

No. 249, S.]

[Published April 29, 1897.]

CHAPTER 335.

AN ACT to facilitate the giving of bonds required or permitted by law and to repeal chapter 196, of the laws of 1893, and chapter 219, of the laws of 1895.

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

Surety com-
panies' bonds
declared valid.

SECTION 1. That whenever any bond, undertaking, recognizance or other obligation is by law, or the charter, ordinances, rules or regulations of any municipality, board, body, organization, court, judge or public officer, required or permitted to be made, given, tendered or filed with surety or sureties, and whenever the performance of any act, duty or obligation, or the refraining from any act, is required or permitted to be guaranteed, such bond, undertaking, obligation, recognizance or guaranty may be executed by a surety company qualified as hereinafter provided; and such execution by such company of such bond, undertaking, obligation, recognizance or guaranty shall be, in all respects, a full and complete compliance, with every requirement of every law, charter, ordinance, rule or regulation, requiring or permitting such bond, undertaking or recognizance or other obligation; and all courts, judges, heads of departments, boards, bodies, municipalities and public officers of every character, shall accept and treat such bond, undertaking, obligation, recognizance or guaranty, when so executed by such company as conforming to and fully and completely complying with every requirement of every such law, charter, ordinance, rule or regulation.

SECTION 2. That such company to be qualified to so act as surety or guarantor, must com-

ply with the requirements of every law of this state applicable to such companies doing business therein; must be authorized under the laws of the state where incorporated, and under its charter, to become surety upon such bond, undertaking, obligation, recognizance or guaranty; must have a fully paid-up and safely invested and unimpaired capital of at least two hundred and fifty thousand dollars; must have good, available assets exceeding its outstanding debts and liabilities, which liabilities, for the purposes of this act, shall be taken to be its capital stock, and a premium reserve at the rate of fifty per centum of the current annual premiums on each outstanding bond, undertaking, recognizance and obligation of like character in force; must file with the insurance commissioner a certified copy of its certificate of incorporation; a written application to be authorized to do business under this act, and also with such application, and in each year thereafter, a statement verified under oath, made up to December thirty-first preceding, stating the amount of its paid-up cash capital, particularizing each item of investment, the amount of premiums upon existing bonds, undertakings, recognizances and obligations of like character in force, upon which it is surety, the amount of liability for unearned portion thereof estimated at the rate of fifty per centum of the current annual premiums on each such bond, undertaking, recognizance and obligation in force, stating also the amount of its outstanding obligations of all kinds, and such further facts as may be by the laws of this state required of such company, or as the insurance commissioner may reasonably require in transacting business therein; the insurance commissioner may require a like statement at any other time in his discretion, and if such company be organized under the laws of any other state than this state, it must have on deposit with a state officer of one of the states of the United States, not less than one hundred

Qualifications
of surety com-
panies defined.

thousand dollars in good securities, deposited with and held by such officer for the benefit of the holders of its obligations; must also appoint an attorney in this state upon whom process of law can be served, which appointment shall continue until revoked or another attorney be substituted, and must file with the insurance commissioner evidence of such appointment, which shall state the residence and office of such attorney.

Certificate of qualification to be issued by the insurance commissioner.

SECTION 3. That the insurance commissioner upon due proof by any such company of its possessing the qualifications in this act specified, shall issue to such company a certificate setting forth that such company has qualified and is authorized for the ensuing year, unless its certificate be sooner revoked, to do business under this act, which said certificate shall be evidence of such qualification of such company, and of its authorization to become and be accepted as sole surety on all bonds, undertakings, recognizances and obligations, required or permitted by law or the charter, ordinances, rules or regulations of any municipality, board, body, organization or public officer, and the solvency and credit of such company for all purposes and its sufficiency as such surety.

Terms upon which a surety may be released.

SECTION 4. That from and after the passage of this act, the surety, or the representative of any surety, upon the bond of any trustee, committee, guardian, assignee, receiver, executors or administrator, or other fiduciary, may apply, by petition to the court wherein said bond is directed to be filed or which may have jurisdiction of such trustee, committee, guardian, assignee, receiver, executor or administrator, praying to be relieved from further liability as such surety for the acts or omissions of the trustee, committee, guardian, assignee, receiver, executor or administrator, or other fiduciary which may occur after the date of the order relieving such surety, to be granted as herein provided for, and to require such trustee, commit-

tee, guardian, assignee, receiver, executor or administrator, or other fiduciary, to show cause why he should not account and said surety be relieved from such further liability as aforesaid and said principal be required to give a new bond; and thereupon, upon filing of said petition, said court shall issue an order returnable at such time and place and to be served in such manner as said court shall direct, and may restrain such trustee, committee, guardian, assignee, receiver, executor or administrator, or other fiduciary, in the meantime, from acting, except in such manner as it may direct to preserve the trust estate; and upon the return of such order to show cause, if the principal in the bond, account in due form of law and file a new bond duly approved, then said court must make an order releasing said surety, filing the petition as aforesaid, from liability upon the bond for any subsequent act or default of the principal; and in default of said principal thus accounting and filing such new bond, said court shall make an order directing such trustee, committee, guardian, assignee, receiver, executor or administrator, or fiduciary, to account in due form of law within thirty days; and if the trust fund or estate shall be found or made good and paid over or properly secured, such surety shall be discharged from any and all further liability as such, upon the principal filing a new bond duly approved for the subsequent acts or omissions of the trustee, committee, guardian, assignee, receiver, executor or administrator, or fiduciary, after the date of such surety being so relieved or discharged and discharging such trustee, committee, guardian, assignee, receiver, executor or administrator, or fiduciary.

SECTION 5. That it shall be lawful for any receiver, assignee, guardian, trustee, committee, executor, administrator, curator or other fiduciary, or party, of whom a bond, undertaking or other obligation is required, to agree and ap-

Care and safe
keeping of
property may
be arranged
for.

range with his surety or sureties for the deposit for safe keeping of any or all money, assets and other property for which he is or may be responsible, with a bank, savings bank, safe deposit or trust company, authorized by law to do business as such, and in such manner as to prevent the withdrawal or alienation of such money, assets or other property, or any part thereof, without the written consent of such surety or sureties or an order of the court or a judge thereof, made on such notice to such surety or sureties as the court or judge may direct.

Lawful sum paid a surety company may be included in expense account.

SECTION 6. That any receiver, assignee, guardian, trustee, committee, executor, administrator or curator, or other fiduciary, required by law or the order of any court or judge, to give a bond or other obligation as such, may include as a part of the lawful expense of executing his trust, such reasonable sum paid a company authorized under the laws of this state so to do, for becoming his surety on such bond, as may be allowed by the court in which, or a judge before whom, he is required to account, not exceeding one per centum per annum on the amount of such bond; and in all actions and proceedings, a party entitled to recover disbursements therein, shall be allowed and may tax and recover the actual sum paid such a company for executing any bond, recognizance, undertaking, stipulation or other obligation therein, not exceeding, however, one per centum on the amount of the liability upon such bond, recognizance, undertaking, stipulation or other obligation, during each year the same has been in force.

Acts repealed.

SECTION 7. Section 196, of the laws of 1893, entitled, "An act to facilitate the giving of bonds required or permitted by law," and to repeal chapter 449, of the laws of 1885, entitled, "An act to facilitate the giving of bonds required or permitted by law," and chapter 219, of the laws of 1895, entitled, "An act to allow assignees,

guardians, committees, trustees, executors, administrators, and other fiduciaries to include in the lawful expense of executing their trusts such reasonable sum paid a company authorized under the laws of this state so to do, for becoming their surety as may be by court allowed, not exceeding two per centum per annum of the amount of such obligation by such company executed," is hereby repealed.

SECTION 8. All acts and parts of acts inconsistent with this act, are hereby repealed. Further repeal.

SECTION 9. This act shall take effect and be in force from and after its passage and publication.

Approved April 24, 1897.

No. 154, S.]

[Published April 29, 1897.

CHAPTER 336.

AN ACT to amend section 5, of chapter 305, laws of 1887, as amended by section 5, chapter 296, laws of 1891, and chapter 12, of laws of 1895, relating to the jurisdiction of local insurance companies.

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

SECTION 1. Section 1, of said act is hereby amended by inserting the word "towns" in the 13th line of said section, immediately preceding the words "villages and cities," so that said section when so amended shall read as follows: Section 1. No such corporation shall insure any property out of the city or village in which said corporation is located, except that by a

\$2,000 to be the extent of any one risk.