

SUPPLEMENTING ACT, SECOND CLASS CITIES
Act of Apr. 29, 1911, P.L. 103, No. 98
A SUPPLEMENT

Cl. 11

To an act entitled "An act creating a Bureau of Health in the Department of Public Safety in cities of the second class; defining the powers and duties thereof, and of the officers thereunder; prescribing rules, regulations, and laws respecting the public health, and authorizing and imposing fines, penalties, and punishments for violations thereof," approved June twenty-sixth, one thousand eight hundred and ninety-five; and to a supplement thereto, approved March twenty-fifth, Anno Domini one thousand nine hundred and three; providing for the vacation or destruction of buildings dangerous to the public health; authorizing and imposing fines, penalties, punishments, and remedies for violations of this act, and providing method of appeal.

Section 1. Be it enacted, &c., That whenever any building, or any part thereof, in any city of the second class, previously occupied by a person infected with contagious diseases; or which by reason of want of repair has become dangerous to life, or is unfit for use and dangerous to health because of defects in drainage, plumbing, ventilation, or in the construction of the same, or because of the existence of a nuisance on the premises; and the owner, agent, occupant, or other person who is responsible for the said buildings, shall, after due notice thereof, refuse or neglect to comply with the requirements of the Department of Public Health of such cities, concerning said buildings, said department may issue an order requiring all persons therein to vacate or cease to use such buildings, or part thereof stated in the order, for reasons expressly stated therein, as aforesaid. Such buildings, or part thereof, shall be vacated within ten days after said order shall have been served as hereinafter provided; or, in case the emergency is such as to require more immediate action, such building, or part thereof, shall in that case be vacated in such shorter time as in said order shall be specified; and such building or part thereof, shall not be used or occupied thereafter until the said department of public health shall become satisfied that the danger from said building, or part thereof, has ceased to exist, or that said building has been repaired so as to be habitable, or the nuisance complained of in the order abated, and the department shall have issued its certificate, in writing, revoking the said order.

Section 2. Whenever any building, or part thereof, in such cities, shall, because of age, infection with contagious disease, defects in drainage, plumbing or ventilation, the existence of a nuisance on the premises, or conditions tending to cause sickness among its occupants or among the occupants of other property in said city, or constituting a danger to the life or health of the occupants of other buildings in its vicinity, or because it prevents proper measures from being

carried into effect for abating any nuisance injurious to health or sanitary evils in respect of such other buildings, be unfit for occupation or a menace to public health; and when such dangers and evils in, or caused by, said building cannot be removed by repairs, or in any other way, excepting by the destruction of the said building, or any portion of the same, the said Department of Public Health may order the same, or any part thereof, to be removed. The said order shall specify the building, or part thereof, to be removed, the reason or reasons therefor, and shall also specify a reasonable time within which said work or removal shall be commenced and prosecuted to completion.

Section 3. Every notice or order herein provided for shall be served by posting a copy of the same in a conspicuous place on the building referred to in such order, together with personal service upon the owner or owners of the said property by the prepaid mailing of a copy thereof, on the same day as it was posted, to the said owner or owners, if any, whose address is known or ascertained by the said Department of Public Health. In case such address or addresses cannot be obtained, after reasonable diligence, by the said Department of Public Health, said notice shall, in addition to posting, be served upon agent, or the tenant or tenants, or other responsible occupant of said building, if any.

Section 4. In case the occupants, agent, or owners, or either of them, shall fail or refuse to comply with the terms of any such order, as herein provided for, within the time limited by such order as herein provided for, the person or persons so in default shall be subject to a fine or penalty as provided in section forty-two of the act of June twenty-sixth, one thousand eight hundred and ninety-five, to which this is a supplement, and, in case of default in payment of the fine imposed, may be committed to jail or workhouse, or other penal institution, as in said section of said act provided; and the provisions of this section shall extend to any person or persons who shall occupy, or attempt to occupy, such premises contrary to the provisions of such order.

Section 5. In case the said department shall direct the removal of any building, or part thereof, as herein provided, and the owner or owners shall fail or refuse to comply with such order within the time limited, the said Department of Public Health shall remove the same at the expense of the city; and the city may recover the amount of such expense by an action at law in the court of common pleas of the proper county; and when such suit, with statement of claim and description of the premises, is filed by the city, the prothonotary shall index it upon the judgment docket, and the city shall have a lien for the amount of the said claim against the said premises.

Section 6. Any person or persons interested who may be aggrieved by any order or notice of said Department of Public Health, as herein provided, may appeal to any court of common pleas of the county in which the property in question is situate, if within five days after the posting and service of notice, as herein provided for, such person or persons shall give notice, in writing, to said department of intention so to

do, and within five days thereafter shall present a petition to such court of common pleas, stating the reasons for resisting such order or notice. Upon the presentation of such petition, the court may enter an order superseding such order or notice pending hearing, providing the petitioner shall file a bond, with approved security, in such amount and upon such conditions as the court shall deem proper under the circumstances. Upon presenting such petition, the petitioner shall also file proof of service upon the said Department of Public Health of notice of intention to present such petition, and the time when it shall be presented, together with a copy of said petition. The court shall thereupon proceed summarily to hear and determine the said appeal: Provided, however, That if at such hearing the petitioner shall demand a trial by jury, and if the order or notice of the Department of Public Health in question shall be of such a character that its enforcement would affect the rights of the petitioner, concerning the determination of which, trial by jury is granted by the Constitution of the Commonwealth, the court shall direct and issue to be framed to determine such matters as may be within the right of a trial by jury, and advance said case to the head of next trial-list of said court; and, pending such trial, the court may enter an order superseding any such order or notice of the Department of Public Health, upon the petitioner filing a bond, with approved security, in such an amount and upon such conditions as to the court shall seem proper.