

1983 Assembly Bill 128

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1983 Wisconsin Act 108

AN ACT to renumber 66.05 (8) (a) and (b); and to create 66.05 (8) (a), (b) 2 and 3, (bg) and (bm) of the statutes, relating to rehabilitation of defective buildings in cities and villages.

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

SECTION 1. 66.05 (8) (a) and (b) of the statutes are renumbered 66.05 (8) (am) and (b) 1 and amended to read:

66.05 (8) (am) Whenever an owner of any building, ~~dwelling or structure~~ in any city or village permits the same, either as a result of vandalism or for any other reason, to deteriorate or become dilapidated or blighted to the extent where windows, doors or other openings or plumbing or heating fixtures or facilities or appurtenances of such building, ~~dwelling or structure~~ are either deteriorated, damaged, destroyed or removed so that such building, ~~dwelling or structure~~ offends the aesthetic character of the immediate neighborhood or produces blight or deterioration by reason of such condition, the building inspector or other designated officer of such city or village shall issue a written notice respecting the existence of such defect; such written notice shall be served on the owner of such building, ~~dwelling or structure~~ as set forth in sub. (1) (a) and shall direct the owner of such building, ~~dwelling or structure~~ to promptly remedy the defect within 30 days following the service of such notice.

(b) 1. If ~~such an~~ owner fails to remedy or improve the defect in accordance with the written notice furnished by the building inspector or other designated officer ~~as set forth in par. (a), then after the expiration of~~ under par. (am) within the 30-day period specified in the written notice ~~such~~, the building inspector or other designated officer shall apply to the circuit court of the county in which ~~such the~~ building, ~~dwelling or structure~~ is located for an order determining that ~~such the~~ building, ~~dwelling or structure~~ constitutes a public nuisance. As a part of the application for such order from the circuit court ~~such the~~ building inspector or other designated officer shall file a verified petition in which ~~he or she shall be recited~~ recites the giving of such written notice, the defect or defects in such building, ~~dwelling or structure~~, the owner's failure to comply with the notice and such other pertinent facts as may be related thereto. A copy of the petition shall be served upon the owner ~~as provided in~~ of record or the owner's agent if an agent is in charge of the building and upon the holder of any encumbrance of record under sub. (1) (a) and the owner shall have 20 days following service upon ~~him~~ the owner in which to reply to such petition. Upon application by the building inspector or other designated officer the circuit court shall ~~promptly~~ set promptly the petition for hearing. Testimony shall be taken by the circuit court with respect to the allegations of the petition and denials contained in the verified answer. If the circuit court after hearing the evidence with respect to the petition and the answer ~~shall determine~~ determines that the building, ~~dwelling or structure~~ constitutes a public nuisance, the court shall ~~promptly~~ issue promptly an order directing the owner of ~~such the~~ building, ~~dwelling or structure~~ to remedy the defect and to make such repairs and alterations as may be required. The court shall ~~further~~ set a reasonable period of time in which ~~such the~~ defect shall be remedied and the repairs or alterations completed. A copy of ~~such the~~ order shall be served upon the owner as provided in sub. (1) (a). The order of the circuit court shall state in the alternative that if the order of the court is not complied with within the time fixed by the court, ~~then such the~~ court will appoint a receiver or authorize the building inspector or other designated officer may to proceed to raze the building, dwelling or structure. ~~All costs or disbursements with respect to such razing shall be as provided for in sub. (2) (a) under par. (bg).~~

SECTION 2. 66.05 (8) (a), (b) 2 and 3, (bg) and (bm) of the statutes are created to read:

66.05 (8) (a) In this subsection "building" means a building, dwelling or structure.

(b) 2. In an action under this subsection, the circuit court before which the action is commenced shall exercise jurisdiction in rem or quasi rem over the property which is the subject of the action. The owner of record of the property, if known, and all other persons of record holding or claiming any interest in the property shall be made parties defendant and service of process may be had upon them.

3. It shall not be a defense to an action under this subsection that the owner of record of the property is a different person, partnership or corporate entity than the owner of record of the property on the date the action was commenced or thereafter if a lis pendens was filed before the change of ownership.

(bg) If the order of the circuit court under par. (b) is not complied with within the time fixed by the court under par. (b), the court shall authorize the building inspector or other designated officer to raze the building or shall appoint a disinterested person to act as receiver of the property to do either of the following within a reasonable period of time set by the court:

1. Remedy the defect and make any repairs and alterations necessary to meet the standards required by the building code or any health order. A receiver appointed under this subdivision, with the approval of the circuit court, may borrow money against and encumber the property held in receivership as security in any amount necessary to remedy the defect and make the repairs and alterations. For the expenses incurred to remedy the defect and make the repairs and alterations necessary under this subdivision, the receiver shall have a lien upon the property. At the request of and with the approval of the owner, the receiver may sell the property at a price equal to at least the appraisal value of the property plus the cost of any repairs made under this subdivision. The selling owner shall be liable for such costs.

2. Secure and sell the building to a buyer who demonstrates to the circuit court an ability and intent to rehabilitate the building and to cause the building to be reoccupied in a legal manner.

(bm) 1. Any receiver appointed under par. (bg) shall collect all rents and profits accruing from the property held in receivership and pay all costs of management, including all general and special real estate taxes or assessments and interest payments on first mortgages on the property. A receiver under par. (bg) shall apply moneys received from sale of property held in receivership to pay all debts due on the property in the order set by law and shall pay any balance to the selling owner if the circuit court approves.

2. The circuit court shall set the fees and bond of a receiver appointed under par. (bg) and may discharge the receiver as the court deems appropriate.

3. Nothing in this subsection relieves the owner of any property for which a receiver has been appointed under par. (bg) from any civil or criminal responsibility or liability except that the receiver shall have civil and criminal responsibility and liability for all matters and acts directly under the receiver's authority or performed at his or her discretion.

4. If a defect is not remedied and repairs and alterations are not made within the time limit set by the circuit court under par. (bg), the court shall order that the building inspector or other designated officer proceed to raze the building.

5. All costs and disbursements with respect to razing under this subsection shall be as provided for under sub. (2) (a).

SECTION 3. Cross-reference changes. In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
66.05 (8) (d)	par. (a)	par. (am)
