

SECTION 2. This act shall take effect upon passage and publication.

Approved May 2, 1917.

No. 132, S.]

[Published May 5, 1917.

## CHAPTER 152

AN ACT to renumber chapter 44 of the statutes to be chapter 19 thereof; to renumber and amend sections 984 to 990a, inclusive, of the statutes; and to amend sections 2619, 4223, and 4281a of the statutes, relating to actions on official bonds.

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

SECTION 1. Chapter 44 of the statutes is renumbered to be chapter 19 thereof.

SECTION 2. All of section 984 of the statutes down to the semi-colon in the last sentence thereof is renumbered to be section 19.01, and amended to read:

19.01 ACTIONS BY THE STATE OR A MUNICIPALITY. Whenever the state or any county, town, city, village, or school district \* \* \* is entitled to recover any damages, money, penalty or forfeiture on any official bond, it shall be the duty of the attorney-general, \* \* \* county chairman \* \* \* town chairman, \* \* \* mayor, \* \* \* village president \* \* \* or school director \* \* \* respectively, to prosecute or cause to be prosecuted all necessary actions \* \* \* in the name of the state, \* \* \* or such municipality, \* \* \* against the officer giving such bond and his sureties for the recovery of such damages, money, penalty, or forfeiture.

SECTION 3. Section 4223 of the statutes, and all of section 984 of the statutes after the semi-colon in the last sentence thereof, are consolidated and amended to read:

Section 4223. Within three years:

(1) An action against a sheriff, coroner, town clerk, or constable upon a liability incurred by the doing of an act in his official capacity and in virtue of his office or by the omission of an official duty, including the nonpayment of money collected upon execution; but this subsection shall not apply to an action for an escape.

(2) \* \* \* An action by any county, town, village, city or school district to recover any sum of money by reason of the breach of an official bond; such period to commence running when such municipality receives knowledge of the fact that a default has occurred in some of the conditions of such bond and that it was damaged because thereof.

SECTION 4. Section 985 of the statutes is renumbered to be section 19.02, and is amended by striking therefrom the last clause, namely: "and all such actions shall be commenced in the county in which such bond is filed."

SECTION 5. Section 2619 of the statutes is amended by adding at the end thereof a new subsection to read:

(Section 2619) Ninth. Every action for a breach of any official bond shall be commenced in the county in which such bond is filed.

SECTION 6. Sections 986 and 987 of the statutes are consolidated and renumbered to be section 19.03, and amended to read:

19.03 SECURITY FOR COSTS; NOTICE OF ACTION.

\* \* \* (1) Every person commencing an action against any officer and his sureties upon his official bond, except the obligee named therein, shall give security for costs \* \* \* *by an undertaking as prescribed in sections 2946 or 3783, respectively; and a copy thereof shall be served upon the defendants at the time of the service of the summons. In all such actions if final judgment be rendered against the plaintiff the same may be entered against the plaintiff and the sureties to such undertaking for all the lawful costs and disbursements of the defendants in such action, by whatever court awarded.*

\* \* \* (2) The plaintiff in any such action shall, within ten days after the service of the summons therein, deliver a notice of the commencement of such action to the officer who has the legal custody of such official bond, who shall file the same in his office in connection with such bond.

SECTION 7. Section 988 of the statutes is renumbered to be section 19.04.

SECTION 8. Section 989 of the statutes is renumbered to be section 19.05 and is amended to read:

19.05 EXECUTION; LIEN OF JUDGMENT. \* \* \*

Whenever a judgment shall be rendered against any officer and his sureties on his official bond in any court other than the circuit court \* \* \* of the county in which such official bond is filed, no execution for the collection thereof shall issue from such other court unless the plaintiff therein, his agent or attorney shall make and file with such court an affidavit showing that no other judgment has been rendered in any court in an action upon such bond against the sureties therein which remains in whole or in part unpaid and that no other action upon such bond against said sureties was pending and undetermined in any other court at the time of the entry of such judgment; *but every such judgment may be docketed in other courts and in other counties, shall constitute a lien, and may be enforced, in all*

*respects the same as if it were an ordinary judgment, for the recovery of money, except as provided otherwise in this section.*

\* \* \*

SECTION 9. Section 990 of the statutes is renumbered to be section 19.06.

SECTION 10. Section 990a of the statutes is repealed; and section 4281a thereof is amended to read:

**LIMITATION OF SURETY'S LIABILITY.** Section 4281a. Any person may limit the amount of his liability as a surety upon any bond or other obligation \* \* \* required by law or ordered by any court, judge, magistrate or public official for any purpose whatever. The amount of such limited liability may be recited in the body of the bond or stated in the justification of the surety thereto; and in any action brought upon such bond no judgment shall be recovered against such surety for any sum larger than the amount of his liability stated as aforesaid, together with his pro rata share of the costs of said action. And in any such action a surety may deposit in court the amount of his liability, stated as aforesaid, whereupon he shall be discharged and released from any further liability under such bond.

SECTION 11. This act shall take effect upon passage and publication.

Approved May 2, 1917.

No. 535, S.]

[Published May 5, 1917.

## CHAPTER 153

AN ACT to create section 925—170m of the statutes, relating to the vacation of alleys in cities of the second class and validating the action of common councils, heretofore taken, vacating such alleys.

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

SECTION 1. A new section is added to the statutes to read: Section 925—170m. Wherever in cities of the second class, lands or lots have been acquired by the county for the purposes of a courthouse site, and the common council of such city has passed a resolution vacating the alleys through the property so acquired, such act of the common council is hereby validated and confirmed, and no action shall hereafter be brought or maintained to annul such action of the common council unless the same be commenced within six months from the date of the passage and publication of this act.

SECTION 2. This act shall take effect upon passage and publication.

Approved May 2, 1917.