

No. 647, A.]

[Published July 9, 1943.]

CHAPTER 475.

AN ACT to amend 289.53 (3) of the statutes, relating to liens for material furnished and work performed in making public improvements against money, bonds or warrants due contractors.

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

289.53 (3) of the statutes is amended to read:

289.53 (3) In any case where the contractor shall dispute the claim of the laborers or materialmen the right to a lien and to the moneys in the hands of the officer shall be determined by equitable action *brought by either the lien claimant or the contractor* in the circuit court of the proper county; provided, that if such action * * * is not brought within 3 months from the time of serving the notice or notices required by subsection (1) * * *, and notice of bringing such action filed with the officers with whom the claim is filed, * * * such rights shall be barred; and provided further that in the case of highway or bridge construction or maintenance contracts in connection with which the total of the claims of persons, firms or corporations making claim to all or any part of the balance of money due the contractor from the state of Wisconsin is greater than such balance due the contractor, the rights of such persons, firms or corporations shall be determined by an equitable action *brought by either the lien claimant or the contractor* in the circuit court for the proper county, in which action the state may be made a party defendant, although no costs shall be taxed against the state. Such actions shall be commenced only when the state highway commission shall have been given notice of such claim or claims prior to final payment in accordance with the terms of the contract, and all persons, firms or corporations making claims to the state highway commission to all or any part of such money shall be made parties in such action. In the case of highway or bridge construction or maintenance contracts, any action commenced in accordance with any part of this section by a person, firm or corporation making claim to any money due the contractor from the state of Wisconsin shall be commenced within 3 months after acceptance of the work by the state highway commission except as hereinafter provided; and within 10 days after the filing of

a certified copy or transcript of judgment in any action so commenced with the state highway commission, the money shall be paid by said commission to the clerk of said court to be distributed in accordance with the judgment. After payment of the money to the clerk of the court, any and all liability on the part of the state to any person, firm or corporation making claim to all or any part of such money shall cease. In the event no action is commenced within the time hereinbefore provided, the state highway commission may determine who is entitled to said money and notify all claimants and the contractor in writing as to its determination in said matter. Unless an action is then commenced by a dissatisfied claimant or claimants or by the contractor, in the manner hereinbefore provided, within 20 days after mailing of said notice, the state highway commission may pay out the money in accordance with its decision in the matter, and the liability of the state to any person, firm or corporation making claim to all or any part of such money shall thereupon cease. As to contracts completed and accepted prior to the enactment of this subsection, the 3 months' period for which provision is herein made shall commence on the effective date of this subsection. As to judgments of which notice of entry has been made to the state highway commission as herein provided prior to the enactment of this subsection, the 10-day period for which provision is herein made shall commence on the effective date of this subsection. This subsection shall supersede any prior legislation inconsistent herewith.

Approved July 7, 1943.

No. 648, A.]

[Published July 9, 1943.]

CHAPTER 476.

AN ACT to amend 49.26 (4) of the statutes, relating to old-age assistance liens on real property and claims against deceased beneficiaries having priority.

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

49.26 (4) of the statutes is amended to read:

49.26 (4) All old-age assistance paid to any beneficiary under sections 49.20 to 49.51, including medical and funeral expense