

sioner of banking and upon at least twenty days' notice to the opposing party, be determined by the circuit court of the county wherein such bank or banking corporation is located. If the commissioner doubts the justice and validity of any claim, he may reject the same, and serve notice of such rejection upon the claimant either by mail or personally. An affidavit of the service of such notice, which shall be prima facie evidence thereof, shall be filed with the commissioner. An action upon a claim so rejected must be brought within six months after such service. Claims presented after the expiration of the time fixed in the notice to creditors shall be entitled to share in the distribution only to the extent of the assets in the hands of the commissioner equitably applicable thereto.

SECTION 2. This act shall take effect upon passage and publication.

Approved July 25, 1933.

No. 957, A.]

[Published July 29, 1933.]

CHAPTER 478.

AN ACT to amend sections 1 and 3 and to create section 9a of chapter 335 of the laws of 1907 as amended authorizing the Wisconsin Valley Improvement company to construct, acquire, and maintain a system of water reservoirs located in or along the Wisconsin river at points north of township thirty-seven north, and in the tributaries of the Wisconsin river north of the south line of township thirty-four north, and in the Big Eau Pleine river and Little Eau Pleine river valleys and to create, construct, acquire, maintain and operate waterways in or across sections twenty-four, twenty-five, thirty-five and thirty-six, township twenty-seven north, of range six east, sections nineteen, twenty and thirty, township twenty-seven north, of range seven east, sections one, two, eleven and twelve, township twenty-six north of range six east and sections thirteen, fourteen, twenty-three and twenty-four, township twenty-six north of range five east, for the purpose of producing a uniform flow of water in the Wisconsin river and in said tributaries and thereby improve the navigation and other uses of said streams and diminishing the injury to property, both public and private.

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

SECTION 1. Section 1 of chapter 335 of the laws of 1907 (as amended by chapter 361, laws of 1909) is amended to read: (Laws of 1907, chapter 335) Section 1. Subject to the supervision and control hereinafter provided for, authority is hereby granted unto *the* Wisconsin Valley Improvement company, in order to promote the purposes hereinafter set forth, to create, construct, acquire, maintain and operate a system of water reservoirs located in or along the Wisconsin river at points north of township * * * *thirty-seven (37) north, * * ** and in or along any or all of the direct or indirect tributaries of the Wisconsin river that discharge into said river, at any point north of the south line of township thirty-four (34) north, *and in the Big Eau Pleine river and Little Eau Pleine river valleys and to create, construct, acquire, maintain and operate waterways for the purpose of diverting flood waters from the Wisconsin river to the reservoirs on the Little Eau Pleine and the Big Eau Pleine rivers, in or across sections twenty-four, twenty-five, thirty-five and thirty-six, township twenty-seven north of range six east, sections nineteen, twenty and thirty, township twenty-seven north of range seven east, sections one, two, eleven and twelve of township twenty-six north of range six east and sections thirteen, fourteen, twenty-three and twenty-four, township twenty-six north of range five east, in this state, excepting that part of the Eagle river and lakes lying between the point where Eagle river enters Cranberry lake, in section thirty-one (31) township forty (40) north, of range eleven (11) east, and the Wisconsin river, and for that purpose said grantee may construct, acquire and maintain all such dams, booms, sluiceways, locks and other structures in, along or across any and all of said tributaries, not above excepted, and the said portion of the Wisconsin river, as may be necessary or reasonably convenient to accomplish the purposes of this grant, and may clean out, straighten, deepen or otherwise improve any of said tributaries, in order to improve the navigation thereof and of said Wisconsin river and prevent injury to property bordering on said waters. All franchises, other than corporate franchises, and all riparian rights and rights of flowage, either perfected or inchoate, acquired by purchase or grant, by any person or by any corporation organized to improve the navigation for any purpose, of either of said Wisconsin or Tom-*

ahawk rivers or any of their tributaries, not above excepted, shall be and hereby are made assignable to the Wisconsin Valley Improvement company, and shall be of the same force and effect in the possession and ownership of such assignee to accomplish the purposes of this act as the same may be before assignment to accomplish their original purpose. But this act shall not amend or repeal chapter 532 of the laws of 1887, nor chapter 252 of the laws of 1889, nor chapter 483 of the laws of 1905, nor chapter 26 of the laws of 1903, nor any amendment thereof, nor abridge the rights, powers or duties conferred by said acts, nor authorize the taking by the Wisconsin Valley Improvement company, by the power of eminent domain, of any property used under or pursuant to said acts, nor any other property devoted to public uses; except that the dam authorized by and now maintained under said chapter 532 of the laws of 1887 may be raised, or a new dam or dams which are hereby authorized, may be constructed and maintained, in and across the Eagle river between Long and Cranberry lakes at any convenient point or points in townships thirty-nine (39) and forty (40) north, of range eleven (11) east, so as to raise and hold the water in Long lake aforesaid six inches, and no more, higher than the high water mark to which the water has been customarily raised and held by means of said present dam; provided, however, that between May 1st and the succeeding November 1st of each year the waters shall not be drawn down in Long lake more than eighteen (18) inches below said present high water mark as established by said dam now constructed and maintained, and provided further that said Wisconsin Valley Improvement company shall prior to June 1st, 1909, by such dam or dams, and by locks, marine slides or other safe and convenient means, make and thereafter maintain the Eagle river between said Long and Cranberry lakes navigable for the safe and convenient passage of boats of all kinds and sizes up to and including boats fifty feet in length and of twelve foot beam and drawing five feet of water. And provided further that in case the construction, maintenance or operation of such new dam or dams shall require the removal of the dam now maintained under said chapter 532 of the laws of 1887, or shall impair or destroy the use of said dam, its appurtenances, superstructure, or approaches as a bridge across said river, the said Wisconsin Valley Improvement company shall either provide a suitable and sufficient bridge, with suitable and sufficient ap-

proaches, for safe and convenient passage of teams and footmen over and across such new dam or in case more than one dam is built, over the dam nearest to the dam now maintained under said chapter 532 of the laws of 1887, or it shall at its election provide a suitable and sufficient new bridge and approaches across said river at such point as will conveniently connect with the highway crossing said river. Said Wisconsin Valley Improvement company shall have the right to charge and collect reasonable and uniform tolls for the passage of boats through and over said works proportioned to the size of the boat, not, however, exceeding in the aggregate the actual cost of the care, maintenance and operation of said locks, marine slides or other means of passage; *provided, however, that there shall be constructed on the Little Eau Pleine river but one dam in said river which is to be located between the right of way of the Chicago, Milwaukee & St. Paul Railway company in section six (6), township twenty-five (25) north, of range seven (7) east, and the public highway running north and south between sections thirty-four (34) and thirty-five (35), township twenty-six north, of range six (6) east, and that there is to be constructed but one dam on the Big Eau Pleine river which is to be located between public highway running north and south between sections fifteen (15) and sixteen (16), township twenty-six (26) north, of range six (6) east, and the mouth of said river, and the reservoirs created by dams in such rivers shall not flood lands west of the east line of range three (3) east, south of section eighteen (18), township twenty-six (26) north, of range four (4) east, and not west of the west section line of sections two (2), eleven (11) and fourteen (14), township twenty-six (26) north, of range four (4) east, and not west of section twenty-two (22), twenty-seven (27) and thirty-four (34), township twenty-seven (27) north of range four (4) east, and not north of the north line of sections twenty-two (22), twenty-three (23) and twenty-four (24), township twenty-seven (27) north, of range (4) east. The spillway and flood gates of either of said dams shall not exceed elevation eleven hundred forty-five feet and at no time shall the waters in said reservoirs be drawn to an elevation less than eleven hundred fifteen feet except in case repairs are necessary or for reasons beyond the control of the company. The above elevations refer to United States Geological Survey bench mark located*

at the public library in the city of Mosinee, Wisconsin, the elevation of which is 1,159.491 feet above mean sea level.

SECTION 2. Section 3 of chapter 335 of the laws of 1907 is amended to read: (Laws of 1907, chapter 335) Section 3. For the purpose of creating, acquiring, maintaining and operating the dams and other works, authorized as aforesaid, and subject to the supervision and control hereinafter provided for, the Wisconsin Valley Improvement company excepting as herein otherwise excepted or provided, is hereby authorized to take and use any lands, riparian or other rights, that may be required for the creation, construction and maintenance of any and all reservoirs, dams and other structures and improvements that may be necessary to accomplish the purposes of this act, and whenever it cannot agree with the owner or owners of any such required lands, or other property, for the purchase thereof and for the compensation to be paid therefor, the said Wisconsin Valley Improvement company may acquire title to any such lands and other property above specified, or the right to use same for said purposes, by the exercise of the power of eminent domain under and in pursuance of * * * *chapter 32 Wisconsin statutes*, but the said company shall have no right to take or enter into possession or overflow any of the property * * * *or condemn the same and no permit shall be granted by the public service commission for the construction of any of said reservoirs until the Wisconsin Valley Improvement company shall have purchased eighty-five per cent of the farm and agricultural lands situated in the proposed reservoir area and farms and agricultural lands immediately adjacent to the waters edge at high water mark in each town in which such reservoir area is located. In determining such percentage the real estate assessment rolls for the year 1933 of the towns within which such proposed reservoir area is located shall be used as the basis and such purchases must be made within two years from the effective date of this act. In arriving at the value of any lands purchased or condemned such value shall be deemed not less than the average value during the preceding ten years. Any land owner whose lands, or access thereto, are injured by being divided, surrounded by water, flooded or waterlogged, or whose natural drainage is destroyed or injured by any dam or other construction built or operated by the Wisconsin Valley Improvement company, its successors or assigns, shall not be confined to the remedy by condemnation herein provided, but may*

bring action for damages and have injunction, if the facts warrant, in the circuit court or other court of the county in which his damaged lands or some part thereof is located, and shall have the right to trial by jury.

* * * In case any lands of the state of Wisconsin be required to be taken or overflowed for any of the purposes of this act the * * * *public service* commission of Wisconsin shall appraise and fix the damage to be caused by such taking or overflow, and the amount thereof shall be paid into the state treasury by the Wisconsin Valley Improvement company before the taking or overflow shall occur.

SECTION 3. There is added to chapter 335 of the laws of 1907, as amended by chapter 514 of the laws of 1915 a new section to read: (Chapter 335, laws of 1907) Section 9a. Whenever the term "Railroad Commission of Wisconsin" is used in this chapter it is understood to mean the "Public Service Commission of Wisconsin".

SECTION 4. This act shall take effect upon passage and publication.

Approved July 25, 1933.

No. 966, A.]

[Published July 29, 1933.

CHAPTER 479.

AN ACT to create subsection (9m) of section 66.06 of the statutes, relating to the financing of necessary public works projects by municipalities under the National Industrial Recovery Act. *The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. A new subsection is added to section 66.06 of the statutes to read: (66.06) (9m) For the purpose of financing necessary public works projects under the act of Congress entitled "An act to encourage national industrial recovery, to foster fair competition and to provide for the construction of certain useful public works", approved June 17, 1933, usually referred to as the National Industrial Recovery Act, garbage incinerators, toll bridges, swimming pools, tennis courts, parks, playgrounds, golf links, bathing beaches, bath houses, street lighting, city halls, court houses, jails, schools, hospitals, and any and all other necessary public works projects undertaken pursuant to this federal act by any town, village, city, county or other municipality shall