

*operated under both a "Class B" license and a restaurant permit where the principal business conducted therein is that of a restaurant. It shall be presumed, however, where such premises are so operated under both a "Class B" license and a restaurant permit, that the principal business conducted therein is that of the sale of intoxicating liquor, until such presumption is rebutted by competent evidence.*

Approved July 7, 1943.

No. 386, S.]

[Published July 9, 1943.

### CHAPTER 460.

AN ACT to create 318.30 of the statutes, relating to partition of real estate in estates of deceased persons.

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

318.30 of the statutes is created to read:

318.30 PARTITION (1) Whenever any heir or devisee is entitled to maintain an action under chapter 276 to partition any real estate received by descent or devise, he may, at any time prior to the entry of the order of final settlement and distribution in the estate of the person from whom he derives such real estate, petition the court in which such estate is pending for a partition or sale of such real estate and a division of the proceeds among the persons entitled to receive the same. Such petition shall be verified and shall contain a description of the real estate to be partitioned or sold and the names of all persons interested therein (including any person who may have an inchoate dower right therein).

(2) The court shall by order fix the time and place for hearing such petition and notice thereof shall be given as provided by section 324.18, except that all interested persons residing within the state shall be served with notice in the manner a summons is served in circuit court other than by publication.

(3) Upon the hearing, if the court shall find that actual partition of said premises can be made without great prejudice to the owners it shall by order appoint 3 disinterested persons commissioners to make the partition according to the interests of the

parties. In making partition the commissioners shall proceed according to chapter 276 so far as applicable and not inconsistent with this section. Upon confirmation of their report, judgment of partition according thereto shall be made a part of the final order of distribution in said estate.

(4) If the court shall find that actual partition of said premises cannot be made or cannot be made without great prejudice to the owners, it shall order a sale thereof to be made, either at public or private sale, by the administrator or executor of the estate who shall give such additional bond as the court shall order. Notice of public sale shall be given as provided for the sale of real estate under chapter 316.

(5) Report of sale shall be filed and an order entered fixing the time and place for hearing on the same and notice thereof shall be given by mail to all persons interested at least 5 days before the hearing.

(6) Upon confirmation of such sale the administrator or executor by order shall be authorized and directed to make a conveyance of said property to the purchaser.

(7) All costs of the proceeding and sale including attorney fees, administrator or executor fees, cost of serving and publishing notices, cost of abstract and in case the court authorizes the employment of a real estate broker a reasonable fee for him, shall be allowed by the court and paid out of the proceeds of the sale and the balance thereof shall be distributed in the order of final settlement in said estate to the persons entitled thereto.

Approved July 7, 1943.

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No. 394, S.]

[Published July 9, 1943.

### CHAPTER 461.

AN ACT to amend 221.33 (1) of the statutes, relating to the pledging of bank assets.

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

221.33 (1) of the statutes is amended to read:

221.33 (1) No bank or bank officer shall give preference to any depositor or creditor by pledging the assets of the bank as collateral security; provided, that a state bank may deposit with the