

No. 172, A.]

[Published April 25, 1951.

CHAPTER 85.

AN ACT to repeal and recreate 267.11 of the statutes, relating to payments by garnishee to clerk.

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

267.11 of the statutes is repealed and recreated to read:

267.11 (1) In case the answer shows a debt due to the defendant, the garnishee may pay the same or sufficient thereof to cover the claim of the plaintiff, as stated in the garnishee complaint, with interest and costs, to the clerk of the court; provided that if prior to so doing, the plaintiff in writing requests the garnishee to pay such sum to such clerk, the garnishee shall, within 5 days after receipt of such request, pay the said sum to the said clerk. The clerk shall give his receipt therefor to the garnishee. Such payment shall discharge the garnishee of all liability for the amount so paid.

(2) In case the debt disclosed is not due, the provisions of this section shall apply when it becomes due, with like effect.

(3) In case the garnishee fails to pay such sum within 5 days after receipt of such request, the plaintiff shall be entitled to judgment against the garnishee for the amount disclosed, when due, either before or after judgment in the original action and may collect the same by execution; but in case no judgment has been rendered in the principal action the execution against the garnishee shall require the sheriff to pay the money collected into court to abide the event of the principal action. Moneys paid into court shall be paid to the plaintiff when final judgment shall be rendered in his favor, and to the extent of satisfying the same, upon order of the court, and any balance to the party entitled thereto.

(4) In case no such request is made and the garnishee does not elect to pay such sum to the clerk, the garnishee shall hold the same until the order of the court thereon.

(5) In case judgment shall be against the plaintiff such moneys shall be paid to the defendant. If the answer disclose other property in the possession or under the control of the garnishee the officer having a writ of attachment or an execution may levy upon the interest of the defendant in the same; otherwise the garnishee shall hold the same until the order of the court thereon.

Approved April 20, 1951.