

CHAPTER 492

AN ACT to create 289.085 of the statutes, relating to the release of certain liens.

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

289.085 of the statutes is created to read:

289.085 RELEASE OF LIEN; UNDERTAKING. (1) The person against whom a lien is claimed may file with the clerk of the court in whose office the claim for lien is filed, an undertaking, executed by two or more sufficient sureties to the effect that the person against whom the lien is claimed shall pay the amount of such claim and all costs and damages which may be awarded against him on account of such lien or in lieu thereof deposit with the clerk of the court a sum of money, certified check or negotiable United States government bonds in par value equal to the sum of 125 per cent of the claim for lien. The court in which any action to foreclose the lien may be brought shall determine any question of sufficiency of the sureties if exception be taken thereto by the lien claimant within 10 days after notice of the filing of such undertaking or deposit of other security, and may upon notice and upon motion of any party, order any sum of money deposited to be invested. The depositor of such sums shall be entitled to any interest, earnings, dividends, profit or income upon or from the investments, certified check or negotiable United States government bonds deposited and the clerk shall pay and deliver the same to the depositor without order, as and when received, or, in the case of coupons, as the same become due and payable.

(2) If an undertaking is furnished it shall be accompanied by the affidavits of the sureties in which each shall state that he is worth, over and above all his debts and liabilities in property within this state not exempt from execution an amount in the aggregate equal to 125 per cent or more of the amount of such claim for lien.

(3) The person against whom the lien is claimed shall cause to be served upon the lien claimant a notice of the filing of such undertaking or deposit of other security, and if an undertaking, a copy thereof, which notice shall state where and when the same was filed.

(4) Any action brought after the furnishing of such security or pending at the time of the furnishing thereof in accordance with the provisions of this section shall proceed as if no security had been furnished, except that after the time within which exceptions may be taken to such security, or pursuant to order of the court upon any such exception so taken, the clerk shall satisfy said claim for lien of record and discharge any *lis pendens* filed in the manner provided by the statute, and except that such lien shall thereupon attach to such security and the amount adjudged due in the proceeding for foreclosure thereof shall be satisfied out of the security.

Approved July 9, 1953.
