

No. 38, A.]

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CHAPTER 251

AN ACT to amend 45.37 (3) (a) and 230.455; and to create 45.37 (3m) of the statutes, relating to lien on real property of members of the Grand Army home for veterans at King to secure the net cost of their care and maintenance at the home.

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

SECTION 1. 45.37 (3) (a) of the statutes is amended to read:

45.37 (3) (a) If any member of the home * * * *dies* without legal dependents, * * * his personal property shall be distributed to the state of Wisconsin as sole heir for the sole use and benefit of the home, and no will, previously or hereafter drawn, making a contrary disposal shall be valid. A wife or mother residing at the home shall be included among and considered as a legal dependent for the purpose of this subsection.

SECTION 2. 45.37 (3m) of the statutes is created to read:

45.37 (3m) (a) The net cost to the state of the care and maintenance of a member, as determined under rules promulgated by the department, constitutes a lien as hereafter provided and remains a lien until satisfied. The department shall issue for each member a certificate of lien setting forth: the name and residence of the member, the fact that he has received and will continue to receive care and maintenance at the Grand Army home, a statement that the net cost to the state of such care and maintenance constitutes a lien on the real property of the member presently owned or subsequently acquired (including joint tenancy and homestead interests) and such other information required by the department. The department shall file the certificate, or a copy thereof, in the office of the register of deeds of every county in which real property of the member is situated. The certificate need not be recorded at length by the register of deeds, but upon filing thereof all persons are charged with notice of the lien and the rights of the state. The register of deeds shall keep a record of every lien filed in the same book and under the same provisions applying to old-age assistance liens pursuant to s. 49.26 (6).

(b) Upon filing as in par. (a) the lien herein imposed attaches to all real property of the member presently owned or subsequently acquired (including joint tenancy and homestead interests) in any county in which such certificate is filed for the amount of the net cost to the state for care and maintenance furnished or thereafter furnished to the member and it remains a lien until satisfied. The lien shall not sever a joint tenancy nor affect the right of survivorship except that the lien shall be enforceable

to the extent that the member had an interest prior to his decease. The lien takes priority over any lien or conveyance subsequently acquired, made or recorded, except tax liens.

(c) Upon termination of membership in the home, the liens shall be enforceable by the state in the manner provided for the foreclosure of mortgages under ch. 270; provided that in any action to foreclose such a lien the statute of limitations shall not constitute a defense. No such lien shall be enforced against the homestead of the member while it is occupied by him, a surviving spouse or by any minor children, or any incapacitated adult children of the member.

(d) Upon death of a member or former member, the county court may order sale of real estate which is subject to the lien herein imposed free and clear of the lien, and the lien shall attach to the net proceeds of the sale after taxes, prior incumbrances and costs of sale have been deducted. However, the expenses of administration, burial and last illness allowed by the court which remain unpaid after all personalty has been applied thereto according to law, but not to exceed \$300 in the aggregate, shall be charges against all real property of the deceased and shall be paid prior to the lien, in the order named, out of the proceeds derived from the real property upon liquidation of the lien.

(e) At any time the department is satisfied that the collection of the amount owing to the state will not be jeopardized or that the release of the lien in whole or in part is necessary to provide for the maintenance of the member, his spouse, or minor children, or incapacitated adult child, it may release the lien as to all or any part of the real property of the member, which release shall be filed in the office of the register of deeds of the county in which the certificate is filed. The member, his heirs, personal representatives or assigns may discharge such lien at any time by paying the amount thereof to the department, which shall execute a satisfaction which shall be filed with the register of deeds.

(f) The department may bid in property at foreclosure under par. (c) at a price not to exceed the amount owing the state, which amount or any part thereof may be applied as a credit on such a bid, or such agency or official may accept a conveyance in lieu of foreclosure. Title to property acquired vests in the department for the purpose of liquidation, and may be sold and title transferred by it.

(g) The department may make and pay for necessary and essential repairs, pay taxes or purchase tax certificates or pay balances due on land contracts so as to enable a member to receive a deed, or pay and cause to be satisfied existing mortgages or any other prior liens on property on which the state has such a lien, and the amount of such expenditures shall be added to the amount of the lien.

(h) The department may accept or execute all necessary instruments, manage property acquired hereunder and take necessary part in the administration of decedents' estates to effectuate the provisions of this subsection. The department shall have and exercise the rights of owners of real property or liens generally, which ever the case may be.

SECTION 3. 230.455 of the statutes is amended to read:

230.455 No real estate mortgage, chattel mortgage, conditional sales contract, lien effected pursuant to * * * s. 45.37 (3m), ch. 49 and ch. 289 upon the joint tenancy interest of a joint tenant to any joint tenancy shall defeat the right of survivorship in such joint tenancy, but the joint tenancy interest of such joint tenant to which upon his death the surviving joint tenant succeeds shall be subject to such real estate mortgage, chattel mortgage, conditional sales contract, lien effected pursuant to * * * s. 45.37 (3m), ch. 49 and ch. 289.

SECTION 4. If a member dies before December 31, 1955, leaving no legal dependents as defined in s. 45.37 (3) (a), and before a lien against his real property has been filed as provided in s. 45.37 (3m), his real estate shall descend to the state in the same manner and under the same conditions provided by s. 45.37 (3) (a).

SECTION 5. This act shall take effect July 1, 1955.

Approved June 16, 1955.
