

## CHAPTER 265.

[Published March 12, 1875.]

AN ACT to amend section 1, of chapter 20, general laws of 1869, entitled an act to amend chapter 28, of the general laws of 1860, entitled, an act to enable foreign executors and administrators to sue in the state of Wisconsin. And to amend section 2, of chapter 28, of the general laws of 1860.

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

Amended.

Non-resident executors or administrators of estate of non-resident, or non-resident guardian of non-resident person when no administrator or guardian appointed in this state, may bring actions, prosecute claims, etc.

SECTION 1. Section one, of said chapter twenty (20), of the general laws of Wisconsin for the year A. D. 1869, is hereby amended to be and read as follows:

SECTION 1. When an executor or administrator shall be appointed in any other state, territory or foreign country on the estate of any person, not a resident of this state at the time of his or her decease, or a guardian shall be appointed in such other state, territory or country, for any person a resident thereof, at the time of such appointment, and no executor, administrator or guardian shall have been appointed in this state on such estate, or for such person, such foreign executor, administrator or guardian, upon filing a certified or authenticated copy of his or her appointment, or the original appointment in the county court of any county in the state, shall be empowered or entitled to commence and prosecute all necessary actions, in any of the courts of this state to recover or collect any claim or demand due to such estate or ward, from any person, company or corporation in this state, for the recovery of any real or personal property or for the conversion thereof, belonging to such estate or ward, to foreclose any mortgage or bond, land contract which may belong to such estate or ward, in which said estate or ward may have an interest, upon or in any real estate in the state of Wisconsin, and to bring and prosecute such action or actions in any of the courts of this state as may be necessary to assert and enforce the claims or rights of such estate or ward to any property or interest therein, in the state of Wisconsin, or to subject any property in this state to the payment of any claim or debts due to such estate or ward which is liable in payment of the same, and shall be entitled and authorized to bring and prosecute to judgment and enforcement in any of the courts of this state any action or

actions, as he or she would be entitled to bring if appointed such executor, administrator or guardian by any court in this state; *provided*, that in any such action such executor, administrator or guardian shall be required to give security for costs, the same as required by law in case of a non-resident plaintiff.

Provided.

SECTION 2. Section two, of said chapter twenty-eight (28), of the general laws of Wisconsin for the year A. D. 1860, is hereby amended to be and read as follows: Section two. Such foreign executor, administrator or guardian shall allege in the complaint the filing of such certificate or authenticated copy, stating the county by name wherein filed, and such allegation shall be taken to be true; and no proof of such allegation shall be required unless the defendant, by affidavit, or by an allegation in his answer verified, deny positively such allegation. The denial must be positive; if the denial be by affidavit, it must be served upon the opposite party before the time to answer elapses.

Amended.

Allegation of filing of certificate to be made in complaint and to be taken without proof unless denied.

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

Approved March 5, 1875.

## CHAPTER 266.

[Published March 19, 1875.]

AN ACT to amend chapter 157, of the general laws of 1872, entitled "an act to revive and restore section six (6), of chapter 61, of the revised statutes."

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

SECTION 1. That section one, of chapter one hundred and fifty-seven, of the general laws of 1872, be amended by adding to said section one (1), the following words: *provided*, that the said act hereby revived shall not apply or have any force or application to any action now pending in any court of this state wherein an issue of fact had been joined before the passage of said chapter one hundred and fifty-seven of the general laws of 1872, so that said section as amended will read as follows: That section six, of chapter sixty-one, of the revised statutes be, and the

Amended.

Act revived not to apply to actions pending