

No. 114, S.]

[Published June 8, 1945.]

CHAPTER 261.

AN ACT to create 330.135, and to amend 330.15 (1), (2), (4) and (5) of the statutes, relating to the limitation of actions affecting real estate.

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

SECTION 1. 330.135 of the statutes is created to read:

330.135. LIMITATION IF DISABILITY EXISTS. (1) If a person entitled to commence any action for the recovery of real property or to make an entry or defense founded on the title to real property or to rents or services out of the same be, at the time such title shall first descend or accrue, either (a) Within the age of 21 years; or (b) Insane; or (c) Imprisoned on a criminal charge or in execution upon conviction of a criminal offense, for a term less than for life. The time during which such disability shall continue shall not be deemed any portion of the time in this chapter limited for the commencement of such action or the making of such entry or defense; but such action may be commenced or entry or defense made, after the time limited and within 5 years after the disability shall cease or after the death of the person entitled, who shall die under such disability; but such action shall not be commenced or entry or defense made after that period.

(2) After December 31, 1945, the provisions of this section shall not operate to extend the time for commencing any action with respect to which the 30-year or the 60-year limitation period established in section 330.15 shall have expired, whether the cause of action shall have arisen prior or subsequent to the enactment of this subsection.

SECTION 2. 330.15 (1), (2), (4) and (5) are amended to read:

330.15 (1) Except as provided in subsection (5) * * *, no action affecting the possession or title of any real estate shall be commenced by any person, the state, or any subdivision thereof after January 1, 1943, which is founded upon any unrecorded instrument executed more than 30 years prior to the date of commencement of such action, or upon any instrument recorded more than 30 years prior to the date of commencement of the action, or upon any transaction or event occurring more than 30 years * * * prior to the date of commencement of the action,

unless within 30 years after the execution of such unrecorded instrument or within 30 years after the date of recording of such recorded instrument, or within 30 years after the date of such transaction *or event* there is recorded in the office of the register of deeds of the county in which the real estate is located, *some instrument expressly referring to the existence of such claim, or* a notice setting forth the name of the claimant, a description of the real estate affected and of the instrument or transaction *or event* on which such claim is founded, with its date and the volume and page of its recording, if it be recorded, and a statement of the claims made. This notice may be discharged the same as a notice of pendency of action. Such notice *or instrument* recorded after the expiration of 30 years shall be likewise effective, except as to the rights of a purchaser for value of the real estate or any interest therein which may have arisen prior to such recording.

(2) The recording of such notice, *or of an instrument expressly referring to the existence of the claim*, shall extend for 30 years from the date of recording (*whether such recording occurred before or after the enactment of this section*), the time in which any action founded upon the written instrument or transaction *or event* referred to in the notice *or recorded instrument* may be commenced; and like notices *or instruments* may thereafter be recorded with like effect before the expiration of each successive 30-year period.

(4) This section shall be construed to effect the legislative purpose of * * * *barring* all claims to an interest in real property, whether dower (which for the purpose of this section shall be considered as based on the title of the husband without regard to the date of marriage) inchoate or consummate, curtesy, remainders, reversions, mortgage liens, old tax deeds, *inheritance, gift and income tax liens*, rights as heirs or under wills, or any claim of any nature whatsoever, however denominated, and whether such claims are asserted by a person sui juris or under disability, whether such person is within or without the state, and whether such person is natural or corporate, or private or governmental, unless within such 30-year period there has been recorded *in the office of the register of deeds* some * * * *instrument expressly referring to the existence of such claim, or* * * * a notice * * * pursuant * * * *to this section*. This section does not apply to any action commenced by any person

who is in possession of the real estate involved as owner at the time the action is commenced, nor does this section apply to any real estate or interest therein while the record title thereto remains in a railroad corporation or a public service corporation as defined in section 184.01, or any trustee or receiver thereof, or to claims or actions founded upon mortgages or trust deeds executed by such corporations, or trustees or receivers thereof; nor does this section apply to any real estate or interest therein while the record title thereto remains in the state or any political subdivision of municipal corporation thereof.

(5) Actions to enforce easements, or covenants restricting the use of real estate set forth in any instrument of public record shall not be barred by this section for a period of 60 years after the date of recording such instrument, and the timely recording of *instruments expressly referring to such easements or covenants or of notices * * * pursuant to this section* shall extend such time for 60-year periods from such recording.

SECTION 3. This act shall take effect upon passage and publication, except that if any of the amendments made by this act to section 330.15 shall operate to extend the provisions of said section to persons or cases to which said section was not previously applicable, such amendments shall not take effect as against such persons or cases until December 31, 1945.

Approved June 5, 1945.

No. 120, S.]

[Published June 8, 1945.

CHAPTER 262.

AN ACT to amend 331.05 (2) of the statutes, relating to libel. *The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

331.05 (2) of the statutes is amended to read:

331.05 (2) Any true statement, explanation, correction or retraction published without comment in any such newspaper, *in a position as prominent as the matter so explained, corrected or retracted*, within a reasonable time after any publication in violation of this section, or after the publication of any libelous matter, or * * * *within 5 days, or thereafter in the next issue, after written notice specifying the statements claimed to*