

1969 Assembly Bill 365

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CHAPTER 299, LAWS OF 1969

AN ACT to create 280.22 of the statutes, relating to the appointment of receivers for certain properties which have been declared public nuisances.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

280.22 of the statutes is created to read:

280.22 PROPERTY VIOLATING CODES OR HEALTH ORDERS. (1) If real property in counties having a population of 100,000 or more is in violation of those provisions of a municipal building code which concern health or safety or of an order of the county health department, county health commission or municipal health board or officer, the city, village or town in which such property is located may commence an action to declare such property a public nuisance. A tenant of property which is in violation of the municipal building code or of an order of the county health department, county health commission or municipal health board or officer, may file a petition with the clerk of the city, village, or town requesting the governing body to commence an action to declare such property a public nuisance. Upon refusal or failure of such governing body to commence such an action within 20 days after the filing of the petition, the tenant may commence such action directly upon the filing of security for court costs. In any such case, the owner of record of the property and all other persons of record holding or claiming any interest therein shall be made parties defendant and service of process may be had upon them as provided by law. At the time of commencing the action, the municipality or tenant shall file a lis pendens. If the court finds that such a violation exists, it shall adjudge the property a public nuisance.

(2) The property owner or any person of record holding or claiming any interest in such property shall have 60 days after entry of judgment to eliminate the violation. If within 60 days after entry of judgment under sub. (1), the owner of the property presents evidence satisfactory to the court, upon hearing, that the violation has been eliminated, the court shall set aside the judgment. No hearing under this subsection shall be held until notice has been given to the municipality and tenant advising them of their right to appear. If the judgment is not so set aside within 60 days after entry of judgment, the court shall appoint a disinterested person to act as receiver of the property for the purpose of abating the nuisance.

(3) (a) Any receiver so appointed shall collect all rents and profits accruing from the property, pay all costs of management, including all general and special real estate taxes or assessments and interest payments on first mortgages thereon, and make any repairs necessary to meet the standards required by the building code or any such health order. Such receiver may, with the approval of the circuit court, borrow money against and encumber said property as security therefor, in such amounts as are necessary to meet such standards.

(b) At the request of and with the approval of the owner, he may sell the property at a price equal to at least the appraisal value plus the cost of any repairs made under this section for which the selling owner is or will become liable therefor. The receiver shall apply moneys received from the sale of the property to pay all debts due on the property in the order set by law, and shall pay over any balance, with the approval of the court, to the selling owner.

(4) The receiver appointed pursuant to this chapter shall have a lien, for the expenses necessarily incurred in the execution of the order, upon the premises upon or in respect of which the work required by said order has been done or expenses incurred.

(5) The court shall set the fees and bond of the receiver, and may discharge him at such time as the court deems appropriate.

(6) Nothing in this section relieves the owner of any property for which a receiver has been appointed from any civil or criminal responsibility or liability otherwise imposed by law, except that the receiver shall be civilly and criminally responsible and liable for all matters and acts directly under his authority or performed by him or at his discretion.

(7) This section shall not apply to owner-occupied one or 2-family dwellings.

(8) The commencement of an action by a tenant pursuant to this section shall not be just cause for eviction.

Approved December 10, 1969.
