

**134.26 History:** 1911 c. 316; Stats. 1911 s. 4432-2; 1925 c. 4; Stats. 1925 s. 343.332; 1955 c. 696 s. 95; Stats. 1955 s. 134.26.

**134.27 History:** 1911 c. 316; Stats. 1911 s. 4432-3; 1925 c. 4; Stats. 1925 s. 343.333; 1955 c. 696 s. 96; Stats. 1955 s. 134.27.

**134.28 History:** 1911 c. 316; Stats. 1911 s. 4432-4; 1925 c. 4; Stats. 1925 s. 343.334; 1955 c. 696 s. 97; Stats. 1955 s. 134.28.

**134.29 History:** 1911 c. 316; Stats. 1911 s. 4432-5; 1925 c. 4; Stats. 1925 s. 343.335; 1955 c. 696 s. 98; Stats. 1955 s. 134.29.

**134.30 History:** 1911 c. 316; Stats. 1911 s. 4432-6; 1925 c. 4; Stats. 1925 s. 343.336; 1955 c. 696 s. 99; Stats. 1955 s. 134.30.

**134.31 History:** 1911 c. 316; Stats. 1911 s. 4432-7; 1925 c. 4; Stats. 1925 s. 343.337; 1955 c. 696 s. 100; Stats. 1955 s. 134.31.

**134.32 History:** 1911 c. 316; Stats. 1911 s. 4432-8; 1925 c. 4; Stats. 1925 s. 343.338; 1955 c. 696 s. 101; Stats. 1955 s. 134.32.

**134.33 History:** 1937 c. 230; Stats. 1937 s. 343.339; 1951 c. 261 s. 10; 1955 c. 696 s. 102; Stats. 1955 s. 134.33.

**134.35 History:** 1915 c. 212; Stats. 1915 s. 1636p-10; 1923 c. 291 s. 3; Stats. 1923 s. 175.05; 1955 c. 696 s. 40; Stats. 1955 s. 134.35.

**134.36 History:** 1851 c. 92 s. 19; R. S. 1858 c. 76 s. 19; R. S. 1858 c. 77 s. 2, 5; 1872 c. 54; R. S. 1878 s. 4557; Stats. 1898 s. 4557; 1925 c. 4; Stats. 1925 s. 348.36; 1955 c. 696 s. 252; Stats. 1955 s. 134.36.

**134.37 History:** 1901 c. 259 s. 1; Supl. 1906 s. 4557a; 1925 c. 4; Stats. 1925 s. 348.361; 1955 c. 696 s. 253; Stats. 1955 s. 134.37.

**134.38 History:** 1901 c. 259 s. 2; Supl. 1906 s. 4557b; 1911 c. 663 s. 478; 1925 c. 4; Stats. 1925 s. 348.362; 1955 c. 696 s. 254; Stats. 1955 s. 134.38.

**134.39 History:** 1881 c. 162; Ann. Stats. 1889 s. 4558; Stats. 1898 s. 4558; 1911 c. 319; 1925 c. 4; Stats. 1925 s. 348.37; 1955 c. 696 s. 255; Stats. 1955 s. 134.39.

**134.40 History:** R. S. 1858 c. 77 s. 5; R. S. 1878 s. 4559; 1885 c. 447; Ann. Stats. 1889 s. 4559; Stats. 1898 s. 4559; 1901 c. 284 s. 1; Supl. 1906 s. 4559; 1925 c. 4; Stats. 1925 s. 348.38; 1955 c. 696 s. 256; Stats. 1955 s. 134.40.

A person who connects a private telephone line with the line of a public utility may be prosecuted under 348.38, Stats. 1929, for interfering with telephone lines. 20 Atty. Gen. 126.

**134.41 History:** 1907 c. 669; Stats. 1911 s. 4470h; 1925 c. 4; Stats. 1925 s. 343.724; 1955 c. 696 s. 144; Stats. 1955 s. 134.41.

**134.45 History:** 1935 c. 307; Stats. 1935 s. 348.53; 1955 c. 696 s. 285; Stats. 1955 s. 134.45.

**134.50 History:** 1927 c. 274; Stats. 1927 s. 175.10; 1955 c. 696 s. 42; Stats. 1955 s. 134.50.

**134.52 History:** 1913 c. 385; Stats. 1913 s. 4446e; 1923 c. 108 s. 215; 1923 c. 253; Stats.

1923 s. 4446h; 1925 c. 4, 69; Stats. 1925 s. 343.488; 1955 c. 696 s. 128; Stats. 1955 s. 134.52; 1969 c. 459.

**134.57 History:** 1931 c. 165; Stats. 1931 s. 348.49; 1955 c. 696 s. 283; Stats. 1955 s. 134.57.

**134.58 History:** 1893 c. 163; Stats. 1898 s. 4575b; 1925 c. 4; Stats. 1925 s. 348.472; 1955 c. 696 s. 274; Stats. 1955 s. 134.58.

**134.60 History:** 1931 c. 404; Stats. 1931 s. 348.386 (3); 1935 c. 550 s. 414; 1955 c. 652 s. 60; 1955 c. 696 s. 262; Stats. 1955 s. 134.60; 1969 c. 276 s. 588 (1).

The licensing provision of 348.386 (3), Stats. 1945, is applicable to one who ships or transports evergreen or coniferous trees, branches, boughs, bushes, saplings or shrubs outside the county where they were cut without regard to whether such trees, etc. were cut from his own land or from the land of someone else. 34 Atty. Gen. 433.

**134.65 History:** 1897 c. 329; Stats. 1898 s. 4608f; 1905 c. 82; Supl. 1906 s. 4608f; 1915 c. 139; 1919 c. 385; 1925 c. 4; Stats. 1925 s. 352.50 (2) to (5); 1943 c. 177 s. 19; 1955 c. 575 s. 32; 1955 c. 696 s. 304, 305; Stats. 1955 s. 134.65; 1965 c. 67.

**Revisor's Note, 1965:** The old provision provided for a transfer of licenses if the premises were sold. This draft prohibits any transfer.

Sub. (4) is new. Preservation of records of receipts of cigarettes will aid enforcement of the tax law. [Bill 112-S]

Certain articles manufactured from tobacco and designated "little cigars" are not cigarettes within the meaning of sec. 4608f, Stats. 1898, as amended. *State v. Goodrich*, 133 W 242, 113 NW 388. See also *State v. Sbragia*, 138 W 579, 119 NW 290.

**134.67 History:** 1969 c. 426; Stats. 1969 s. 134.67.

**134.71 History:** 1969 c. 395; Stats. 1969 s. 134.71.

## CHAPTER 137.

### Notaries and Commissioners of Deeds.

**137.01 History:** R. S. 1849 c. 9 s. 57 to 59, 63 to 65; R. S. 1849 c. 131 s. 14; 1856 c. 116 s. 1 to 3; R. S. 1858 c. 12 s. 1 to 3, 7 to 9, 11, 12; R. S. 1858 c. 133 s. 19; 1867 c. 110; 1870 c. 38; 1877 c. 138; R. S. 1878 s. 173 to 175, 177, 179 to 181; 1879 c. 194 s. 2; 1881 c. 20; Ann. Stats. 1889 s. 173 to 175, 177, 179 to 181; Stats. 1898 s. 173 to 175, 177, 179 to 181; 1901 c. 38 s. 1, 2; Supl. 1906 s. 176a, 176b; 1907 c. 435; 1921 c. 13 s. 2 to 7; Stats. 1921 s. 1636-226; 1923 c. 291 s. 3; Stats. 1923 s. 137.01; 1927 c. 359; 1945 c. 426; 1955 c. 171; 1957 c. 610; 1959 c. 343; 1965 c. 44, 365; 1969 c. 154.

A notary public, though required to reside in a particular county, is a state officer and may act as notary throughout the state. *Maxwell v. Hartmann*, 50 W 660, 7 NW 103.

The courts take judicial notice of the appointments of notaries public. *Ernst v. State*, 181 W 155, 193 NW 978.

If a notary public affixes a false certificate to a real estate mortgage the measure of dam-

ages is the value of the mortgaged property. In case the mortgage is counterfeit, the purported makers and the security being non-existent, the false certificate is not the proximate cause of the damage, and there is no liability on the part of the sureties on the notary's official bond. Governor ex rel. Mlekus v. Maryland Cas. Co. 192 W 472, 213 NW 287.

Damages cannot be recovered from a notary public for his negligence unless the damages were proximately caused by such negligence. Governor ex rel. Kadin v. Bristol, 229 W 95, 281 NW 686.

Where the decedent's application for veteran's benefits was certified by a notary public whose certificate, under 137.01, was presumptive evidence of the facts therein stated, it was not necessary to produce the notary or explain the failure to do so, and his certificate and seal made a prima facie case that the decedent's acknowledgment of paternity was signed, as required by 237.06, in the presence of a competent witness, namely, the notary himself. Estate of Schalla, 2 W (2d) 38, 86 NW (2d) 5.

Notaries public may be prosecuted for attaching a false jurat to an affidavit. 5 Atty Gen. 354.

The surety upon the bond of a notary public is liable for the acts of the notary, as such, during his term. Action upon such bond may be begun at any time before the running of the statute of limitations. The surety is not liable for acts committed after the notary has filed his resignation with the secretary of state. 7 Atty. Gen. 55.

An action may be maintained against the sureties on a notary public's bond by a person damaged by his official malfeasance. 9 Atty. Gen. 497.

Words not required by statute on a notarial seal, when added to the device of the seal, form no part of the seal proper, and do not invalidate it if it is not thereby obscured. 11 Atty. Gen. 21.

A woman who was nominated and elected as county officer and who was commissioned as notary public by her maiden surname, who marries subsequently to such nomination and to qualification as notary but prior to such election, is not required to use her husband's surname in her official acts; she may use her husband's surname by qualifying as such officer by that name and by filing a new autograph and impression of a new seal as notary public; a name adopted for official use should be used uniformly during her terms of office. 13 Atty. Gen. 632.

A notary public may be removed by the governor at pleasure. 16 Atty. Gen. 565.

The provision in 137.01 (4) which requires the date of expiration of commission to be shown does not apply to an acknowledgment before a notary public of another state unless the other state requires it. 17 Atty. Gen. 234.

See note to 69.22, citing 32 Atty. Gen. 415.

The governor having discretionary powers of appointment of notaries public under 137.01 may refuse to commission blind persons. The secretary of state's duties relative to notaries public are administrative and strictly controlled by statute. 37 Atty. Gen. 159.

See note to 245.15, citing 55 Atty. Gen. 239.

**137.02 History:** R. S. 1849 c. 9 s. 1, 4; R. S. 1849 c. 61 s. 1 to 3; R. S. 1858 c. 88 s. 1 to 4; R. S. 1878 s. 182, 183; Stats. 1898 s. 182, 183; 1905 c. 201 s. 1; Supl. 1906 s. 182; 1921 c. 13 s. 9; Stats. 1921 s. 1636—227; 1923 c. 291 s. 3; Stats. 1923 s. 137.02.

## CHAPTER 138.

### Money and Rates of Interest.

**138.01 History:** R. S. 1858 c. 62 s. 1; R. S. 1878 s. 1685; Stats. 1898 s. 1685; 1923 c. 291 s. 3; Stats. 1923 s. 115.01; 1967 c. 92 s. 16; Stats. 1967 s. 138.01.

**Editor's Note:** Ch. 115, Stats. 1965, was renumbered 138 by sec. 16, ch. 92, Laws 1965, but no alterations were made in the contents and sequence of sections.

**138.02 History:** R. S. 1858 c. 62 s. 2; R. S. 1878 s. 1686; Stats. 1898 s. 1686; 1923 c. 291 s. 3; Stats. 1923 s. 115.02; 1967 c. 92 s. 16; Stats. 1967 s. 138.02.

**138.03 History:** R. S. 1858 c. 62 s. 3; R. S. 1878 s. 1687; Stats. 1898 s. 1687; 1923 c. 291 s. 3; Stats. 1923 s. 115.03; 1967 c. 92 s. 16; Stats. 1967 s. 138.03.

**138.04 History:** R. S. 1858 c. 61 s. 1; 1859 c. 160 s. 1; 1866 c. 120 s. 1; R. S. 1878 s. 1688; 1893 c. 61; Stats. 1898 s. 1688; 1923 c. 291 s. 3; Stats. 1923 s. 115.04; 1945 c. 84; 1957 c. 610; 1961 c. 431; 1967 c. 92 ss. 16, 22; Stats. 1967 s. 138.04.

"Legal interest," when the term is used in a pleading, may mean the highest legal rate or that rate fixed by law, in the absence of contract. Towslee v. Durkee, 12 W 480.

Upon an agreement to reduce the rate of interest on a note, on condition of prompt payment, interest at the stipulated rate is due, on failure to perform the condition, from the day of the last previous payment. Mowry v. Mosher, 16 W 46.

Where the stipulation was "with interest \* \* \* until the time when the principal sum will be payable," the statutory rate only could be collected after due. Spaulding v. Lord, 19 W 533.

All money judgments, whether of the state or federal courts, bear interest from date. Booth v. Ableman, 20 W 602.

The phrase "shall be expressed in writing" refers only to cases of loans and not to other relations, such as agency, partnership or quasi-partnership, etc. Case v. Fish, 53 W 56, 15 NW 808.

A surety who recovers against a co-surety for contribution is entitled to only the legal rate of interest, regardless of the rate contracted to be paid. Bushnell v. Bushnell, 77 W 435, 46 NW 442.

Where a demand is capable of ascertainment by reference to reasonably certain market values of the various items, and has been duly and adequately presented and its payment demanded before suit commenced, the claimant is entitled to interest from the time of such demand. Laycock v. Parker, 103 W 161, 79 NW 327.

When there is no agreement to pay interest on a loan, and it is repaid on demand, the