of the National Guard or Naval Militia eligible under section 2, subdivision 1, to serve as a member of such commission, provided the total membership be not thereby reduced to less than three including the adjutant general. In case of a vacancy in the office of the adjutant general, or in case of the incapacity of the adjutant general to act as a member and chairman of such commission, the officer who is appointed or authorized according to law to exercise the powers of the adjutant general for the time being, shall during the existence of such vacancy or incapacity act as a member and chairman of such commission and have all the powers and duties herein vested in or imposed upon the adjutant general as a member and chairman of such commission. The adjutant general shall certify to the Secretary of State all changes in the membership of the commission, but failure on his part to do so shall

not affect the authority of any new member of the commission or the validity of any act of the commission after the accession of a new member.

**Subd. 3. Trustee in certain cases.** In case at any time all or all but one of the line officers of the National Guard or Naval Militia who are members of the commission or who are eligible to serve as such are in active service outside the State, or where for any other reason there are not at least two qualified line officers of the National Guard or Naval Militia available within the State to serve as members of the commission, the adjutant general, or in case of his incapacity or of a vacancy in that office, the officer who is appointed or authorized according to law to exercise the powers of the adjutant general for the time being, shall become trustee of the commission and shall have all the powers and perform all the duties of the commission and its officers so long as such conditions exist. Upon the occurrence of such conditions the officer becoming trustee shall file with the Secretary of State a certificate reciting the circumstances and declaring that he assumes office as such trustee, and thereupon shall be deemed to have qualified as such, with all the authority hereby conferred. Any change in such office shall be likewise certified by the officer succeeding as trustee. Upon the termination of such conditions, the adjutant general or his authorized substitute shall certify the circumstances in like manner, with the names of the officers then authorized by law to compose the commission, and thereupon such officers shall constitute the commission, and the authority of the trustee shall terminate.

[193.143] **Sec. 3. Powers of corporation.** Such corporation, subject to the conditions and limitations prescribed in this act, shall possess all the powers of a body corporate necessary and convenient to accomplish the objectives and perform the duties prescribed by this act, including the following, which shall not be construed as a limitation upon the general powers hereby conferred:

(1) To acquire by lease, purchase, gift or condemnation proceedings all necessary right, title and interest in and to the lands required for a site for a new armory and all other real or personal property required for the purposes contemplated by the military code and to hold and dispose of the same, subject to the conditions and limitations herein prescribed; provided that any such real or personal property or interest therein may be so acquired or accepted subject to any condition which may be imposed thereon by the grantor

or donor and agreed to by such corporation not inconsistent with the proper use of such property by the State for armory or military purposes as herein provided.

(2) To exercise the right of eminent domain in the manner provided by Minnesota Statutes 1945, Chapter 117, for the purpose of acquiring any property which such corporation is herein authorized to acquire by condemnation; provided, that the corporation may take possession of any such property so to be acquired at any time after the filing of the petition describing the same in condemnation proceedings; provided further, that this shall not preclude the corporation from abandoning the condemnation of any such property in any case where possession thereof has not been taken.

(3) To construct and equip new armories as authorized herein; to pay therefor out of the funds obtained as hereinafter provided and to hold, manage, and dispose of such armory, equipment, and site as hereinafter provided. The total cost to the corporation of each armory constructed, as provided in section 1, including the site, building, and equipment, shall not exceed \$150,000 for a single unit armory and \$75,000 for each additional unit of the National Guard or Naval Militia to be quartered therein, and the total amount of bonds issued on account of such armories shall not exceed the amount of the cost thereof; provided also, that the total bonded indebtedness of the commission shall not at any time exceed the aggregate sum of \$4,500,000.

(4) To sue and be sued.

(5) To contract and be contracted with in any matter connected with any purpose or activity within the powers of such corporation as herein specified; provided, that no officer or member of such corporation shall be personally interested, directly or indirectly, in any contract in which such corporation is interested.

(6) To employ any and all professional and non-professional services and all agents, employees, workmen and servants necessary and proper for the purposes and activities of such corporation as authorized or contemplated herein and to pay for the same out of any portion of the income of the corporation available for such purposes or activities. The officers and members of such corporation shall not receive any compensation therefrom, but may receive their reasonable and necessary expenses incurred in connection with the performance of their duties; provided however, that whenever

the duties of any member of the commission requires his full time and attention the commission may compensate him therefor at such rates as it may determine.

(7) To borrow money and issue bonds for the purposes and in the manner and within the limitations herein specified, and to pledge any and all property and income of such corporation acquired or received as herein provided to secure the payment of such bonds, subject to the provisions and limitations herein prescribed, and to redeem any such bonds if so provided therein or in the mortgage or trust deed accompanying the same.

(8) To use for the following purposes any available moneys received by such corporation from any source as herein provided in excess of those required for the payment of the cost of such armory and for the payment of any bonds issued by the corporation and interest thereon according to the terms of such bonds or of any mortgage or trust deed accompanying the same:

(a) To pay the necessary incidental expenses of carrying on the business and activities of the corporation as herein authorized;

(b) To pay the cost of operating, maintaining, repairing, and improving such new armories;

(c) If any further excess moneys remain, to purchase upon the open market at or above or below the face or par value thereof any bonds issued by the corporation as herein authorized; provided, that any bonds so purchased shall thereupon be cancelled.

(9) To adopt and use a corporate seal.

(10) To adopt all needful by-laws, rules, and regulations for the conduct of the business and affairs of such corporation and for the management and use of all armories while under the ownership and control of such corporation as herein provided, not inconsistent with the use of such armory for armory or military purposes.

(11) Such corporation shall issue no stock.

(12) No officer or member of such corporation shall have any personal share or interest in any funds or property of the corporation or be subject to any personal liability by reason of any liability of the corporation.

(13) The Minnesota State Armory Building Commission created under section 2 hereof shall keep all moneys and

credits received by it as a single fund, to be designated as the "Minnesota State Armory Building Commission Fund," with separate accounts for each armory; and the Commission may make transfers of moneys from funds appertaining to any armory under its control for use for any other such armory; provided such transfers shall be made only from moneys on hand, from time to time, in excess of the amounts required to meet payments of interest or principal on bonds or other obligations appertaining to the armory to which such funds pertain and only when necessary to pay expenses of operation and maintenance of such other armory; provided further, no such transfer of any moneys paid for the support of any armory by the municipality in which such armory is situated shall be made by the Commission.

(14) The corporation created under section 2 may designate one or more state or national banks as depositories of its funds, and may provide, upon such conditions as the corporation may determine, that the treasurer of the corporation shall be exempt from personal liability for loss of funds deposited in any such depository due to the insolvency or other acts or omissions of such depository.

[193.144] **Sec. 4. Site; disposition of unused site.** In case any land acquired for armory site purposes hereunder has been donated to such corporation by a municipality or by other governmental agency except the state, and in case such land or any part thereof shall thereafter not be used or shall cease to be used for armory purposes for a continuous period of more than five years, not including the period of any war or other emergency in which the armed forces of the state may be engaged, the title to such unused land or part thereof shall thereupon pass, revert and be vested as follows: An undivided one-half thereof in the state and an undivided one-half thereof in such municipality or other governmental agency which donated the same, subject to any encumbrances that may have been lawfully placed thereon by such corporation or otherwise.

[193.145] **Sec. 5. Funds for construction of armory; tax levy.** Subdivision 1. **Acquiring funds.** The funds to be used by such corporation for the purposes herein specified may be obtained as hereinafter provided.

**Subd. 2. Tax levy, limitation.** A municipality in which a new armory is to be constructed hereunder may by resolution of its governing body irrevocably provide for levying and collecting annually for a specified period, not exceeding 40 years, a tax upon all taxable property therein of such amount

as such governing body may determine, not exceeding five-tenths of a mill.

The proceeds of such levy as collected shall be paid to such corporation for the purposes herein prescribed. Such municipality shall have power to make such tax levies and payments and to bind itself thereto by such resolution of its governing body. The provisions of such resolution may be made conditional upon the giving of an agreement by the adjutant general as authorized in subdivision 4. The obligations of such municipality to levy, collect, and pay over such taxes shall not be deemed or construed to constitute an indebtedness of such municipality within the meaning of any provision of law or of its charter limiting its total or net indebtedness, and such taxes may be levied and collected without regard to any statutory or charter provision limiting the amount or rate of taxes which such municipality is otherwise authorized to levy. The payment of the proceeds of such taxes up to an amount equal to the sum of \$250 per year, or such other amount as may hereafter be prescribed by law, for each company or other unit of the National Guard or Naval Militia stationed in such municipality, shall be deemed sufficient appropriation and payment by such municipality to authorize the payments to be made by the state annually for armory maintenance and equipment under the provisions of section 193.35, such payments to be made to such corporation and applied as herein provided.

**Subd. 3. Payments by state.** The annual payments by the state for armory maintenance and equipment authorized by section 193.35 shall be paid to such corporation and applied as herein provided.

**Subd. 4. Payments by adjutant general.** In addition to the payments by the state under subdivision 3, the adjutant general is hereby authorized to pay to such corporation, out of any moneys which may from time to time be appropriated to and for his department and not appropriated or set apart for any other specific purpose, the sum of \$3,000 per year for each unit of the National Guard or Naval Militia quartered in such armory when only one such unit is so quartered, and the sum of \$2,000 per year for each additional unit when more than one such unit is so quartered, and may bind himself and his successors in office by agreement to such corporation to make such payments in a specific amount or amounts out of such appropriations for a period of not more than 40 years.

**Subd. 5. Lease to state.** Upon completion of each new

armory such corporation shall lease the same to the state through the adjutant general, until such armory and site shall be conveyed to the state as hereinafter provided. Such lease shall be made upon such terms and conditions as shall secure to the state the full and complete use of such armory, for armory and military purposes so far as may be required for the headquarters, organizations, and units of the National Guard and Naval Militia stationed in such municipality, and upon such other terms and conditions not inconsistent therewith as may be agreed upon; provided, that, except for such use of such property for armory and military purposes which will be secured to the state as aforesaid, such lease shall be subject to any incumbrance placed upon the property to secure the payment of any bonds issued as herein provided. No further consideration for such lease shall be required than the payments to be made by the state as provided by subdivisions 3 and 4. Otherwise, and so far as it is not inconsistent with the terms and conditions of such lease to the state and so far as will not interfere with the use by the state of such property for armory or military purposes, such corporation may lease, rent, or otherwise make use of such new armory building or any part thereof for such purposes and upon such terms as such corporation may deem proper, and may use the rents and profits therefrom for the purposes herein provided.

[193.146] **Sec. 6. Issuance of bonds.** Subdivision 1. **Authority to issue.** In anticipation of the receipts by such corporation of the tax proceeds, appropriations, rents, and profits specified in section 5, and of income from any other source, and for the purpose of securing funds as needed for payment of the cost of such new armories and for other purposes herein authorized, such corporation is hereby authorized to issue its bonds bearing interest at a rate not to exceed five per cent per annum, payable semi-annually.

Subd. 2. **Limitation.** Such bonds shall be of such date, denomination, place of payment, form, and details as may be determined by such corporation not inconsistent with the provisions of this act. Such bonds shall mature serially, the first installment to fall due in not more than five years and the last in not more than 40 years from their date, and no annual maturing installment shall exceed by two and one-half times the amount of the smallest annual maturing installment; provided, that the amount of such installments of principal may be such that the increase thereof from year to year shall approximately equal the decrease from year to year in the interest on the bonds remaining unpaid.

Subd. 3. **Execution.** Such bonds shall be signed by the adjutant general, as chairman, attested by the secretary, and counter-signed by the treasurer of such corporation, and the interest coupons to be thereto attached shall be executed and authenticated by the printed, engraved, or lithographed facsimile signatures of such chairman and secretary.

Subd. 4. **Sale.** Such bonds shall be sold by such corporation under such notice and upon such terms and at such times as the corporation shall deem best. Such bonds shall not be deemed or construed to be debts of the State of Minnesota or of the municipality in which such armory is situated, nor to impose any personal liability upon any member of such corporation, but shall be payable solely out of the income to be received by such corporation as specified herein. Bonds legally issued pursuant hereto may be purchased by the state board of investment for the permanent school fund, permanent university fund, swamp land fund, internal improvement land fund, or any other trust fund of the State of Minnesota, or for any other fund administered by such board, and shall be deemed authorized securities within the provisions of section 50.14, and laws supplemental thereto, and shall be proper for the investment of capital, surplus, or deposits of any savings bank or trust company, and for the investment of funds of any insurance company, and for the investment of any sinking funds held by any public or municipal corporation, and may be pledged by any bank or trust company as security for the deposit of public moneys therein in lieu of surety bonds. Such bonds shall be deemed and treated as instrumentalities of a public governmental agency, and as such shall be exempt from taxation.

[193.147] Sec. 7. **Mortgage.** To secure the prompt and full payment of such bonds and interest thereon such corporation may mortgage such armory building and the site thereof, and may pledge the income or any part thereof receivable by such corporation to any trustee under such provisions that upon default in the payment of the principal or of interest on any such bonds all of such bonds may be declared due and payable, and such mortgage foreclosed in like manner as other mortgages are foreclosed in this state, subject to the provisions of this act. The purchaser at any sale upon such foreclosure shall acquire the right of possession and the right to operate such building under such terms and conditions as may be specified in said mortgage and not inconsistent with the use of the property by the state for armory and military purposes, such possession and right of operation to continue until full principal and interest on such bonds or

the amount bid upon such foreclosure sale shall have been paid out of the net rents and profits received from such operation or out of moneys otherwise provided as set forth in section 5. Such mortgage or deed of trust may contain any other provisions not inconsistent with the provisions of this act or with the use of such building by the state for armory or military purposes as are customarily included for the benefit and protection of the parties to such instruments, including provisions for the insurance thereof, appointment of a receiver in the event of a default by the mortgagor, exemption of the members of such corporation from any personal liability, and other such provisions. Nothing contained in such mortgage shall be deemed or construed to constitute a liability of the State of Minnesota, nor to impose any personal liability upon any member of such corporation. Such mortgage or deed of trust may be recorded in the office of the appropriate register of deeds without the payment of any mortgage registry tax.

[193.148] **Sec. 8. Conveyance to state.** When payment has been made of all indebtedness incurred by such corporation incident to the procurement, erection, equipment, and operation of any armory built under the provisions of this act including the payment in full of the principal and interest of all bonds issued by such corporation to cover the cost of such armory, such corporation shall transfer and convey such armory building and the site thereof to the State of Minnesota, for military purposes, to be administered as are other state-owned armories.

Any unencumbered balance then held by the commission accruing to such armory shall be paid over to the adjutant general to be applied to the future maintenance, repair, and equipment of such armory, as provided for in section 193.29.

[193.149] **Sec. 9. Examination of books by public examiner.** The books and affairs of such corporation shall be subject to examination by the public examiner.

**Sec. 10. Sections 193.01 to 193.14 repealed; accrued rights preserved.** Sections 193.01 to 193.14 inclusive are hereby repealed. The repeal of these sections shall not affect any right accrued, any duty imposed, any penalty incurred, or any proceeding commenced, under or by virtue of the sections repealed as provided in Minnesota Statutes 1945, Section 645.35.

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