

Legislative rights reserved. SECTION 7. The power to alter, amend or repeal this act is hereby reserved.

Section 8. This act shall take effect and be in force from and after its passage and publication.

Approved May 20, 1903.

No. 523, A.]

[Published May 25, 1903.

CHAPTER 354.

AN ACT, amendatory of section 1210e of the statutes of 1898 relating to the recovery of damages arising from a failure to make a proper assessment of benefits and damages, as provided by law.

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

Stay of proceedings; new assessment; judgment, costs. SECTION 1. Section 1210e of the statutes of 1898 is hereby amended so as to read when so amended as follows: Section 1210e. If in any action at law for the recovery of damages arising from a failure to make a proper assessment of benefits and damages, as provided by law, or failure to observe any provisions of law, or because of any act or defect in any proceeding in which benefits and damages are assessed, and in any action to set aside any special assessment against property for any of the purposes mentioned in section 1210d, or to set aside any special assessment certificate, special improvement bond, tax sale or tax sale certificate based upon such special assessment, the court determines that such assessment is invalid by reason of a defective assessment of benefits and damages, or for any cause, it shall stay all proceedings in such action until a new assessment thereof be had in the manner hereinafter mentioned; thereupon the proper city authorities shall proceed to make a new assessment of benefits and damages against the property of the plaintiff as required by law in the case of such original assessment, and such plaintiff shall have the same right to appeal from such new assessment as he or his grantors would

have had from such original assessment. If the plaintiff desire to contest the validity of such new assessment he shall, within ten days after its confirmation by the common council, file with the clerk of the court and serve upon the defendant's attorney his objections to such new assessment; and thereupon the court shall direct an issue to be made involving the objections aforesaid, try the same summarily and file an order sustaining or overruling the objections of the plaintiff. If by such order such new assessments be held invalid, subsequent assessments may be made in like manner and similar proceedings resorted to to determine the validity of such assessment. When the amount to be assessed against the plaintiff's property has been finally determined by an assessment of benefits and damages, which the court shall hold to be valid, or when an appeal is taken, the court shall make an order, requiring the plaintiff to pay into court, within a time to be fixed by such order, for the benefit of the parties entitled thereto, the amount which, based upon such valid new assessment, he ought to justly pay, or which should be justly assessed against the property in question; upon compliance with said order judgment shall be entered for the plaintiff with costs. If the plaintiff fails to comply with such order the action shall be dismissed with costs."

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved May 20, 1903.