

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

Approved March 7, 1876.

CHAPTER 152.

[Published March 18, 1876.]

AN ACT relating to actions for the foreclosure of mortgages.

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

Plaintiff may amend summons, etc.

SECTION 1. The plaintiff in any action for the foreclosure of a mortgage, heretofore or hereafter commenced, may amend the summons, complaint and proceedings in said action, after judgment and before sale, by making any person a defendant in said action who is a necessary or proper party to the same, and who shall not have been made a party before judgment, in the manner hereinafter prescribed.

Plaintiff to make affidavit.

SECTION 2. The plaintiff desiring such amendment, or his attorney, shall make an affidavit stating that the person sought to be made a defendant is a necessary or proper party to said action; that such person has, or claims to have, as the affiant believes, some interest in or claim upon the mortgaged premises, which interest or claim, if any, is subject to or subsequent to the mortgage in the complaint described. Upon such affidavit the court in which such action is brought, or a judge thereof, county judge or court commissioner of the proper county, shall, on motion of the plaintiff, make an order that the person named in such affidavit be made a defendant in said action and that the summons and complaint be amended accordingly, and such order shall direct that the summons and complaint, as amended, be served on such defendant, together with a copy of such order, and that proceedings on such judgment be stayed until the further order of the court, and that unless the said defendant so brought in, answer said complaint as required by the summons, the judgment in said action be amended so as to bar such defendant in the same manner and with the same effect as if he had originally been made defendant therein and failed to answer the complaint.

Court shall make order.

SECTION 3. If any such defendant, so brought in, is a non-resident of this state, and it so appear by affidavit, the order shall further direct that service of the amended summons be made on such absent defendant as now provided by law. If any defendants or persons are unknown owners or heirs, said amendments may be made as against them, as herein provided, and notice given to them, as now provided by law; and in case of any known infant defendants, so brought in, the court or judge thereof, or county judge, shall appoint a guardian *ad litem*.

When defendant is non resident of state.

SECTION 4. Upon due proof of the service of such amended summons or summonses and complaint, as required by this act, and by the order made as aforesaid in said action, and of the default of such defendant to appear or answer, the court shall, on the application of the plaintiff, at any general or special term in the circuit, render a judgment amending the original judgment in the action, so as to bar and foreclose said defendants, so brought in, from all right, lien, claim, interest or equity of redemption in said mortgaged premises or any part thereof, except the right of redemption given by law, and that the premises be sold upon such judgment as amended; and such judgment, so amended, shall be as valid and conclusive against all the defendants in said action as if originally entered against all.

When judgment may be rendered.

SECTION 5. Any defendant, so brought in, and appearing or answering, shall have the same rights and be entitled to the same notice of proceedings thereafter as in other cases; and any issue joined by him shall be disposed of by the existing practice.

Rights of defendant.

SECTION 6. This act shall take effect and be in force from and after its passage and publication.

Approved March 7, 1876.